

# EXPORT-IMPORT BANK OF THE UNITED STATES

## SHORT TERM SINGLE BUYER EXPORT CREDIT INSURANCE POLICY FOR EXPORTERS

In consideration of the payment of premiums and in reliance upon the representations in the application, Export-Import Bank of the United States, an agency of the United States Government, herein called "Ex-Im Bank," agrees as follows with the *insured* named in the declarations (or "*you*"). Italicized terms used in the *Policy* shall have the meanings set forth in the declarations, Article 10 or the applicable endorsement.

### ARTICLE 1. POLICY CONTENTS

This *Policy* consists of Articles 1 through 10 of this document, *your* application, the declarations and all endorsements.

The date of shipment shall determine which declarations and endorsements are applicable to *your insured transaction*.

### ARTICLE 2. INSURING AGREEMENT

Subject to the terms and conditions of this *Policy*, Ex-Im Bank agrees to pay *you* the *insured percentage of a loss* on an *insured transaction* that remains unpaid 90 days after the *due date*.

There shall be no coverage for any *loss* that is insurable under the American Institute of Marine Underwriters' War Risk and Strikes, Riots and Civil Commotion clauses current on the date of shipment.

### ARTICLE 3. REQUIREMENTS OF AN INSURED TRANSACTION

*Your* shipment of *products* to the *buyer* is an *insured transaction* only if it meets all of the conditions set forth in this Article 3 on the date of such shipment. Each shipment must be:

- A. comprised of *products* that: (i) are not military equipment or defense related, (ii) are not for sale to, or for use by, a military or security agency and (iii) are made in the United States with at least 50% United States content (United States content includes the costs of labor, raw materials and components), excluding price markup (*you* may not add any value to the *products* after they leave the United States); and
- B. shipped during the *policy period* from the United States (or its territories) to the *buyer's* country (shipment begins when the *products* are placed en route to the *buyer* by *you*, *your* supplier or agent); and
- C. evidenced by a *buyer obligation* payable to *you*; and
- D. an export sale evidenced by a bill of lading or other shipping document(s) that are consistent with the other documents evidencing the *buyer obligation*. (A shipping document showing delivery to a transport carrier or intermediary agent will not be accepted.)

### ARTICLE 4. LIMITATIONS OF EX-IM BANK'S LIABILITY

#### A. Policy Payment Limit

The *policy payment limit* is set forth in the declarations and is the maximum aggregate amount payable by Ex-Im Bank under this *Policy*, exclusive of interest, if any, for shipments made during the *policy period*.

## B. Reduction of Liability

Each *claim* payment by Ex-Im Bank made under this *Policy* shall reduce Ex-Im Bank's liability under the *policy payment limit* by the amount of such *claim* payment.

## ARTICLE 5. EXCLUSIONS

Ex-Im Bank shall not be liable for any *loss*:

- A. if *you*, or any of *your* employees or agents fail to strictly comply with any of the terms or conditions of this *Policy* at the time such term(s) or condition (s) was (were) required to be performed; or
- B. arising out of, or related to, *your* actions or any actions of *your* employees or agents or any assignee of this *Policy*; or
- C. if *you* do not submit *your Notice of Claim and Proof of Loss* within the applicable filing period specified in Article 7, Section A.2 of the *Policy*; or
- D. where any unresolved dispute, of any nature, exists between *you* and the *buyer* until *you* have established the *buyer obligation* to be valid and legally enforceable against the *buyer* in the courts of the *buyer's* country or *you* have otherwise settled the dispute to the satisfaction of Ex-Im Bank; or
- E. to the extent that the amount of, or the obligation to pay, the *buyer obligation* has been relieved, in whole or in part, by payment or by an express or implied agreement by *you* or *your* employees or agents.

## ARTICLE 6. AGREEMENTS OF THE INSURED

*You* agree to:

