



General conditions

Guarantee for trade receivables, credit period not exceeding 12 months

March 14, 2014

This English translation of the authentic Swedish text serves merely for information purposes and in case of dispute the Swedish text shall prevail.

EKN Guarantee for trade receivables

1. Definitions

THE CONTRACT: the contract to which EKN's guarantee relates;

GUARANTEED CLAIM: the claim relating to the contract covered by the guarantee. See "non-guaranteed claim";

GUARANTEE: the document whereby EKN issues a guarantee;

GUARANTEE PERCENTAGE RATE: the percentage of a loss incurred payable as indemnification and specified in the guarantee. See "excess risk";

WAITING PERIOD: the period of time that must elapse before a loss will be deemed to have occurred;

WAITING PERIOD INTEREST: the interest payable during the waiting period. Waiting period interest is calculated at the same rate as interest;

LIMIT: the maximum amount that can form the basis of the indemnification amount payable. This amount is set out in the guarantee;

NON-GUARANTEED CLAIM: a claim under a contract not covered by the guarantee. See "guaranteed claim";

INTEREST: for guarantees in SEK an interest rate applicable from time to time based on STIBOR 3-month plus 0.25 percentage points; for guarantees in EUR an interest rate applicable from time to time based on EURIBOR 3-month plus 0.25 percentage points; for guarantees in USD, CHF or JPY an interest rate applicable from time to time based on LIBOR 3-month plus 0.25 percentage points. The respective interest rates are taken from the rate applicable two banking days before the date from which the interest is to be calculated;

EXCESS RISK : the percentage of a loss incurred which is not eligible for indemnification under the guarantee. See "guarantee percentage rate";

INDEMNIFICATION: the amount paid out by EKN as indemnification under the guarantee when a loss has been incurred;

LOSS ADJUSTMENT: payment of indemnification under the guarantee.

2. Scope of the guarantee

2.1 The guarantee entitles the guarantee-holder to indemnification corresponding to the guarantee percentage of loss incurred, calculated in the manner set out in 6.4. The guarantee-holder has incurred a loss if he has not received payment of a clear and undisputed due claim in the place of payment specified in the contract within the waiting period specified in 2.6.

The claim must correspond to a fulfilled performance by the guarantee-holder that has been delivered or otherwise performed in accordance with the provisions of the contract.

Consideration in the form of delivery of goods is deemed to have been performed when the goods have been delivered in accordance with the terms of delivery in the contract in such a way that the risk of the goods has passed from the guarantee-holder to the buyer.

2.2 The guarantee entitles the guarantee-holder to waiting period interest, provided that the contract expressly states that the buyer is obliged to pay interest on arrears.

2.3 The guarantee only covers losses occurring after the guarantee has come into effect. The date of the guarantee coming into effect is specified in the guarantee.

2.4 The guarantee sets out any specific conditions and/or supplementary conditions for the guarantee concerning political events that add to, or differ from, these general conditions. In the event of conflicting provisions, the specific conditions and/or the supplementary conditions take precedence over the General conditions.

2.5 Loss is confined to the buyer's normal payment obligations under the contract. Liquidated damages, damages or the like payable by the buyer owing to breach of contract or such like are not covered by the guarantee.

2.6 The waiting period is three months and is calculated from the due date of the guaranteed claim.

No waiting period applies if the buyer is insolvent. The buyer will be deemed insolvent if

- he has suspended payments or has been declared bankrupt or insolvent;
- distraint or a similar procedure has not resulted in performance of the payment obligation in question;
- he has moved to an unknown location or has otherwise made himself unavailable; or
- there are other circumstances constituting sufficient evidence of insolvency.

If a legally binding written agreement on a new payment plan has been concluded with the buyer, no waiting period will apply if the guarantee-holder applies for indemnification in accordance with the payment plan originally agreed. However, the waiting period will apply if the guarantee has been adjusted at the guarantee-holder's request to include the new payment plan.

2.7 The guarantee does not cover loss arising due to the guarantee-holder, his consortium partner or any other party acting on the guarantee-holder's behalf having acted wrongly or negligently.

The guarantee does not cover loss arising due to permissions not having been obtained for goods or services whose nature is such that their export requires permission in the country in which the guarantee-holder is resident. However, this provision does not apply if the guarantee-holder is resident in the same country as the buyer and that country is not Sweden.

The guarantee does not cover loss caused by the action of a public authority other than actions falling within the scope of the second paragraph, unless the action has been taken as a

consequence of an international decision binding on the country or the public authority in question. However, the provisions of this paragraph do not apply if the export concerns goods or services whose export requires special permission from a public authority in the guarantee-holder's country.

