

COMPREHENSIVE AGREEMENT  
General Rules (654-14)

DELICREDERE  
DUCROIRE



MEMBER OF THE CREDENDO  
GROUP



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# PREAMBLE

Relations between the Office national du Ducroire | Nationale Delcredere dienst (hereinafter referred to as “Delcredere | Ducroire”) and its insured are governed by these General Rules as well as the General Terms (664-14), except where provided otherwise by agreement.

The insured parties are hereinafter referred to as the “insured”. Where, however, certain provisions apply simultaneously to an exporter and a bank, Delcredere | Ducroire shall refer to the “exporter” or the “bank” rather than to the “insured” in order to avoid confusion.

# CHAPTER 1

## GENERAL PROVISIONS

### ARTICLE 1 CUSTOMARY DESCRIPTION OF THE COVERED RISKS

- 1.1** Insurable risks are defined in Article 1 of the General Terms, except for risks related to bank guarantees and business equipment and foreign exchange risks, which are defined in Articles 24, 25 and 27, respectively, of the aforementioned General Terms.
- 1.2** Delcredere | Ducroire has discretion to assess the public or private nature of the debtor or the guarantor. Pursuant to a formula used by the European Union, Delcredere | Ducroire shall, in principle, consider as public "any buyer constituting the public authority, in whatsoever form (states, public authorities such as provinces, departments or municipalities, public institutions), which cannot judicially or administratively be placed in bankruptcy".

### ARTICLE 2 GENERAL COMPREHENSIVE COVER OBLIGATION

Each insured shall agree with Delcredere | Ducroire on a set of contracts to be presented for cover. The comprehensive cover obligation shall form the object of a comprehensive agreement which is subject to the provisions of Articles 3 to 5 of these Rules.

A bank may only obtain cover if the risks it wishes to insure are related to commercial contracts that fall within the scope of a comprehensive undertaking by the exporter, if the latter performs the commercial agreement at its own financial risk.

# CHAPTER 2

## THE COMPREHENSIVE AGREEMENT

### ARTICLE 3 DEFINITION AND OBJECT

**3.1** The comprehensive agreement obliges the insured, within the limits determined therein, to propose to Delcredere | Ducroire, before making any commitment to a foreign customer, the insurance of all risks, defined in the General Terms, relating to its commercial contracts, with the exception of foreign exchange risk.

Unless provided otherwise, the insured's obligation shall extend to commercial contracts entered into by undertakings it directly or indirectly effectively controls.

**3.2** Delcredere | Ducroire has discretion to insure or not to insure the proposed contracts and to determine the terms and conditions of cover. It may, in particular, require that:

- > the insured's obligations to it, in particular financial obligations (the payment of premiums, the reimbursement of indemnities unduly paid or of compensatory advances, various remedies which may be exercised if the bank financing the contract is granted a direct guarantee, etc.), be backed by security, the nature of which shall be determined on a case-by-case basis;
- > the insured obtain from third parties (e.g., partners, subcontractors or shareholders), in a form to be determined on a case-by-case basis, technical or financial assistance deemed essential in order to successfully see the contract through to completion.

**3.3** The usual insured percentage may be reduced if the application for coverage is not submitted in a timely manner, in accordance with Article 3.1.

**3.4** Where Delcredere | Ducroire agrees to arrange cover for a contract only on terms which are less favourable than the usual terms applied by it to similar contracts performed in the foreign debtor's country, the insured shall be entitled not to insure this contract. This provision shall not apply if the less favourable terms of insurance sanction a breach by the insured of its obligations under this agreement.

**3.5** Delcredere | Ducroire may arrange for an examination of the insured's books, in accordance with Article 19 of the General Terms, in order to verify:

- > compliance by the insured with the commitments referred to in Article 3.1;
- > the accuracy of statements made with a view to conclusion of the agreement;
- > the accuracy of information provided pursuant to Article 3.7.

**3.6** The insured shall inform Delcredere | Ducroire without delay of the occurrence of any events referred to in Articles 4.1.3 and 4.1.4.

**3.7** Delcredere | Ducroire may, at any time, ask the insured to provide:

- > any information it deems useful about the insured's business, financial situation and the composition of its shareholder structure;
- > a list of all contracts concluded by the insured, during the term of the agreement, with debtors in countries falling within the geographic sector defined in the Special Terms, even if these contracts need not be submitted for cover pursuant to exceptions provided for in the aforementioned Special Terms.

## ARTICLE 4 TERMINATION

**4.1** Delcredere | Ducroire may terminate the agreement in the following cases:

- 4.1.1** the insured does not provide the information referred to in Article 3.7 within a reasonable period of time;
- 4.1.2** the inspection referred to in Article 3.5 reveals inaccurate statements or contracts not presented for cover;
- 4.1.3** an event detrimental to the insured's solvency occurs, such as in particular an acknowledgement of a cessation of payments, application or petition for bankruptcy, request for a moratorium on payments or an arrangement with creditors;
- 4.1.4** the insured's business is terminated or transferred or there is a substantial change in its shareholder structure.

