

- 1.1 **“Actual Rate”** means, in relation to an Eligible Currency and on any given day, the spot rate of exchange of that Eligible Currency for Sterling as shown on the page entitled “CurncyGIT” of the Bloomberg financial information system at 11.00 a.m (London time) on that day;
- 1.2 **“Amended Letter of Credit”** means a Notified Letter of Credit which has been amended such that its Maximum Value has increased or decreased, and/or its Expiry Date or Tenor has, or have, been extended or reduced;
- 1.3 **“Amendment Notice”** means, in relation to an Amended Letter of Credit, a notice in the form set out in Appendix I(B) (or in such other form as ECGD may from time to time require) and sent by the Guaranteed Bank to ECGD in respect of that Amended Letter of Credit;
- 1.4 **"Amount Outstanding"** means, in relation to an Issuing Bank Default, such part of the Reimbursement Sum as may be due from, but unpaid by, the Issuing Bank on the Reimbursement Date less any Recoveries which have been received, realised or, in the case of amounts to which Clause 14.7 applies, appropriated by the Guaranteed Bank in respect of that Issuing Bank Default up to, and including, the Guarantee Payment Date;
- 1.5 **"Appendix"** means an appendix to this Agreement;
- 1.6 **"Application"** means the application submitted by the Guaranteed Bank to ECGD which is referred to in recital B to this Agreement;
- 1.7 **“Business Day”** means a day, other than a Saturday, Sunday or public holiday, on which banks are normally open for business in London;
- 1.8 **"Claim"** means, in relation to a Notified Letter of Credit, a claim made under the Guarantee in accordance with Clause 13.1;
- 1.9 **"Clause"** means a clause of this Agreement;
- 1.10 **“Communication”** means any notice, request, demand, consent, agreement or other communication which either party to this Agreement is, under the terms of this Agreement, required or entitled to give to, or serve, on the other;

- 1.11 "**Complying Presentation**" means a Presentation of documents under a Notified Letter of Credit which in all respects satisfies the terms and conditions of that Notified Letter of Credit, including the applicable provisions of the UCP600 or, as the case may be, ISP98 and international standard banking practice as referred to in UCP600;
- 1.12 "**Confirm**" means, in relation to a Letter of Credit, to give a Confirmation in respect of that Letter of Credit;
- 1.13 "**Confirmation**" means, in relation to a Letter of Credit, a definite undertaking by the Guaranteed Bank, as Confirming Bank, in addition to that of the Issuing Bank, to Honour or Negotiate a Complying Presentation under that Letter of Credit (and, for the avoidance of doubt, includes any such undertaking which is not advised to, or requested by, the Issuing Bank);
- 1.14 "**Confirmation Fee**" means, in relation to a Notified Letter of Credit, the fee which the Guaranteed Bank will charge for Confirming or Negotiating that Notified Letter of Credit as specified in the Guarantee Notice for that Notified Letter of Credit;
- 1.15 "**Confirming Bank**" means the bank which adds its Confirmation to a Letter of Credit;
- 1.16 "**Corrupt Activity**" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person) which:
- 1.16.1 is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered a Letter of Credit illegal, void, voidable or unenforceable under its governing law; or
- 1.16.2 the Guaranteed Bank, or anyone (including any of the Guaranteed Bank's employees) acting on the Guaranteed Bank's behalf (with due authority) or with the Guaranteed Bank's subsequent acquiescence, has freely admitted (or, in the case of one of the Guaranteed Bank's employees, freely admitted to the Guaranteed Bank's Compliance Officer) to engaging in; or

- 1.16.3 is subsequently found by a court in any competent jurisdiction (after all available rights of appeal have been exhausted) outside the United Kingdom to constitute an offence under any applicable law (except by virtue of any changes to that law being applied retrospectively); or
- 1.16.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect);

and which activity, in respect of paragraphs 1.16.1, 1.16.2, and 1.16.3 above:

- (1) corresponds to an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect); or
- (2) would, if it had taken place in the United Kingdom, amount to such an offence (except by virtue of an amendment to the Relevant Acts having retrospective effect)

provided that, where, for the purposes of paragraph 1.16.2 above, any such activity is admitted by either (i) a person other than a national of the United Kingdom (as defined in section 109(4) of the Anti-terrorism, Crime and Security Act 2001) or (ii) a body incorporated under the laws of a country other than the United Kingdom, such activity shall not, for the purposes of this Agreement, constitute "Corrupt Activity" if such activity was not, at the time it was engaged in, unlawful under the laws and regulations of the country in which it took place;

- 1.17 "**Country Limit**" means, in relation to a country named in Appendix IX and at any given time, the amount in Sterling specified opposite the name of that country in that Appendix as in force at that time;
- 1.18 "**Documentary Letter of Credit**" means a documentary letter of credit which is expressed to be subject to UCP600 and is not expressed to be a Standby Letter of Credit;

1.19 **"ECGD's Exposure"** means, in relation to a Notified Letter of Credit and on any given date:

1.19.1 where no Claim has been made in respect of that Notified Letter of Credit, the Guaranteed Percentage of the Maximum Value less the Guaranteed Percentage of all amounts which have been received, and which may lawfully be retained, by the Guaranteed Bank in respect of the Reimbursement Sum due in respect of each Complying Presentation made prior to that date; or

1.19.2 where a Claim has been made in respect of that Notified Letter of Credit, the amount claimed by the Guaranteed Bank, and, after the payment of that Claim, the amount paid by ECGD in respect of it less the portion of all Recoveries received by ECGD in respect of that Claim; or

1.19.3 zero, if

(1) the Guaranteed Bank and ECGD agree that the conditions set out in Clause 4.2 are not met in relation to that Notified Letter of Credit; or;

(2) the Guaranteed Bank states in any report delivered to ECGD pursuant to Clause 12.1 that the Expiry Date has passed without their being any Complying Presentation under that Notified Letter of Credit; or

(3) each Complying Presentation under that Notified Letter of Credit is to be Honoured by payment at sight and, within 15 Business Days after the occurrence of the Reimbursement Date, ECGD has not received from the Guaranteed Bank a notice of the occurrence of an Issuing Bank Default in accordance with Clause 13.1.1; or

(4) each Complying Presentation under that Notified Letter of Credit is to be Honoured in the manner contemplated by Clause 1.43.2 or 1.43.3 and ECGD has not received notice of the occurrence of an Issuing Bank Default in accordance with

Clause 13.1.1 within 15 Business Days after the end of the Risk Period;

- 1.20 "**Eligible Currency**" means, at any given time, a currency specified in Appendix VII as in force at that time;
- 1.21 "**Eligible Export**" means a supply of Eligible Goods and/or Eligible Services by an Eligible Exporter to a person carrying on business, or any other activity, outside the United Kingdom;
- 1.22 "**Eligible Exporter**" means a legal or natural person (including an incorporated or unincorporated association) which (1) carries on business, and has an established place of business, in the UK and (2) has satisfied those of the Guaranteed Bank's Assessment Procedures which are applicable to that person;
- 1.23 "**Eligible Goods**" means goods which are to be supplied by an Eligible Exporter and:
- 1.23.1 have been produced, manufactured or assembled in the UK;
or
 - 1.23.2 have been imported into the UK from another country in the European Union before being exported from the UK; or
 - 1.23.3 have been imported into the UK from outside the European Union and cleared inwards through UK Customs before being exported from the UK;
- 1.24 "**Eligible Issuing Bank**" means, at the time at which ECGD receives a Guarantee Notice, a bank named in Appendix IX (as in force at that time);
- 1.25 "**Eligible Letter of Credit**" means a Letter of Credit:
- 1.25.1 which is issued or to be issued:
 - (1) by an Eligible Issuing Bank;
 - (2) in favour of an Eligible Exporter; and
 - (3) in respect of amounts payable in respect of an Eligible Export;

