

General Conditions for Bill of Exchange Guarantee

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EXPORTKREDITNÄMNDEN
THE SWEDISH EXPORT CREDITS GUARANTEE BOARD

General Terms and Conditions for Bill of Exchange Guarantee

Definitions

For the purposes of these terms and conditions, the following expressions shall have the meanings set out below.

ACCEPTOR: buyer or other bill of exchange payer who has accepted a drawn bill of exchange such as payment for an agreed delivery or equivalent

BILL OF EXCHANGE: claim document that fulfils the formal requirements established for a drawn bill of exchange under applicable law for the document in question

BILL OF EXCHANGE AMOUNT: the amount for which the bill of exchange is issued
BILL OF EXCHANGE GUARANTEE: a guarantee for the bill of exchange issued under these general terms and conditions in accordance with what is stated in the guarantee instrument

BILL OF EXCHANGE GUARANTOR: the person providing surety for the bill of exchange

CONTRACTUAL CLAIM: the claim arising from an agreement to export goods or services for which the bill of exchange is the method of payment

CROSS-RATE: an exchange rate between a currency pair which is calculated by measuring the individual exchange rate of the two currencies against a third currency (normally USD)

DEBT RESCHEDULING AGREEMENT: an agreement concluded with the government or a government agency in the acceptor's and/or bill of exchange guarantor's country of domicile covering, in principle, all EKN's guaranteed claims in that country for a specific period, including excess risk. This type of agreement generally involves an extension of the amortisation period and sometimes remission of part of the guaranteed claim

DEBTOR: the party liable to pay the agreement claim

EXCESS: the percentage of loss incurred which is not compensated by the bill of exchange guarantee

EXPORTER: the party exporting the goods or services for which guaranteed bills of exchange serve as a method of payment

GUARANTEE-HOLDER: the holder of a bill of exchange guarantee

GUARANTEE INSTRUMENT: the document whereby the bill of exchange guarantee is issued

GUARANTEE PERCENTAGE: the percentage of loss incurred which is compensated by the bill of exchange guarantee. See also excess

INTEREST: current market interest rate for a particular currency, calculated according to STIBOR, LIBOR, EURIBOR or equivalent for one month, with the addition of one quarter (0.25) of a percentage point

HIGHEST AMOUNT OF LOSS: the maximum amount that can be subject to indemnification under the bill of exchange guarantee and to which the guarantee percentage is applied

WAITING PERIOD: period of time from the bill of exchange's due date which must elapse before indemnification can take place

SECURITY: mortgage, surety or similar security which has been provided for payment of the agreement claim

I Scope of the bill of exchange guarantee

1.1 The bill of exchange guarantee covers non-payment of a drawn and accepted bill of exchange assigned to the guarantee-holder in accordance with the guarantee instrument.

The bill of exchange guarantee entitles the guarantee-holder to indemnification corresponding to the applicable guarantee percentage for loss incurred as a result of non-payment of a guaranteed bill of exchange.

The bill of exchange guarantee is subject to a highest amount of loss to which the guarantee percentage shall be applied.

1.2 The bill of exchange guarantee does not cover indemnification for loss due to measures taken by Swedish authorities.

1.3 The bill of exchange guarantee applies from the time the guarantee-holder receives possession (directly or indirectly) of the guaranteed bill of exchange and covers risk of loss thereafter.

2 Conditions for validity of the bill of exchange guarantee

- 2.1 The bill of exchange shall be assigned to (endorsed in favour of) EKN upon indemnification.
- 2.2 The bill of exchange shall correspond with the information provided in the application for a bill of exchange guarantee and these parts may not be subsequently changed without EKN's written consent.
- 2.3 The bill of exchange shall be issued and accepted by someone whose principle is bound by such action.
- 2.4 The bill of exchange guarantor shall assume his obligations with binding effect under the law to which the bill of exchange is subject.
- 2.5 The defined premium for the bill of exchange guarantee shall be paid to EKN within the prescribed period.