**4.2** Termination of the agreement shall occur without prior notice by means of registered letter and shall result in termination, by operation of law, of any outstanding opinions or offers of cover.

Without prejudice to the specific penalties provided for in the General Terms, termination shall not affect outstanding policies.

**4.3** If, in the case referred to in Article 4.1.2, Delcredere | Ducroire prefers to request regularisation of the situation, it may impose a penalty of up to twice the amount of evaded premiums.

Regardless of the option selected by Delcredere | Ducroire, any expenses relating to the inspection referred to in Article 3.5 shall be borne by the insured.

## ARTICLE 5 EXTENSION

**5.1** The agreement is entered into for a term of two years.

The agreement shall be implicitly renewed for an additional two-year term, unless a notice of termination is sent no later than one month prior to expiry.

**5.2** Amendments to the agreement made upon its extension shall only apply to outstanding offers and opinions at the time of their extension, if any.

Notwithstanding this rule, any improvements to the terms of insurance shall be immediately applicable.

## CHAPTER 3

# DELCREDERE | DUCROIRE'S RESPONSE TO APPLICATIONS FOR COVER

### ARTICLE 6 GENERAL REMARKS

Upon receipt of an application for cover, Delcredere | Ducroire shall respond in one of the following forms:

- a) an opinion;
- b) an offer of cover;
- c) a policy.

### ARTICLE 7 OPINION

- 7.1** If the insured merely wishes to know Delcredere | Ducroire's position or if Delcredere | Ducroire considers the information at its disposal to be insufficient for it to issue an offer of cover or a policy, it shall take a decision in the form of an opinion.
- 7.2** An opinion, which is by definition revocable, does not constitute an undertaking to enter into a contract. It is merely an expression of Delcredere | Ducroire's basic position on the possibility of taking an application into consideration on the basis of known facts and the terms to which the potential cover would be subject.
- 7.3** Unless stipulated otherwise, an opinion shall automatically expire at the end of the sixth month following that in which it is issued.
- 7.4** Any request for an extension must be received prior to the expiry date of the opinion and be supported by a report on the progress of negotiations and any changes in the contract information.

## ARTICLE 8 OFFER OF COVER

- 8.1** An offer of cover is an undertaking by Delcredere | Ducroire to insure the future contract described therein, provided the insured requests a policy within 15 days from entering into the contract.
- 8.2** Pending the drawing-up of a policy and subject to payment of the premium in the event of a claim, an offer of cover shall constitute temporary coverage, subject to the General Terms.<sup>(1)</sup> Such temporary coverage may be withdrawn if the drawing-up of the policy is delayed through the fault of the insured.
- 8.3** The premium rates referred to in an offer of cover are indicative only.
- 8.4** Unless stipulated otherwise, an offer of cover shall expire at the end of the sixth month following that in which it is issued. Any request for an extension is subject to the provisions of Article 7.4.
- 8.5** Changes to and extensions of an offer of cover must take the form of an addendum.
- 8.6** Upon learning or being informed by Delcredere | Ducroire of events aggravating the risk and without prejudice to the possible application of Articles 5 and 8 of the General Terms, the insured shall take or have taken, in a prudent and responsible manner (en bon père de famille/als een goed huisvader), after consulting with Delcredere | Ducroire, the necessary steps to delay or prevent the conclusion or entry into force of the contract (suspension of negotiations, non-extension of bids, etc.).

Any failure by the insured to fulfil these obligations shall result in the forfeiture of rights provided for by Article 12 of the General Terms.

## ARTICLE 9 INDIVIDUAL POLICY

- 9.1** Delcredere | Ducroire's final commitment shall form the object of an individual insurance policy.
- 9.2** The policy's General Terms shall be those in force on its date of issue. The Special Terms shall describe the insured contract and clarify or amend the General Terms; they shall, if necessary, contain provisions not included in the offer of cover, in order to take into account particular features of the contract which were unknown, or insufficiently known, at the time the offer of cover was prepared.
- 9.3** With a view to the drawing up of the policy, the insured shall submit, before entering into the contract, draft versions of the contract along with its appendices, excluding purely technical documents which are irrelevant to assessing the covered risks.

The insured shall point out any subsequent amendments to these drafts.

(1) The version in effect at the time temporary coverage begins.

# CHAPTER 4

## SPECIAL TERMS SUPPLEMENTING THE GENERAL TERMS

### ARTICLE 10 GENERAL REMARKS

The Special Terms laid out in the following articles shall apply depending on the situations which may arise, even if this is not expressly provided for by the policies, offers of cover or opinions.

Noncompliance with these provisions, unless expressly approved by Delcredere | Ducroire, may call into question the latter's commitments.

### ARTICLE 11 CONFIDENTIAL NATURE OF THE SPECIAL TERMS OF INSURANCE DOCUMENTS

The Special Terms of insurance documents (insured percentage, premium, etc.) are confidential and may not be disclosed to third parties without Delcredere | Ducroire's express consent. Financial institutions providing assistance in performance of the contract shall not be considered third parties.