- A. report and pay premiums on *insured transactions* when and as required by Article 9, Section A of the *Policy*; and
- B. remain at risk, for *your* own account, for the *buyer obligation* less the *insured percentage* of *your insured transaction*; and
- C. stop shipping to the *buyer* if the *buyer* is: (i) more than 90 days past due to *you* for \$2,000 or more, unless the *buyer* disputes the past due amount and *you* have acknowledged the legitimacy of the dispute in writing; or (ii) known to *you* to be in bankruptcy proceedings, insolvent, discontinuing operations, or in receivership; and
- D. submit a complete and accurate "Report of Overdue Accounts Under Short-Term Policies" to Ex-Im Bank within 30 days after the end of each calendar month if the *buyer* is more than 90 days past due to *you* for \$25,000 or more (this report can be completed via the Exim Online web portal or, alternatively, a copy of this form can be found on Ex-Im Bank's website at [www.exim.gov/tools/appsforms/insurance.html](http://www.exim.gov/tools/appsforms/insurance.html) or a hard copy may be delivered to *you* by mail upon written request); and
- E. not amend the *due date* unless approved by Ex-Im Bank in writing; and
- F. take commercially reasonable action to minimize and reduce any existing or potential *loss*, including exercising rights of reclamation, offset, stoppage in transit and the like and any reasonable measures which may be required by Ex-Im Bank; and
- G. cooperate with Ex-Im Bank to make *recoveries*; and
- H. comply with all applicable export and import laws and regulations.

## ARTICLE 7. PROOF AND PAYMENT OF CLAIMS

- A. Ex-Im Bank will pay *you* in accordance with the insuring agreement set forth in Article 2 of the *Policy* within 60 days of receipt of a complete *Notice of Claim and Proof of Loss* provided *you*:
1. have made a written demand for payment from the *buyer* and any applicable guarantor at least 30 days prior to submission of the *Notice of Claim and Proof of Loss*; and
  2. submit a signed and complete *Notice of Claim and Proof of Loss* between 3 and 8 months after the date of *default* or, if specifically requested by Ex-Im Bank, within 30 days from the date of such request by Ex-Im Bank (*you* may immediately submit a claim when the *buyer* is declared bankrupt, insolvent or placed into receivership); and
  3. specify in the *Notice of Claim and Proof of Loss* all amounts outstanding under *insured transactions* and *uninsured debt* with the *buyer* on the date of your completed form.
- B. If *you* failed to stay at risk for the *buyer obligation* less the *insured percentage*, Ex-Im Bank will reduce any *claim* payment by the amount for which *you* failed to stay at risk.
- C. If *you* have any other valid and collectible insurance applicable to a *loss* covered by this *Policy*, any *claim* amount paid by Ex-Im Bank pursuant to this *Policy* shall be excess insurance over the applicable limit of liability of the other insurance.
- D. Upon receipt of notification of a *claim* approval, *you* will have a maximum of 30 days to provide any additional documentation requested by Ex-Im Bank, including (i) wire instructions, (ii) taxpayer identification number, (iii) a completed original "Release and Assignment" form for all *insured transactions* and, unless otherwise agreed to in writing by Ex-Im Bank, all *uninsured debt*, and (iv) if applicable, original loan documentation endorsed to Ex-Im Bank. *You* may forfeit *your* rights to the *claim* payment if *you* fail to provide this information in the timeframe set forth above.

## ARTICLE 8. RECOVERIES

- A. After paying any *claim*: (i) Ex-Im Bank will undertake all collection efforts against the *buyer* on *your insured transaction* and, if applicable, all *uninsured debt*, if any, and (ii) *you* will be precluded from any independent recovery actions against the *buyer*. Any amounts *you* receive from the *buyer* after a *claim* payment, whether from *insured transactions* or *uninsured debt* must be remitted, without reduction, directly to Ex-Im Bank.
- B. Any *recovery* shall be applied first to *collection costs*. The balance of the *recovery* shall be shared by *you* and Ex-Im Bank in the proportion in which the *loss* was shared on the date of *claim payment*. All *recoveries* shall be shared in accordance with these proportions, without limitation, even if Ex-Im Bank collects more than the *claim* payment plus accrued interest, if any.

## ARTICLE 9. GENERAL CONDITIONS

### A. Premiums and Reporting

1. *You* must pay minimum premium in the amount and as set forth in the declarations.
2. *You* must report and pay shipment premiums on your *insured transaction*, at the rate set forth in the declarations, no later than 30 days following the end of the month during which the *insured transaction* was made.
3. *You* must report shipment premiums on the "Report of Premiums Payable for

Exporters Only” via the Exim Online web portal. Alternatively, a copy of this form can be found on Ex-Im Bank’s website at [www.exim.gov/tools/appsforms/insurance.html](http://www.exim.gov/tools/appsforms/insurance.html) or a hard copy may be delivered to *you* by mail upon written request.

4. In the event *you* fail to file any report or pay any premium when due, Ex-Im Bank may reject or accept, at its sole discretion, any such report or premium when tendered. Any *claim you* submit on a shipment for which premium was not paid or rejected will be denied.