3 Repayment of premium paid

3.1 If full payment has been made in advance for all outstanding guaranteed bills of exchange, and if EKN has not made indemnification under the bill of exchange guarantee, the guarantee-holder is entitled to recover part of the premium paid in accordance with 3.2-3.4.

3.2 If the risk of loss estimated by EKN at the time of the advance payment is equal to or greater than the risk that was estimated when the bill of exchange guarantee was issued, the amount to be repaid shall correspond to the difference between the premium paid and the premium that should have been paid for the bill of exchange guarantee had it only covered the period up to the date on which the advance payment was made.

3.3 If the risk of loss estimated by EKN at the time of the advance payment is less than the risk that was estimated when the bill of exchange guarantee was issued, the amount to be repaid shall correspond to the premium that should have been paid for the bill of exchange guarantee's remaining duration, calculated according to the risk estimated on the date on which the advance payment was made.

3.4 Ten percent shall be deducted from any amounts to be repaid under the conditions described in 3.2 or 3.3.

3.5 If EKN ceases to be bound by the bill of exchange guarantee due to circumstances described in 7.2 point 1, the guarantee-holder is entitled to repayment of the premium amount paid, less ten percent.

4 Guarantee-holder's obligations

4.1 The guarantee-holder is obliged to take reasonable measures to limit loss under the bill of exchange guarantee. Provided there is no risk in delayed actions, the guarantee-holder shall consult with EKN before such measures are taken. The guarantee-holder shall also exercise the same care and prudence he would show if he were not holding a bill of exchange guarantee.

4.2 The guarantee-holder is obliged to comply with any request from EKN to take reasonable measures to limit loss under the bill of exchange guarantee.

4.3 The guarantee-holder may not waive, neither wholly nor in part, any claim for compensation or claim in damages against the debtor, acceptor or bill of exchange guarantor without EKN's written consent. The same applies to any other security owned by the guarantee-holder which has been provided as collateral for payment of the agreement claim.

4.4 The guarantee-holder shall, on request, make available his accounting records and other documents relating to guaranteed bills of exchange to EKN or an external advisor engaged by EKN, and disclose all such information as is available to him and which may be of importance to EKN.

4.5 With regard to a guaranteed bill of exchange, the guarantee-holder is obliged to participate in any measures that may be required in order to implement a debt rescheduling agreement. The guarantee-holder hereby authorises the Swedish government and/or EKN to conclude such an agreement. The inclusion of the agreement claim in a debt rescheduling agreement does not diminish EKN's liability to make indemnification under the bill of exchange guarantee.

4.6 The excess may not be transferred to any other party than the exporter without EKN's written consent.

5 Indemnification

Notification of delay

5.1 The guarantee-holder shall, within one month of the guaranteed bill of exchange's due date, provide written notification of non-payment of the bill of exchange.

Indemnification

5.2 To allow indemnification to be made, a waiting period of one month from the due date of the bill of exchange shall have elapsed.

5.3 Application for indemnification shall be made in writing and shall be received by EKN within twelve months of the due date of the bill of exchange.

5.4 Before indemnification, the guarantee-holder must have:

- Presented the bill of exchange for payment on its due date in accordance with applicable bill of exchange law;
- submitted demands for payment of the bill of exchange to the guarantor or other party providing security;
- drawn up protest in accordance with applicable bill of exchange law.

5.5 Before indemnification, the guarantee-holder shall, without charge, assign the bill of exchange and all owned securities and other rights relating to the agreement claim to EKN.

5.6 When EKN has made a decision regarding indemnification under the bill of exchange guarantee, this shall be paid without delay. Interest on the amount payable is calculated from the due date of the bill of exchange up to the date on which the payment is made.

Calculation of loss

5.7 Loss constitutes the due bill of exchange amount according to the guaranteed bill of exchange, less what has been paid or has been received by utilizing security provided for the agreement claim.