### ARTICLE 12 RESERVATIONS REGARDING DELCREDERE | DUCROIRE'S COMMITMENTS

Where an offer of cover or opinion provides for a cap on Delcredere | Ducroire's commitments, the offer of cover or opinion shall be valid only if the amount available under the cap allows a policy to be issued when entering into the contract.

In light of this provision, it is up to the insured not to incur commitments to its client before having obtained written withdrawal of this reservation. The reservation may be withdrawn for a period of 30 days, which may be extended upon the provision of supporting documents.

## ARTICLE 13 PARALLEL FINANCING

This term refers to any bank loan which is not insured by Delcredere | Ducroire, the object of which is to enable the foreign debtor to finance either payments arising under the commercial contract, in particular down payments, or local expenditure which exceed the level deemed permissible by Delcredere | Ducroire.

The exporter that has signed the commercial contract may not directly or indirectly bear the risks of parallel financing or fail to disclose any information of which it may have become aware on the subject, without running the risk of forfeiture under Article 7 of the General Terms. The bank, regardless of whether it is directly insured or has been assigned the right to indemnities, shall notify Delcredere | Ducroire of any parallel financing it grants in whole or in part or which it knows to have been granted by third parties. Any parallel financing granted by the bank shall be covered by a separate agreement. In view of its liability under general rules of law for the effects of its decisions on contracts insured by Delcredere | Ducroire, the bank shall inform Delcredere | Ducroire as soon as serious measures are being considered, such as a suspension of drawdown or the acceleration of reimbursements.

## ARTICLE 14 CONTRACTS PERFORMED WITH PARTNERS

- 14.1** If the insured is a partner or subcontractor of other firms, hereinafter referred to as "partners", insurance cover shall be subject to the approval of the partners and of the agreement governing relations between the partners and the insured.
- 14.2** If the contract does not give the insured direct rights against the foreign debtor, Delcredere | Ducroire may require the partner with such rights to be insured by its national credit insurer and for the latter to conclude an arrangement with Delcredere | Ducroire for the joint management of risk (a joint insurance agreement, for example).

Failing such an arrangement or if the partner is another Belgian firm, Delcredere | Ducroire may require the partner to agree to be held jointly and severally liable with the insured or to provide any other commitment Delcredere | Ducroire deems essential to its monitoring of risk developments.

- 14.3** Delcredere | Ducroire may, upon request and in return for an additional premium, cover losses due to the partner's insolvency, as defined in Article 1.2.1.1 of the General Terms.

## ARTICLE 15 INCORPORATION OF FOREIGN EQUIPMENT AND SERVICES

Approval of a foreign incorporation shall always be provisional in the case of an offer of cover or opinion.

Final approval shall not be given until the insured has submitted a list of foreign and Belgian items of equipment and services, with an indication of the type, origin (supplier and country), price and reasons for obtaining supplies abroad.

If, at the time of final approval, Delcredere | Ducroire notes an increase in the percentage of provisionally approved incorporation, it reserves the right to impose the sanction provided for by Article 12.2 of the General Terms.

## ARTICLE 16 JURISDICTION AND ARBITRATION CLAUSES

**16.1** Disputes may not be settled by a court or arbitral tribunal with doubtful jurisdiction.

With respect to the arbitration clause, Delcredere | Ducroire recommends that of the International Chamber of Commerce, which reads as follows.

“All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules.”

An insured requesting Delcredere | Ducroire’s approval of a clause which does not satisfy the condition set out in the first paragraph of this article is responsible for informing Delcredere | Ducroire of the efforts made to fulfil this condition.

**16.2** If evidence is produced that the conditions prevailing in the debtor’s country are such that jurisdiction and arbitration clauses are unlikely to be negotiated, Delcredere | Ducroire may exceptionally cover the miscarriage of justice at the following conditions:

**16.2.1** If Delcredere | Ducroire, upon receipt of a claim for compensation, raises the exception provided for by Article 13.2 of the General Terms, the insured shall be allowed to prove that it is the victim of a miscarriage of justice.

**16.2.2** The decision on this subject shall be taken by an arbitrator, whose decision shall be rendered in the presence of both parties, by way of a preliminary ruling and without the possibility of appeal.

The arbitrator shall be appointed by the mutual consent of Delcredere | Ducroire and the insured.

In the absence of an agreement, the president of the Commercial Court of Brussels shall, further to a petition by the most diligent party, appoint an arbitrator who the parties undertake to accept.

**16.2.3** In relations between Delcredere | Ducroire and the insured, a miscarriage of justice shall be defined as follows:

- > the impossibility for the insured to obtain a decision within the customary time periods for this type of dispute, following failure to act or dilatory measures by the competent court; the insured may rely on this provision only if it can prove that it acted diligently and has exhausted all other means at its disposal of mitigating the effects of or sanctioning the court's shortcomings;
- > violation of principles which are deemed, under Belgian law, to relate to international public policy, in particular violation of due process rights.