- 1.25.2 which is expressed to be subject to, and governed by, the terms of UCP600 or, if a Stand-by Letter of Credit, UCP600 or ISP98;
- 1.25.3 in respect of which the Guaranteed Bank proposes to act as either a Confirming Bank or a Negotiating Bank;
- 1.25.4 under which:
- (1) the Expiry Date is stated to occur no later than twelve months after the date of issue of that Letter of Credit;
 - (2) the Tenor is less than 365 days; and
 - (3) payment is to be made in an Eligible Currency (and in no other currency);
- 1.26 "**Eligible Services**" services (1) which are to be rendered by an Eligible Exporter and (2) in respect of which each invoice for payment is raised in the UK and requires payment to be made to the Eligible Exporter in the UK or to the Eligible Exporter's bank account in the UK;
- 1.27 "**End Date**" means 31st March 2011 or such earlier or later date as ECGD may, pursuant to Clause 5, from time to time notify to the Guaranteed Bank as being the End Date;
- 1.28 "**Expiry Date**" means, in relation to a Letter of Credit and subject to Article 29 of UCP600 or, as the case may be Article 3.13 of ISP98, the date described as such in that Letter of Credit;
- 1.29 "**Exporter**" means, in relation to Notified Letter of Credit, the entity named as the beneficiary in that Notified Letter of Credit;
- 1.30 "**Exporter's Undertaking**" means, in relation to a Letter of Credit, an undertaking in the form set out in Appendix II (or in such other form as ECGD may from time to time require), duly completed in respect of that Letter of Credit and the supply of goods and/or services to which it relates and signed by or on behalf of the beneficiary under that Letter of Credit by a person who has been duly authorised to give the representations, warranties and undertakings and agreements in that undertaking on behalf of the Exporter;

- 1.31 **"FOIA"** means the Freedom of Information Act 2000, as from time to time amended or re-enacted;
- 1.32 **"FSA"** means the Financial Services Authority;
- 1.33 **"Guarantee"** (*noun*) means, in relation to a Notified Letter of Credit, the guarantee from ECGD in respect of that Notified Letter of Credit which, subject to Clauses 2.6 and 4.2, arises under Clause 4.1 as a result of ECGD's receipt of the Guarantee Notice for that Notified Letter of Credit;
- 1.34 **"Guaranteed Bank's Assessment Procedures"** means, in relation to a Letter of Credit which the Guaranteed Bank has been requested to Confirm or Negotiate:
- 1.34.1 the risk assessment procedures which the Guaranteed Bank would normally perform in relation to the Issuing Bank; and
- 1.34.2 such enquiries, investigations and procedures in relation to the Issuing Bank and the Exporter as, in each case:
- (1) are required by all applicable laws and regulations or by the rules and regulations of the body or bodies which regulate(s) the Guaranteed Bank's activities; and
- (2) the Guaranteed Bank would normally perform prior to Confirming or Negotiating a Letter of Credit;
- 1.35 **"Guaranteed Bank's Compliance Officer"** means the officer or employee of the Guaranteed Bank who, for the time being, is approved by the FSA to discharge, in relation to the Guaranteed Bank, the responsibilities of the approved person (as defined in the glossary to the FSA Handbook) in respect of the Guaranteed Bank's compliance oversight function and money laundering reporting function (being controlled functions 10 and 11, as detailed in SUP 10.4.5.R to the FSA Handbook) or, in the event of that person's absence, such other person as may be charged with those responsibilities in that event or, if no such person has been appointed by the Guaranteed Bank and approved by the FSA, a member of the Guaranteed Bank's board of directors;