**B. Your Records** - Ex-Im Bank may, at any time, examine and copy *your* records relating to (i) this *Policy*, (ii) *your insured transaction*, (iii) any *claim* made under any Ex-Im Bank insurance policy or any guarantee from Ex-Im Bank, (iv) any shipment to the *buyer*, and (v) any assignee of this *Policy* or the *Policy* proceeds. *You* will help Ex-Im Bank obtain any other information Ex-Im Bank may request.

**C. Changes** - Ex-Im Bank agrees not to change any terms of the *Policy* after the *Policy* is issued.

**D. Notices, Reports and Communications**

1. All communications to Ex-Im Bank shall be given to Ex-Im Bank at its office at 811 Vermont Avenue, N.W., Washington, D.C. 20571 or delivered electronically via a designated e-mail address. All communications to *you* shall be given to *you* at *your* electronic mail or street address on file with Ex-Im Bank or to *your* designated insurance broker.
2. All communications shall be written and in the English language. All communications to *you* shall, when mailed or electronically transmitted, be effective as of the date specified in such communication. All communications to Ex-Im Bank shall be effective only when received by Ex-Im Bank.
3. All communications transmitted via electronic mail shall constitute “written notifications” as may be required under this *Policy*.

**E. Action Against Ex-Im Bank**

1. No action may be brought against Ex-Im Bank prior to 60 days after submission of a complete and accurate *Notice of Claim and Proof of Loss* and unless a written demand is made on Ex-Im Bank 30 days prior to bringing such action.
2. No action of any kind may be brought against Ex-Im Bank more than 18 months after the date of *default*.
3. Any action or proceeding against Ex-Im Bank arising out of or relating to this *Policy* shall be instituted only in a Federal court sitting in the District of Columbia, or the state or jurisdiction in which *your* principal business is located.
4. In any action or proceeding against Ex-Im Bank, service of process shall be made upon Ex-Im Bank in accordance with Rule 4(d) (3)-(5) of the Federal Rules of Civil Procedure. Service upon Ex-Im Bank shall be given to Ex-Im Bank at its Office of General Counsel at 811 Vermont Avenue, N.W., Washington, D.C. 20571.
5. In any claim, action, suit or proceeding to enforce a claim for *loss* hereunder, the burden of proving the following is on *you*: (i) the *loss* is recoverable under this *Policy*, (ii) all conditions of coverage related to the *loss* in question have been satisfied, (iii) all other obligations of the *insured* related to the *loss* in question have been satisfied and (iv) no exclusion applies to the *loss* in question.
6. The construction, validity and performance of the *Policy* shall be governed by and construed in accordance with uniform Federal Law.

- F. False or Fraudulent Statements, Reports, Claims or Concealment** - If *you* knowingly make false statements to Ex-Im Bank, conceal facts *you* should disclose to Ex-Im Bank, or report a *claim* that is false or fraudulent, this *Policy* will be void and Ex-Im Bank will not pay any *claim*. If Ex-Im Bank has already made a *claim* payment in connection with a *claim* or *insured transaction* for which *you* committed any of the actions described in this Section F, *you* will promptly refund the payment to Ex-Im Bank, with interest.
- G. Assignment**
1. This *Policy* may not be assigned or transferred without the prior written consent of Ex-Im Bank.
  2. Assignment of any *Policy* proceeds shall bind Ex-Im Bank only if Ex-Im Bank has executed an *Assignment* completed by *you* and a financial institution (the assignee) acceptable to Ex-Im Bank. If Ex-Im Bank pays the assignee amounts that *you* would not have been entitled to hereunder, *you* agree to indemnify Ex-Im Bank for such amounts plus any costs and expenses incurred by Ex-Im Bank to enforce this provision.
- H. Compliance by Insured** - Notwithstanding any other action by Ex-Im Bank, *your* failure to timely comply with any term or condition of this *Policy* shall not be deemed to have been excused or accepted by Ex-Im Bank unless explicitly agreed to by Ex-Im Bank in writing.
- I. Cancellation** - This *Policy* will automatically expire at the end of the *policy period* unless extended in writing by Ex-Im Bank prior to that time.
- J. Indemnification and Repayment of Ex-Im Bank** - *You* will indemnify and hold Ex-Im Bank harmless for all costs and expenses incurred by Ex-Im Bank of any nature, including: (1) costs of defense; (2) costs of collection; and (3) attorney's fees relating to any of these items IF (i) *you* (or *your* employees or agents, distributors or contractors) fail to fulfill *your* contractual or legal obligations to the *buyer* or to Ex-Im Bank or (ii) as a result of any unresolved dispute, of any nature, between *you* and the *buyer*, the *buyer* is relieved, in whole or in part, of its obligations to pay the *buyer obligation*.