**16.2.4** If the preliminary ruling establishes that the insured is the victim of a miscarriage of justice within the meaning of Article 16.2.3, the same arbitrator shall then hear the merits of the dispute between the insured and the debtor. After hearing Delcredere | Ducroire and the insured, it shall decide whether, and if so to which extent, the debtor's allegations are justified. The arbitrator can call upon the assistance of any experts it deems necessary.

**16.2.5** The procedural costs shall be borne by Delcredere | Ducroire and the insured.

ARTICLE 17 INDIVIDUAL FINANCIAL CREDIT.  
REMEDY AVAILABLE TO DELCREDERE | DUCROIRE. DRAWDOWN PROCEDURE

- 17.1** If Delcredere | Ducroire insures an individual financial credit in favour of a bank, it shall require the contracting exporter to arrange for cover of termination claims.
- 17.2** In the event a claim is made under the policy issued to the bank to cover the financial credit, the contracting exporter shall be obliged to reimburse the indemnities paid to the bank, at Delcredere | Ducroire's first request and within the limits and under the circumstances stipulated below, if:
- > performance of the commercial contract is interrupted: up to the amount of any credit balance of a loss account established in accordance with the provisions of Article 14.1 of the General Terms;
  - > the debtor's default under the financial credit, albeit arbitrary and contrary to the obligations arising from the loan agreement it has entered into, is attributable to the exporter: up to the amount of the latter's contractual liability to the debtor;
  - > the approved percentage of foreign incorporation and local expenditure is exceeded: up to the amount of the reduction in the insured percentage, as provided for by Article 12.2 of the General Terms.
- 17.3** Where Delcredere | Ducroire allows the contracting exporter not to arrange cover for termination claims, the obligations imposed on it pursuant to Article 17.2 shall form the object of a separate agreement.
- 17.4** Delcredere | Ducroire must approve the loan drawdown procedure. The bank shall make efforts to ensure that the loan agreement provides that the debtor grants it irrevocable authority to draw on the loan and to pay the exporter upon presentation of the documents stipulated in the agreement.

If the issuance of any of these documents depends on an action to be taken by the debtor of the commercial contract, the loan agreement must provide that if the debtor fails to take a position within a reasonable period of time, authorisation to draw on the loan shall be deemed granted.

## ARTICLE 18 INDIVIDUAL FINANCIAL CREDIT. PROGRESSIVE DRAWDOWN. OVERFINANCING

- 18.1** Where Delcredere | Ducroire has authorised progressive drawdowns on the individual financial credit prior to delivery, the loan drawdown procedure may not result in “overfinancing” for the exporter.
- 18.2** Overfinancing is hereby defined as the credit balance of a permanent account kept in accordance with the rules laid down in Article 14.1 of the General Terms, the debit balance of which is increased by a flat rate of 5%.

Without prejudice to Delcredere | Ducroire’s right to inspect the exporter’s books at any time, this situation must be produced at the bank before any drawdowns on the loan.

When notifying the settlement of funds in accordance with Article 9.3 of the General Terms, the bank shall attest that, based on the revenue and expenditures projections of which it is aware and the information in its possession regarding performance of the commercial contract in the context of its business relations with the exporter, the declaration appears to accurately reflect the situation. If overfinancing is found, Delcredere | Ducroire may request any securities or guarantees it deems appropriate to render effective the remedy made available to it by Article 17.2 point 1.

- 18.3** Where Delcredere | Ducroire has merely authorised the principle of progressive drawdown, the precise arrangements for drawing on the loan must be approved at a later date.
- 18.4** In principle, drawdowns on the loan must be connected with specific stages in performance of the commercial contract. By way of exception, drawdowns on fixed dates based on the signing date or date of entry into force of the commercial contract may be allowed where the debtor has a right to verify performance, along with the possibility of modifying the drawdown dates due to delayed performance.

## ARTICLE 19 BANK GUARANTEES COVERING THE INSURED'S OBLIGATIONS

**19.1** The insured shall make efforts to ensure, insofar as possible, that these guarantees or any equivalent undertaking:

- > are not payable at first request, without justification;
- > are not extendable at the beneficiary's choosing;
- > if they cover the reimbursement of down payments, such gradual reduction shall be provided for in both the contract and the bank guarantee letter.

Delcredere | Ducroire shall recommend that insureds use as a basis the International Chamber of Commerce's Uniform Rules for Contract Guarantees, published in 1978.

**19.2** If the financing forms the object of an individual financial credit, the insured bank shall endeavour to take all measures, enforceable against third parties, to ensure that the benefit of the bank guarantees issued in favour of the debtor, for and on behalf of the exporter, is allocated, if the debtor or its banker calls on the guarantee, with priority to claims arising under the financial credit.

Moreover, Delcredere | Ducroire shall refuse to allow down payments made to the exporter by drawing on the financial credit to be accompanied by advance payment (bank) guarantees. Where this is not possible, Delcredere | Ducroire shall refuse to indemnify losses resulting from the enforcement of these guarantees; the down payments shall be deemed acquired and credited to the loss account.