2.8 If a guaranteed claim is paid in its entirety at least six months before the agreed time for final payment of the claim, the guarantee-holder is entitled to repayment of a portion of the premium.

Repayment will be made in an amount equalling the difference between the premium paid for the guarantee and the premium that would have been payable if the guarantee had only covered the period up to the day when the guaranteed claim was paid. A deduction of 10 per cent for EKN's administrative costs will be made from the amount calculated.

3 Conditions for validity of the guarantee

3.1 The contract must be in writing and be legally binding. The contract must not restrict the guarantee-holder's ability to meet his obligations in accordance with the conditions governing the guarantee. This also applies to guarantees, sureties, pledge and charge documents and similar documents.

Only if EKN expressly declares in writing that it has no objections to the wording of the contract or part thereof, is the guarantee-holder correspondingly discharged from his obligations under the first paragraph. These provisions concerning the contract also apply to other documentation of relevance to the guaranteed transaction.

3.2 The contents of the contract must conform to the information submitted in conjunction with the guarantee application. Changes may not be subsequently made in these respects without EKN's written consent. Nor may the guarantee-holder terminate the contract, discontinue his performance or assign his obligations under the contract to another party without EKN's written consent.

3.3 If, in conjunction with a guarantee application, it has been stated, or EKN has made it a condition for validity of the guarantee, that a third party has given a guarantee, surety or similar undertaking in respect of the buyer's obligations, EKN is entitled to assume that the undertaking applies as it would for the guarantor's own debts (*proprieborgen*), unless the guarantee-holder has stated otherwise.

3.4 The Premium is payable in a manner set out in the guarantee.

4. Transfer of excess risk; assignment of rights

4.1 Unless EKN has given its written consent, the guarantee-holder may not, by way of insurance or any other means, transfer the excess risk to any party other than

- the parent company of the group of companies to which the guarantee-holder belongs;

- sub-suppliers and main suppliers of the guarantee-holder in proportion to their respective shares of the guaranteed transaction under the contract; and
- a refinancing bank in proportion to the share of the guaranteed claim that the bank refinances.

The term "transfer of excess risk" includes situations where the guarantee-holder has received a pledge, charge, surety, guarantee or other security for the excess risk.

4.2 The guarantee-holder may assign his rights under the contract and the guarantee to a credit institution as defined in the Banking and Financing Business Act. Assignment of this kind must be notified to EKN in writing without delay.

Assignment to any party other than as specified in the first paragraph requires EKN's written consent.

4.3 The party to whom the rights under the guarantee have been assigned does not have a better right against EKN than the guarantee-holder.

4.4 The provisions on assignment set out in sections 4.2 and 4.3 also apply to a pledge or charge.

4.5 The guarantee-holder's obligations towards EKN remain unchanged following an assignment of the rights under the contract and the guarantee. It is incumbent on the guarantee-holder and the party to whom the rights have been assigned to agree on a suitable arrangement in order to ensure performance of the guarantee-holder's obligations under the General conditions and the guarantee.

EKN is entitled to enter into an agreement with the party to whom the rights under the contract and the guarantee have been assigned concerning those rights, and the guarantee-holder will be bound by that agreement. However, EKN must give the guarantee-holder written notice before any such agreement is concluded.

4.6 Unless EKN has advised otherwise, the guarantee-holder will continue to be liable for the excess risk following an assignment of the rights under the contract and under the guarantee. This means that the guarantee-holder bears any loss arising up to the excess risk in the event of a claim under the guarantee.

5. The guarantee-holder's obligations

5.1 The guarantee-holder has the same duty of care in carrying out the guaranteed transaction as if he did not have a guarantee. The guarantee-holder is under a duty to take all actions and otherwise act in the manner that can be reasonably demanded of him to avoid or mitigate loss.

5.2 When the guarantee comes into effect, the guarantee-holder must be assured that import, foreign exchange and other permits required for execution of the contract have been obtained. The guarantee-holder must also be assured that the buyer has taken the actions incumbent on him under the contract, such as advance payment or the providing of security.

As regards permits relating to the country of import, it suffices that the buyer has given an assurance that permits have been obtained, unless particular circumstances indicate otherwise.

5.3 The guarantee-holder is obliged to:

- keep the accounts required to be able to calculate the size of a loss arising;
- on request provide EKN with his accounts and other documents concerning the guaranteed transaction; and
- supply other information that may be of importance to EKN.