5.8 If the bill of exchange was issued in Swedish kronor, indemnification is made in the same currency.

If the bill of exchange was issued in a different currency, the guarantee instrument will show whether the indemnification will be made in the foreign currency and will specify the highest amount of loss in that currency. In other cases, the indemnification will be determined by conversion of the currency in question to Swedish kronor, based on the average of the buying rates quoted for the foreign currency by two of the large Swedish foreign exchange banks at 11.00 a.m. in Stockholm on the bill of exchange's due date. However, conversion shall never involve application of a higher rate than the rate specified in the guarantee instrument.

If there is no defined buying rate on the due date, the most recent buying rate published by Reuters in Swedish kronor is used or, if this is not available, another appropriate cross-rate on the due date.

6 Recovery

6.1 After indemnification, the guarantee-holder shall, at EKN's request, participate in any reasonable measures to recover an outstanding agreement claim.

6.2 If after indemnification of a guaranteed bill of exchange the guarantee-holder receives payment for the guaranteed bill of exchange, the amount shall be paid to EKN to be shared between EKN and the guarantee-holder in accordance with 6.3.

6.3 Payment for a guaranteed bill of exchange made after indemnification shall initially be utilised to cover costs for collection of the amount and any interest. The remaining amount will be shared between EKN and the guarantee-holder in accordance with the guarantee percentage.

7 Effect of negligence on the part of the guarantee-holder

7.1 The guarantee-holder shall lose the right to indemnification for a guaranteed bill of exchange if:

- Notification of non-payment of a bill of exchange has not reached EKN within the period specified in 5.1.
- The guarantee-holder has not fulfilled the conditions for indemnification described in 5.4.
- The application for indemnification has not reached EKN within the period specified in 5.3.

7.2 The guarantee is not binding on EKN if:

- Any conditions concerning the validity of the bill of exchange guarantee described in 2.1-2.5 are not in place;
- the guarantee-holder has failed to fulfil his obligations as described in 4.3 and 4.6

or the guarantee-holder has in some other way shown gross neglect of his obligations under the bill of exchange guarantee.

8 Costs

8.1 The guarantee-holder's costs in respect of measures to avoid or limit loss are paid by EKN in accordance with the guarantee percentage.

If, as described in 4.2 or 6.2, EKN requests the guarantee-holder to participate in or implement measures, the costs of such measures are paid in their entirety by EKN.

8.2 No compensation shall be made for costs incurred by the guarantee-holder for demonstrating non-payment of a bill of exchange or proving his right to indemnification.

8.3 Claims for compensation relating to costs described above shall have been received by EKN within one year of the time the cost was incurred. If such a claim is not presented within this period, the guarantee-holder will lose his right to indemnification of costs under the bill of exchange guarantee.

9 Recourse claims

9.1 If the conditions described in 2.1 - 2.5 concerning the validity of the bill of exchange guarantee are not in place or the guarantee-holder has failed to comply with the provisions of 4.3 or 4.6 or has in some other way neglected his obligations as guarantee-holder, EKN shall be entitled to present a recourse claim to the guarantee-holder for indemnification made by EKN under the bill of exchange guarantee or for other costs incurred by EKN relating to the bill of exchange guarantee.

9.2 In addition to what is stated above, EKN undertakes not to present any claim for compensation from the guarantee-holder for indemnification made and other costs incurred by EKN in connection with a bill of exchange that has been indemnified and assigned (endorsed in favour of) to EKN.

10 Disputes regarding the guarantee

10.1 The bill of exchange guarantee shall be governed by Swedish law.

10.2 Disputes relating to the bill of exchange guarantee shall be determined by arbitrators in accordance with the Swedish Arbitration Act in force at the time.

The arbitration proceedings shall take place in Stockholm. The language used in the arbitration procedure shall be Swedish and the settlement shall be worded in Swedish.

Should the guarantee-holder wish to refer a decision taken by EKN to arbitration, he shall make such reference within twelve months from receipt of the decision. He shall forfeit his right of action in the event of failure to do so.

In the event that the arbitrators arrive at different conclusions with regard to value, the mean value shall apply.



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