## ARTICLE 20 BANK GUARANTEES TO BE PROVIDED TO PARTICIPATE IN A TENDER

- 20.1** The scope of cover shall be as defined in Article 24 of the General Terms, with the word "Contract" replaced with the word "bid".
- 20.2** When the insured raises a reservation made in its bid to the requirements specified in the call for tenders in order to refuse to deal with the debtor, enforcement of the guarantee shall not be insured unless the reservation in question is enforceable against the debtor.
- 20.3** Cover shall extend to enforcement of the guarantee attributable to the fact that the insured is obliged to refuse to deal on the terms of its bid owing to Delcredere | Ducroire's refusal to issue an insurance policy during the period of validity of the offer of cover or opinion.

## ARTICLE 21 SPECIAL ASSIGNMENT OF THE RIGHT TO INDEMNITIES

- 21.1** Delcredere | Ducroire may, at the exporter's request, allow to the bank which financed the contract a special assignment of the benefit of the insurance.

Notwithstanding the provisions of Article 18.3 of the General Terms, such a special assignment shall imply a waiver by Delcredere | Ducroire of its right to raise against the assignee any exceptions other than those deriving from the latter's conduct or non-payment of the premium. Any indemnities paid to the assignee shall be reimbursable by the exporter at Delcredere | Ducroire's request should the latter find that it may raise against the exporter an exception which the aforementioned waiver prevents it from raising against the assignee.

- 21.2** Unless provided otherwise, this special assignment shall apply only to claims covered against the risk of non-payment, pursuant to the first paragraph of Article 4.2 of the General Terms, and pertaining to contracts providing for a repayment period of more than 2 years, in accordance with the criteria laid down in Article 25.3.2.1.

It shall not apply to indemnities arising from the enforcement of bank guarantees established for and on behalf of the exporter.

- 21.3** The special assignment shall only be effective if the assignee, when raising it, is still a creditor under the terms of the financing of the insured claims. It may be revoked by Delcredere | Ducroire at any time in respect of claims not yet covered against non-payment risks.

## ARTICLE 22 SET-OFF OF LOSS ACCOUNTS

Article 14 of the General Terms shall be supplemented by the following provisions for any contract whose principal amount exceeds 3,750,000 euro:

- 22.1** Regardless of the type of claim covered by the policy, Delcredere | Ducroire reserves the right to:
- > request the establishment, even in the absence of termination, of a loss account in accordance with the rules laid down in Article 14.1 of the General Terms, aggregated with the account provided for by Article 25.3.2 of the General Terms, if appropriate;
  - > set off the balances of the various loss accounts.
- 22.2** The provisions of Article 22.1 shall not be enforceable against the bank to which the right to indemnities is assigned. The exporter shall be obliged to reimburse to Delcredere | Ducroire the indemnities paid to the bank and which it could have refused to pay to the exporter pursuant to Article 22.1.
- 22.3** Article 22.1 shall cease to be applicable on the date on which the exporter discharges in full its contractual obligations.

## ARTICLE 23 CONTRACTS AND BANK GUARANTEES PAYABLE IN WHOLE OR IN PART IN THE DEBTOR'S CURRENCY (LOCAL CURRENCY)

- 23.1** The conditions for acceptance of this currency are laid down in Article 28.
- 23.2** Claims denominated in non-transferable local currency shall not be covered against the risk of non-payment. Indemnification for such claims shall be included in the loss account established for termination claims. However, in the absence of a termination claim, the insured shall be indemnified in euro for the sums transferred, with Delcredere | Ducroire's approval, to the debtor's country to finance an overdraft in local currency, if such transfers are necessitated by the occurrence of a cause of claim referred to in Article 1.2 of the General Terms and if local financing proves impossible or cannot be extended.

In this case, the claims waiting period shall be 6 months from the date of transfer.

- 23.3** Bank guarantees issued for and on behalf of the insured in favour of the debtor and relating to the portion of the contract payable in non-transferable local currency shall not qualify for indemnification in accordance with the provisions of Article 24 of the General Terms. Indemnification thereof shall be included in the loss account established for termination claims.

In the absence of a termination claim, however, the insured shall be indemnified, in euro, for the sums debited by the bank that issued or counter-guaranteed the bank guarantees if it is able to demonstrate that, after consulting with this bank, it proved impossible to use the non-transferable local currency it held in the debtor's country to honour the bank guarantees.

In this case, the claims waiting period shall be 30 days from the debit date.

## ARTICLE 24 FOREIGN EXCHANGE RISK INSURANCE

The following provisions shall determine when, and at what conditions, Delcredere | Ducroire shall provide insurance covering the risk of foreign currency fluctuations.

Cover shall be granted only if the insured has requested an offer of cover before the risk arises.

### 24.1 Financing is in euro.

- 24.1.1** Delcredere | Ducroire may cover exchange risk, in accordance with Articles 26 to 36 of the General Terms, if it is impossible to conclude the contract in euro and finance it in foreign currency. If financing takes the form of a financial credit or if, in the case of a supplier credit, the bank discounts commercial paper without recourse, the exporter and the bank shall be deemed jointly and severally liable for drawing up the statements provided for by Article 35 of the General Terms.