5.4 The guarantee-holder must notify EKN in writing if

- the buyer has not paid the guarantee-holder's claim within one month from the due date, whether or not the claim is guaranteed;
- it has come to the guarantee-holder's knowledge that changes have occurred in the buyer's or guarantor's financial position, and the guarantee-holder ought reasonably to realise that those changes have increased the risk of loss under the contract;
- the guarantee-holder's own circumstances have changed in such a way that he may experience difficulties in performing his obligations under the contract;
- it has come to the guarantee-holder's knowledge that the buyer is not abiding by conditions in the contract governing the environmental impact of his operations; or
- the guarantee-holder has become aware of changed circumstances in the part of the buyer's operations to which the contract relates, and the guarantee-holder ought reasonably to realise that those changes have increased the risk of adverse environmental impact.

Notification under this section must be given without delay once the guarantee-holder has become aware of the situation.

The term "environmental impact" means impact on air, water, soil/ground, sensitive natural and cultural areas, humans, communities and animals, and also use of resources, waste and noise.

5.5 The guarantee-holder must raise a claim against the buyer and any guarantor after the due date. The claim must include a demand that the reason for non-payment be given.

5.6 If bills of exchange have been issued, the bills must be protested if the bills are guaranteed by a third person, unless EKN allows otherwise.

5.7 In the event of increased risk or non-payment as set out in 5.4, the guarantee-holder is obliged to take actions and otherwise act in the manner that can be reasonably demanded of him to prevent, avoid or mitigate loss. If it is doubtful whether a certain action is appropriate, the guarantee-holder must consult EKN before the action is taken. The guarantee-holder must always consult EKN before legal action is taken or pledges, charges or other security are enforced.

If the action mentioned in the first paragraph entails expense for the guarantee-holder, EKN may, at the request of the guarantee-holder, accept responsibility for part of the cost, not

exceeding the guarantee percentage rate, however. The request must be made in writing to EKN before the action is taken.

If EKN and the guarantee-holder are unable to agree on what actions to be taken, or if the guarantee-holder fails to consult EKN, EKN will decide the matter on its own. If EKN so requests, the guarantee-holder is obliged to take any action decided on or authorise EKN to take that action. If the guarantee-holder does not comply with the request, the guarantee is void against EKN. EKN is responsible for costs under this paragraph in an amount corresponding to the guarantee percentage rate.

Loss adjustment

6.1 General

6.1.1 Application for loss adjustment must be in writing and must be received by EKN within one year of the due date of the guaranteed claim. The application must set out the grounds for the guarantee-holder's request for indemnification.

If the application is not received by EKN within one year from the due date of the claim, the guarantee-holder will forfeit his right to indemnification under the guarantee for that claim.

6.1.2 Before loss adjustment the guarantee-holder is obliged to assign, in writing, the outstanding claim to EKN, together with any accompanying security and claim for damages.

6.2 Disputed claims

6.2.1 When requesting indemnification, the guarantee-holder is obliged to notify EKN if the buyer has raised objections to the guarantee-holder's claim for payment, made a counterclaim or disputed the claim on other grounds.

If the buyer has raised objections as described in the first paragraph, and they are not obviously unjustified, the guarantee-holder must present to EKN acceptable documentary evidence that the claim is clear, due and that the guarantee-holder's claim is otherwise justified. The same applies if there are other circumstances that may raise doubts as to whether the claim is clear and due or the claim is undisputed. The evidence should normally consist of an enforceable judgment or arbitration award.

6.2.2 If payment under the contract is to be made against presentation of accepted bills of exchange, EKN will not accept the claim under the law governing bills of exchange as a clear and due claim if the buyer has raised objections under the contract that are not obviously unjustified.

6.3 Payment of indemnification

6.3.1 When EKN has decided that indemnification is payable, it must be paid out without delay after the end of the waiting period. Waiting period interest will only be paid if indemnification is paid out, and only on the portion of the guaranteed claim outstanding at the

time the loss is adjusted. Waiting period interest may not exceed interest on arrears under the contract.

Waiting period interest is also payable during EKN's processing of the application for loss adjustment, subject to a maximum period of 15 days, however. Loss due to insolvency as described in the second paragraph of 2.6 does not shorten the period during which waiting period interest may be payable.

6.3.2 If EKN pays indemnification later than 15 days after application by the guarantee-holder for loss adjustment, EKN will pay interest on the indemnification amount until the day it pays out the indemnification. This applies provided that

- the waiting period has expired at the time the application for loss adjustment is received by EKN; and
- the guarantee-holder's application contains the necessary information evidencing his right to indemnification under the guarantee.