## ARTICLE 10. DEFINITIONS

"*Assignment*" means one of the following forms, as applicable,: (1) "Notification by Insured of Amounts Payable Under Single-Buyer Export Credit Insurance Policy" or (2) "Single Buyer Export Credit Insurance Policy (ESS/ESSP) Enhanced Assignment of Policy Proceeds For Qualified Small Businesses Only, as found on Ex-Im Bank's website at [www.exim.gov/tools/appsforms/insurance.html](http://www.exim.gov/tools/appsforms/insurance.html) or delivered to *you* by mail upon written request.

"*buyer obligation*" means the written agreement of the *buyer* to order the *products* and pay *you* the invoice value of the *products* as evidenced, collectively, by the documents identified in Item 12 of the declarations. This amount may include insurance and freight costs incurred by *you* on the *buyer's* behalf and which support the sale of the *products*. The *buyer* obligation shall be valid and enforceable, when obtained, under the laws of the *buyer's* country and under the laws of a state, territory, or possession of the United States or the District of Columbia.

"*claim*" means *your* request for payment from Ex-Im Bank to pay *you* for a *loss*.

"*collection costs*" means all costs and expenses incurred by Ex-Im Bank to prevent or minimize a *loss* or effect *recoveries*, and extraordinary costs and expenses incurred by *you* to prevent or minimize *loss* provided Ex-Im Bank gives *you* prior written approval to incur such costs or expenses.

"*default*" means non-payment, in whole or in part, of the amount of principal and/or interest, if any, due on a *buyer obligation* in accordance with its terms. *Default* shall not include any non-

payment resulting from any tax or other charge levied by withholding or otherwise, on the *buyer obligation*.

"*due date*" means any date or dates of payment specified in a *buyer obligation*. Unless specified otherwise in the *buyer obligation*, the *due date* will be established by the duration of the contracted payment terms from the bill of lading date.

"*loss*" means the amount of the *default* on an *insured transaction*, less:

1. discounts, credits, or other similar allowances; and
2. any amount which, prior to the time of *claim* payment by Ex-Im Bank hereunder, *you* have received from realization of any security on the *insured transaction*; and
3. any amount which the *buyer* would have been entitled to take into account by way of payment, set-off or counterclaim; and
4. any costs or expenses saved by *you* by non-payment of any agent's commissions or its non-fulfillment of the contract of sale or purchase order.

Accrued and unpaid interest at a rate not exceeding the "Maximum Insured Interest Rate" set forth in the declarations shall be included in the calculation of *loss* provided, that: (1) the *buyer obligation* specifies an interest rate and includes provisions for interest up to and/or after the *due date* and; (2) the amount of interest is calculated to the earlier of the date on which Ex-Im Bank pays the claim or 180 days from the *due date*.

For calculation of *loss*, Ex-Im Bank will apply any payments or credits for an *insured transaction* or *uninsured debt* made to *you* by, or on behalf of, the *buyer* between the date of *default* and the *claim* payment date in chronological order of due dates, regardless of how the *buyer* or other entity from whom such payments are received may have designated such payments or credits.

"*Notice of Claim and Proof of Loss*" means the form entitled "Notice of Claim and Proof of Loss, Short Term Comprehensive Single Buyer" as found on Ex-Im Bank's website at <http://www.exim.gov/tools/claims/claims.html> or delivered to *you* by mail upon written request.

"*Policy*" means the terms and conditions of the collective documents set forth in Article 1.

"*recovery*" means, after payment of a *claim*, any and all amounts (e.g. without limitation, interest, principal, fees, or costs) received by *you* or any of *your* agents or by Ex-Im Bank from or on behalf of the *buyer* on an *insured transaction*, regardless of any designation as to application of funds by the *buyer* or other person or entity from whom such payments are received and regardless of whether the *claim* payment was for principal or interest.

"*uninsured debt*" means the total principal amount and interest thereon outstanding from the *buyer* to *you* on export sales which are not *insured transactions*.

"*you*" and "*your*" refer to the *insured*.

IN WITNESS WHEREOF, Export-Import Bank of the United States has caused this *Policy* to be executed.

Export-Import Bank of the United States

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John A. McAdams  
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