- 1.36 **"Guaranteed Bank's Limit"** means, subject to Clause 5.4, the amount specified as such in Appendix IX or the equivalent of that amount in foreign currency as converted into Sterling using the Specified Rate;
- 1.37 **"Guarantee Fee"** means, in relation to a Notified Letter of Credit, a fee calculated in accordance with Clause 7.1;
- 1.38 **"Guarantee Fee Rate"** means, in relation to a Notified Letter of Credit, the per annum rate specified as such opposite the name of the Issuing Bank in Appendix IX (as in force at the date of the Guarantee Notice in respect of that Notified Letter of Credit);
- 1.39 **"Guarantee Notice"** means, in relation to a Letter of Credit, a notice in the form set out in Appendix I(A) (or in such other form as ECGD may from time to time require) and submitted by the Guaranteed Bank to ECGD in respect that Letter of Credit;
- 1.40 **"Guarantee Payment Date"** means, in relation to an Issuing Bank Default, the day occurring 15 Business Days after the date on which ECGD receives a valid Claim in respect of that Issuing Bank Default or, if that day is not a Business Day, the next following Business Day;
- 1.41 **"Guarantee Notice Period"** means the period commencing on the date of this Agreement and ending at 23:59 hours on the End Date;
- 1.42 **"Guaranteed Percentage"** means, in relation to a Notified Letter of Credit and subject to Clause 2.8, the lower of:
- (1) the percentage specified as such opposite the name of the Issuing Bank in Appendix IX as in force at the time at which ECGD received the Guarantee Notice (or, as the case may be, Amendment Notice) for that Notified Letter of Credit; or
 - (2) such percentage as the Guaranteed Bank may specify in that Guarantee Notice (or Amendment Notice);
- 1.43 **"Honour"** (verb) means, in relation to a Letter of Credit and a bank which Confirms or Negotiates it, to honour that Letter of Credit, namely:
- 1.43.1 if that Letter of Credit provides for payment at sight, to make the payment required by that Letter of Credit at sight;

- 1.43.2 if that Letter of Credit provides for deferred payment, to incur a deferred payment undertaking and pay at maturity (or earlier by agreement with that Letter of Credit's beneficiary); and
- 1.43.3 if the Letter of Credit is available by acceptance, to accept a bill of exchange (or "draft") drawn by the beneficiary and pay at maturity (or earlier by agreement with that Letter of Credit's beneficiary);
- 1.44 "**ICC**" means the International Chamber of Commerce;
- 1.45 "**ISP98**" means the International Standby Practices published by the ICC, 1998 edition, ICC Publication No. 590;
- 1.46 "**Issuing Bank**" means, in relation to a Letter of Credit, the bank which issues that Letter of Credit and, in the case of a Notified Letter of Credit, the bank described as such in Section 1 of the Guarantee Notice relating to that Notified Letter of Credit;
- 1.47 "**Issuing Bank Default**" means, in relation to a Notified Letter of Credit, the failure of the Issuing Bank to pay the Reimbursement Sum to the Guaranteed Bank on the Reimbursement Date pursuant to the Reimbursement Obligation;
- 1.48 "**Issuing Bank Limit**" means, in relation to an Eligible Issuing Bank and at any given time, the amount specified as such opposite the name of that Eligible Issuing Bank in Appendix IX as in force at that time;
- 1.49 "**Letter of Credit**" means a Documentary Letter of Credit or a Standby Letter of Credit or any part thereof which may be Honoured or Negotiated separately from the other parts thereof;
- 1.50 "**Maximum Risk Period**" means, in relation to an Eligible Issuing Bank and at any given time, the period specified as such opposite the name of that Eligible Issuing Bank in Appendix IX as in force at that time;
- 1.51 "**Maximum Value**" means, in relation to a Letter of Credit, the sum specified as such in that Letter of Credit (or, where only one or some of several payments under that Letter of Credit is to be Negotiated by the Guaranteed Bank, the maximum possible amount of the payment(s) in question);