The foreign exchange gain and loss shall be determined solely on the basis of payments made by the foreign debtor or the proceeds from the security referred to in Article 35.1, paragraph 2 of the General Terms, regardless of the rates at which the bank pays the exporter.

- 24.1.2** Pursuant to Article 29 of the General Terms, cover may be effective from either the signing date of the contract or submission of the bid by the exporter, provided the bid does not include a clause enabling prices to be adjusted depending on fluctuations in the currency's exchange rate against the euro since the date of the bid.
- 24.1.3** By countersigning the offer of cover, the insured undertakes to request final cover for the exchange risk from the date of the contract's entry into force, regardless of fluctuations in the exchange rate between the date of the offer of cover and the date of the contract's entry into force.
- 24.1.4** An option premium, which shall definitively inure to Delcredere | Ducroire, shall be due upon issuance of the offer of cover. The premium rates payable upon issuance of the policy shall be indicated in the Special Terms of the offer of cover.
- 24.1.5** The insured rate, which must be proven by the exporter, shall be used to establish the final price in foreign currency. If, however, cover becomes effective only from the signing date of the contract, whereas the exporter has been exposed to exchange risk since the bid, Delcredere | Ducroire may choose as the insured rate the lower of the two following rates: the rate in force at the time the contract is signed or the rate which would have been insured had cover run from the time of the bid.

If, for a period equal to the duration of the bid, the foreign currency is quoted at a discount, Delcredere | Ducroire may require the exporter to fix its price based on this forward quotation and to use it as the insured rate where cover becomes effective upon submission of the bid.

**24.1.6** If on the expiry date of the offer of cover, the contract has not been signed, Delcredere | Ducroire has the following options:

- > not to extend the undertaking to insure the exchange risk;
- > to extend the offer to cover the exchange risk on the basis of the lower of the two following rates: the rate fixed in the offer of cover or the rate in effect on the expiry date of the offer of cover.

**24.1.7** If the contract is signed during the period of validity of the offer of cover but has not entered into force on its expiry date, the offer of cover shall be extended for an additional six-month period starting on the contract signing date.

If the contract does not enter into force within 6 months from its signature, Delcredere | Ducroire has the following options:

- > not to extend the undertaking to insure the exchange risk;
- > extend the offer to cover the exchange risk on the basis of the lower of the two following rates: the rate fixed in the offer of cover or the rate in force 6 months after the contract signing date.

**24.2** Financing is in foreign currency and the exporter applies the spot rate to determine the price.

**24.2.1** Delcredere | Ducroire may grant cover if:

- > the commercial contract must, or may, be denominated in a foreign currency;
- > financing may be achieved in this currency at a lower rate than the euro rate.

**24.2.2** Cover shall extend to:

**24.2.2.1** If the exporter so requests, exchange risk insurance at the terms stated in Article 24.1.

Cover shall be gradually extinguished along with the foreign currency discounting of commercial paper by the bank, in the case of a supplier credit, or with the payments made by the bank on the debtor's behalf, in the case of a financial credit.

**24.2.2.2** If an exporter which has not requested exchange risk cover forward sells foreign currency due under the contract, Delcredere | Ducroire may, at its request, cover the risk of reversal from the date of entry into force of the contract and the date on which commercial paper is discounted in foreign currency by the bank, for a supplier credit, or the date on which payments are made by the bank on behalf of the debtor, for a financial credit.

Pursuant to this cover and notwithstanding the provisions of Article 14.1.3, paragraph 2 of the General Terms, any foreign exchange gains or losses arising from the completion of forward sales shall, in the event of a claim relating to termination of the commercial contract, be booked to the loss account referred to in Article 14.1 of the General Terms.

**24.2.2.3** Foreign exchange cover in the event of a claim for non-payment.

For this type of cover, Delcredere | Ducroire shall have the option of:

- > indemnifying in the foreign currency; or
- > indemnifying in euro on the basis of the European Central Bank reference rate quoted on the day on which the indemnity is paid.

**24.2.2.4** If the insured owes fixed interest to its foreign currency lender, Delcredere | Ducroire may, at the insured's request, insure the reinvestment risk in respect of the borrowed funds which arises upon termination of the commercial contract.

In this case, the reinvestment procedure shall be agreed with Delcredere | Ducroire. Any resulting interest gains or losses shall be debited or credited to Delcredere | Ducroire, as the case may be.

The insured shall keep an account of the interest received through reinvestment and of the interest paid to its lender. This record shall be provided regularly to Delcredere | Ducroire.

Interest gains or losses shall be paid by the insured to Delcredere | Ducroire or by Delcredere | Ducroire to the insured, as the case may be, within 15 clear days from the date of transmission of the aforementioned account to Delcredere | Ducroire.

Delcredere | Ducroire may require at any time that the insured transfer to it any foreign currency which becomes available and take over, in a manner to be agreed, a given percentage of the insured's commitments to its lender.

If the insured is a bank and termination is attributable to the exporter, the latter shall be obliged to reimburse, at Delcredere | Ducroire's first request, the losses it has sustained as a result of reinvestment of the funds.