6.3.3 EKN is not obliged to pay out indemnification sooner than required according to the original due dates under the contract.

6.3.4 All amounts received by the guarantee-holder from the buyer, whether relating to a guaranteed or non-guaranteed claim, will be deducted in the order that a claim falls due.

Regardless of statements made by the buyer or the guarantee-holder, sums received that are objectively deemed to relate to a given claim will be deducted from that claim, such as

- amounts constituting a dividend in a bankruptcy and relating to a specified claim;
- amounts constituting payment of a claim affirmed by an enforceable judgment or arbitration award issued following an impartial proceeding;
- amounts paid by a guarantor or other third party who is liable to make payment; and
- amounts derived from the enforcement of a pledge, charge or similar security.

6.3.5 The maximum total indemnification amount payable under the guarantee is the guarantee percentage of the limit. The guarantee percentage rate and limit are set out in the guarantee. The guarantee also specifies the currency in which indemnification is payable.

If the limit has been expressed in a currency other than that in which performance is to be made under the contract then, in order to calculate the remaining sum available under the limit, conversion will take place via SEK, using the exchange rates applying on the due date of the claim. See also the second paragraph of 6.4.4 regarding currency conversion.

6.4 Calculation of loss

6.4.1 Loss is the difference between

- the principal amount of the outstanding guaranteed claim, together with agreed and accrued interest, but not including interest on arrears;

and

- amounts received in relation to the guaranteed claim;
- amounts received following enforcement of security provided for the guaranteed claim;
- damages or other compensation that has been received by the guarantee-holder and that has reduced his loss;
- counterclaims that the buyer or guarantor can raise against the guarantee-holder;
- the realisable value of goods to which a claim relates but that have not yet been delivered or that the guarantee-holder has recovered after completed delivery.

If goods have been sold on to a third party with EKN's approval, the realisable value is the agreed purchase price less sales costs. In other cases the guarantee-holder and EKN will estimate the realisable value in consultation. If EKN and the guarantee-holder are unable to agree a realisable value, the value will be determined by arbitrators as provided by 8.2.

6.4.2 Loss does not include costs incurred by the guarantee-holder in order to show that he is entitled to indemnification, nor for costs he has incurred in raising claims.

6.4.3 In determining loss, account will be taken of all counterclaims that the buyer or a guarantor may raise against the guarantee-holder, whether or not they relate to the contract. If the guarantee-holder disputes the buyer's or the guarantor counterclaim, EKN may demand that the guarantee-holder produce documentary evidence that EKN finds acceptable, showing that the counterclaim is obviously unfounded. The evidence should normally consist of an enforceable judgment or arbitration award.

6.4.4 Insofar as the buyer's obligations under the contract are to be performed in SEK, and if the guarantee has been issued in SEK, indemnification will also be paid in SEK. If the buyer is to perform all or some of his obligations in one or more currencies other than SEK, the guarantee will specify the currency or currencies in which indemnification is to be paid.

If currency conversion is required for loss adjustment, conversion will take place via SEK, which will then be converted into the currency specified in the guarantee. Indemnification determined via conversion must equal the average buy rates for the currency or currencies in question quoted by two of the major Swedish foreign exchange banks at 11.00am in Stockholm on the due date of the claim or, if that date is not a banking day, the immediately preceding banking day. However, the exchange rate used for the purposes of conversion may never exceed the rate stipulated in the guarantee.

If a counterclaim within the scope of 6.4.1 is in the same currency as the claim for which indemnification is to be paid out, the claims will be set off in that currency when determining the indemnification amount payable. Otherwise, the amount of the counterclaim will be converted into the currency in which indemnification is payable in the manner specified in the second paragraph.

6.5 Actions after loss adjustment

6.5.1 After loss adjustment EKN and the guarantee-holder have to consult on collection of the debt or other recovery actions.

6.5.2 The guarantee-holder is always obliged to participate in debt collection or other recovery actions. If those actions entail costs, these must be apportioned between the guarantee-holder and EKN so that EKN pays the portion equivalent to the guarantee percentage and the guarantee-holder pays the portion equivalent to the excess risk.

Once the cost of the actions has been covered, amounts received will be divided between EKN and the guarantee-holder so that EKN receives an amount corresponding to the guarantee percentage rate and the guarantee-holder an amount equivalent to the excess risk. EKN is only entitled to interest paid by the buyer or another party on behalf of the buyer relating to the period after loss adjustment.