**24.3** Financing is in foreign currency and the exporter uses forward exchange rates to determine its price.

**24.3.1** The grant of cover shall be subject to the conditions laid down in Article 24.2.1. The purpose of cover is to enable the exporter to become more competitive by allowing it to use forward exchange rates more favourable than the spot exchange rate to convert into the contract currency the price in euro of the transferable portion, other than the down payment made upon order. This difference shall hereinafter be referred to as "agio".

**24.3.2** Cover shall entail the following undertakings by the exporter and its financing bank:

**24.3.2.1** The exporter shall reduce the price of its bid by the agio.

In the event of a claim, Delcredere | Ducroire may call upon an expert, in the manner laid down in Article 19 of the General Terms, to determine whether the exporter has honoured this undertaking.

If it has not, the exporter shall pay Delcredere | Ducroire an amount equal to the agio not passed on to the debtor, within 15 days from the date of the statement sent to the exporter.

**24.3.2.2** The exporter and the bank shall establish a provisional schedule of receipts to be sold forward, starting from the date of entry into force of the commercial contract. They shall obtain Delcredere | Ducroire's approval of the forward (sales) rates valid on the date of the bid and which correspond to the schedule.

**24.3.2.3** The exporter is obliged, within 5 working days from the entry into force of the commercial contract, to sell forward the foreign currency arising from this agreement (less the down payment made upon order).

Delcredere | Ducroire may extend this deadline or suspend this obligation if, at the time the contract enters into force, sale appears impossible or unadvisable (for example, when the foreign currency is discounted).

The exporter shall, within 10 days from sale of the currency (or, in the case of partial sales, the date of the last sale), transmit to Delcredere | Ducroire a statement summarising the sales performed.

This statement shall be accompanied by bank documents showing the amounts in foreign currency transferred by the exporter, the applicable rates, the equivalent value in euro of payments collected or to be collected, the maturity of each forward transaction, and bank commissions.

**24.3.3** Cover shall extend to:

**24.3.3.1** If the exporter so requests, exchange risk cover at the terms stated in Article 24.1 for the period between the bid and the date of entry into force of the contract, with the insured rates being the forward rates approved by Delcredere | Ducroire and referred to in Article 24.3.2.2.

The exchange loss or gain shall be settled in accordance with Article 35 of the General Terms, with any completed forward sale being deemed a collection within the meaning of this article.

Moreover, if forward sales are not concluded within 12 months from submission of the bid, the rates used to determine if there has been an exchange gain or loss compared to the insured rate shall not be those used for actual forward sales but rather those at which the foreign currency could have been transferred by the exporter on the expiry date of the aforementioned 12-month period, if the actual rates are lower than the guaranteed rates.

In this case, the exporter shall transmit to Delcredere | Ducroire a certificate issued by the bank that purchased the foreign currency, showing the rates at which the currency could have been transferred by the exporter upon expiry of the 12th month following submission of the bid.

**24.3.3.2** If the exporter so requests, reversal risk cover at the terms stated in Article 24.2.2.2.

**24.3.3.3** Currency hedging at the terms set out in Article 24.2.2.3.

**24.4** Failure by the beneficiaries of the insurance cover referred to in the preceding provisions to submit to Delcredere | Ducroire a copy of the offer of cover to be signed by them and to pay the premium referred to in Article 24.1.4 shall expose them to the sanctions provided for by Articles 7.4, 12.1 and 12.3 of the General Terms.

Delcredere | Ducroire may also cancel the exchange risk cover if the exporter fails to immediately inform it by fax of both the signing and the entry into force of the contract.

# CHAPTER 5

## ELIGIBILITY RULES FOR INSURANCE

### ARTICLE 25 PAYMENT TERMS

**25.1** The repayment period agreed to by Delcredere | Ducroire shall depend inter alia on the type of the goods and services exported, the delivery times, the contract price, and the country of destination. Delcredere | Ducroire reserves the right to review its decision in the event of any reduction in the contract amount. Likewise, if the contract provides for fixed payment dates linked to the signing date or the date of entry into force of the contract, any shortening of the delivery times shall result in a corresponding acceleration of the payment due dates.

If the starting point of the credit is linked to delivery times, both the commercial and the financial agreement must indicate a final start date for the credit based on the contractual delivery schedule, in the event of delays which are not attributable to the insured.

**25.2** If a repayment period starts to run upon the "last delivery", this term shall be interpreted by Delcredere | Ducroire to mean the last supply of equipment essential to the running of the installation, excluding supplies of spare parts and raw materials.

**25.3** In light of various international agreements, Delcredere | Ducroire shall observe certain rules with regard to repayment periods, the basic features of which are set out below.

#### **25.3.1** Consumer goods

The credit may not exceed 180 days from the date of arrival in the country of destination or 210 days from the date of shipment of the goods.

#### **25.3.2** Capital goods

**25.3.2.1** The repayment period shall be determined on the basis of the following starting points:

- a) In the case of a contract for the sale of stand-alone capital goods (e.g. engines), the starting point shall be the average date or actual date on which the debtor takes physical possession of the goods in its own country.
- b) In the case of a contract for the sale of capital equipment intended for use in complete plants or factories which the insured is not responsible for commissioning, the starting point shall be the date on which the debtor is supposed to take physical possession of the totality of the equipment (excluding spare parts) supplied under the contract.
- c) In the case of construction contracts under which the insured has no responsibility for commissioning, the starting point shall be the date on which construction is completed.

- d) In the case of a contract under which the insured is responsible for commissioning, the starting point shall be the date on which it completes installation or construction and performs the preliminary tests to ensure that the installation is operational.

This rule shall apply regardless of whether the installation or construction is or not handed over to the debtor at this time in accordance with the terms of the contract and regardless of any commitment by which the insured may be bound, e.g. to guarantee effective functioning or train local personnel.

- e) In the cases set out under b, c and d above where the contract involves the separate performance of various parts of a project, the starting date shall be the starting point of each separate part or the average date of those starting points or, where the insured's contract relates not to the entire project but an essential part thereof, the starting point may be that agreed for the project as a whole.

**25.3.2.2** A minimum 15% advance payment shall be required if the repayment period is more than one year. Advance payment shall mean any payment made, in accordance with standard practice, between the signing date of the contract and the start date of the repayment period.

If the risk of termination is covered, a 5% down payment shall be required, payable upon the entry into force of the contract. This down payment may be replaced by an irrevocable letter of credit opened or confirmed before the risks covered by a Belgian bank, the Belgian branch of a foreign bank, or a bank from a country classified in category 1 arise and which may be used no later than the shipment date.

**25.3.2.3** The duration of the credit may under no circumstances exceed the following limits:

- a) if the repayment period does not exceed 5 years from the starting points laid down in Article 25.3.2.1:

minimum value of the contract <sup>(1)</sup> the euro equivalent of	maximum acceptable duration
<b>USD 80,000</b>	3 years
<b>USD 175,000</b>	4 years
<b>USD 350,000</b>	5 years

- b) if the repayment period is more than 5 years from the starting points laid down in Article 25.3.2.1:

Delcredere | Ducroire shall apply the limits imposed by the Arrangement on Guidelines for Officially Supported Export Credits, commonly referred to as the "OECD Arrangement", to which the European Union has acceded.

(1) The amounts are indicated in USD as they are fixed in this currency under an agreement signed by members of the International Union of Credit and Investment Insurers (Berne Union), to which Delcredere | Ducroire is a party.

## ARTICLE 26 FINANCING OF LOCAL EXPENDITURE

Delcredere | Ducroire shall apply the following rule, which appears in the OECD Arrangement referred to at the end of Article 25.3.2.3, with regard to the maximum amount eligible for financing:

“Participants shall not finance, guarantee or insure credit for more than 100% of the value of the goods and services exported, including goods and services supplied by third countries. Thus, the amount of local costs supported on credit terms and conditions will not exceed the amount of the cash payment. They shall not grant such support for local costs financed on conditions more favourable than those supported for the exports to which such local costs are related.”

## ARTICLE 27 COMMERCIAL PAPER

Both repayments of principal under the credit and the corresponding interest payments shall be represented by bills of exchange and promissory notes.

Commercial paper must be domiciled with a bank established in Belgium, unless both the drawer and the drawee are private debtors.

The frequency of successive maturities of commercial paper may not exceed 6-month intervals, with the first maturity occurring no later than 6 months from the credit starting point laid down in Article 25.3.2.1.

The insured shall endeavour to ensure that the commercial papers are deposited, upon the contract's entry into force, with a bank established in Belgium (in the case of a financial credit, with the bank granting the credit), which shall be irrevocably authorised to issue the commercial papers and place them into circulation on the dates provided in the contract.

In any case, the procedures for issuing and placing into circulation commercial papers, for both supplier and financial credit, shall be approved by Delcredere | Ducroire.

## ARTICLE 28 CONTRACTS AND BANK GUARANTEES PAYABLE IN FOREIGN CURRENCY

- 28.1** Delcredere | Ducroire shall allow local expenditure, as defined in Article 3.3.2 of the General Terms, as well as the accompanying bank guarantees issued for and on behalf of the insured in favour of the debtor, to be paid in local currency, provided this currency is quoted in an international financial centre.
- 28.2** Delcredere | Ducroire shall allow exported goods and services and the accompanying bank guarantees issued for and on behalf of the insured in favour of the debtor to be paid in a foreign currency if:
- 28.2.1** the exchange rate of this currency is published daily by the National Bank of Belgium; or
  - 28.2.2** the currency is that of the debtor's country and the following conditions are met:
    - > the currency is freely usable in accordance with International Monetary Fund criteria;
    - > the currency is widely used to settle international transactions with the debtor's country or to constitute bank guarantees in favour of the debtor;
    - > proof is produced that the acceptance of this currency is a prerequisite for the award of the contract;
    - > the currency is quoted in an international financial centre.

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