6.5.3 If EKN and the guarantee-holder do not agree on the actions that should be taken, or if the guarantee-holder fails to consult EKN, EKN will decide on its own, taking due account of the guarantee-holder's interests. EKN alone is liable for costs incurred as a result of its decision.

The guarantee-holder will not receive any portion of sums received until EKN's costs have been fully covered and EKN has received full compensation for indemnification paid out and interest on that amount. This interest is calculated in the manner set out under "Interest" in the Definitions in 1.

6.5.4 The term "costs" in 6.5.2 does not include administrative expenses and other additional internal costs that may have been incurred by EKN or the guarantee-holder.

7. Reduction of indemnification and invalidity

7.1 Indemnification will be reasonably reduced if EKN's risk of incurring a loss has increased because the guarantee-holder has

- failed to abide by the provisions set out in 5.1 – 5.3 and 5.7;
- neglected his duty to report under 5.4;
- neglected to protest a bill of exchange in accordance with 5.6;
- granted a debtor a grace period, or wholly or partially waived a guaranteed claim or claim for damages without EKN's written consent;
- wholly or partially, without EKN's written consent, waived a pledge, charge, guarantee, surety or other security that the guarantee-holder has stated to exist in conjunction with the application, or that has been stipulated as a condition of the guarantee;
- provided EKN with incorrect or misleading information about the transaction, or concerning other circumstances of importance for the issuance of the guarantee; or
- failed to provide information that he realised or ought to have realised was of importance for EKN's guarantee decision.

7.2 Indemnification may also be reduced where EKN's risk of incurring a loss has increased in other guarantee dealings with the same buyer. This applies if EKN has issued new guarantees at the request of the same or another guarantee-holder, thereby being exposed to risks that could have been avoided if EKN had been notified in time in accordance with the first and second paragraphs under 5.4.

7.3 Reduction under 7.1 and 7.2 may reduce the indemnification amount to zero (0).

7.4 The entire guarantee will be void against EKN if

- any of the conditions for validity of the guarantee under 3 are not met;
- the guarantee-holder has acted contrary to the first paragraph of 4.1 or the second paragraph of 4.2; or
- the guarantee-holder has provided EKN with incorrect or misleading information about the transaction or any other circumstances of importance in relation to the issuance of a guarantee, and the correct information would have caused the guarantee not to be issued in the way it in fact was issued. Incomplete information may also be misleading if it concerns circumstances about which the guarantee-holder must provide information in the application for a guarantee.

EKN is entitled to declare the guarantee void against EKN under this section even if the information that has come to hand has not increased EKN's risk of incurring a loss.

7.5 If notification of non-payment of a guaranteed claim is received by EKN later than six months from the due date, the guarantee is void against EKN in relation to that claim. This applies whether or not EKN's risk of incurring a loss has increased.

7.6 If, following the issuance of a guarantee, it is shown by way of an enforceable judgment that the guarantee-holder or anyone acting on his behalf has given a bribe or other improper benefit in conjunction with the export transaction to which the guarantee relates then, whether or not the information that has become known has increased EKN's risk of incurring loss, EKN is entitled to declare all or part of the guarantee void against EKN.

The guarantee-holder will hold EKN harmless for all costs and expenses resulting from events specified in the first paragraph. Additionally, the guarantee-holder is obliged to repay indemnification amounts received, together with interest from the date the indemnification was paid out.

7.7 The guarantee-holder is liable to compensate EKN for costs and loss caused by fraudulent or negligent behaviour on his part, or failure to perform his duties under the General conditions or the guarantee.

However, except where the guarantee-holder has acted fraudulent or with gross negligence, his liability is limited to the amount he has received in indemnification, plus interest on that amount.

If the rights under the contract and the guarantee have been assigned to another party in accordance with 4.2, the liability to pay compensation passes in the first place to that party up to an amount equal to the amounts that party has received under the guarantee, plus interest on that amount.

8. Guarantee disputes

8.1 The guarantee is governed by Swedish law.

8.2 Any disputes concerning the guarantee will be settled by arbitration in accordance with the Swedish Arbitration Act in force at the time the dispute arises.

The dispute will be settled in Stockholm. The arbitral proceedings will be held in the Swedish language, and the arbitral award will be written in Swedish.

If the guarantee-holder wishes the arbitrators to review a decision made by EKN, the guarantee-holder must request such review within twelve months from the date on which the guarantee-holder received the decision. Otherwise, he will forfeit his right to have the decision reviewed.

If the arbitrators arrive at differing conclusions with regard to a valuation matter, the average value shall apply as their decision.