- 1.52 "**Negotiate**" means to purchase drafts (drawn on another bank) and/or documents under a Complying Presentation, by advancing or agreeing to advance funds to the beneficiary on or before the banking day on which reimbursement is due to the Negotiating Bank;
- 1.53 "**Negotiating Bank**" means the bank which Negotiates a Letter of Credit upon the Issuing Bank's authorisation including any authorisation provided by Article 12(b) of UCP600;
- 1.54 "**Notified Letter of Credit**" means, subject to Clause 2.6 and Clause 8.1, (1) a Letter of Credit in respect of which ECGD has received a Guarantee Notice or (2) an Amended Letter of Credit in respect of which ECGD has received an Amendment Notice;
- 1.55 "**Presentation**" means, in relation to a Letter of Credit, the delivery to the Guaranteed Bank of the documents required under the terms of that Letter of Credit in order to obtain payment under it;
- 1.56 "**Recoveries**" means, in relation to an Issuing Bank Default:
- 1.56.1 amounts received by the Guaranteed Bank (other than a payment from ECGD pursuant to this Agreement) or by ECGD from any source in respect of the amounts due from the Issuing Bank in respect of that Issuing Bank Default (including, for the avoidance of doubt, any amount received by the Guaranteed Bank from the relevant Exporter pursuant to the terms of the Exporter Undertaking, or any other undertaking, given by the relevant Exporter in respect of the Notified Letter of Credit in relation to which that Issuing Bank Default has arisen);
- 1.56.2 amounts obtained from the realisation of any security which can lawfully be applied in or towards satisfaction of amounts due from the Issuing Bank in respect of that Issuing Bank Default;
- 1.56.3 the value of any security which the Guaranteed Bank holds or controls and which may be lawfully realised and applied in or towards satisfaction of amounts due from the Issuing Bank in respect of that Issuing Bank Default;

- 1.56.4 the value of any rights of set-off over any amounts due from the Guaranteed Bank which the Guaranteed Bank is entitled to exercise in respect of all or part of the amounts due from the Issuing Bank in respect of that Issuing Bank Default;
- 1.57 "**Reimbursement Date**" means, for the purposes of an Issuing Bank Default, the latest date on which the Issuing Bank is due to pay the Reimbursement Sum to the Guaranteed Bank pursuant to the Reimbursement Obligation;
- 1.58 "**Reimbursement Obligation**" means, in relation to a Notified Letter of Credit, the obligation on the part of the Issuing Bank, which arises when the Guaranteed Bank has Honoured or Negotiated a Complying Presentation under that Notified Letter of Credit, to pay the Reimbursement Sum to the Guaranteed Bank pursuant to the terms of that Notified Letter of Credit and the relevant provisions of UCP600 or, as the case may be, ISP98;
- 1.59 "**Reimbursement Sum**" means, in relation to a Complying Presentation under a Notified Letter of Credit which is Honoured or Negotiated by the Guaranteed Bank and the Reimbursement Obligation thereby arising, the sum due from the Issuing Bank to the Guaranteed Bank pursuant to that Reimbursement Obligation;
- 1.60 "**Relevant Acts**" means the Prevention of Corruption Acts 1889 to 1916 and Part 12 of the Anti-Terrorism Crime and Security Act 2001 (as, in each case, from time to time amended or re-enacted) and any other legislation relating to bribery or corruption from time to time enacted by Parliament;
- 1.61 "**Relevant Currency**" means, in relation to a Letter of Credit, the currency in which payments are to be made under that Letter of Credit and, in relation to a Notified Letter of Credit, the currency specified as the currency of payment in Section 1 of the Guarantee Notice relating to that Notified Letter of Credit;
- 1.62 "**Risk Period**" means, in relation to a Notified Letter of Credit, the period commencing on the date of the Guarantee Notice for that Notified Letter of Credit (or, where that Notified Letter of Credit is an Amended

Letter of Credit, the date of the Guarantee Notice for that Notified Letter of Credit prior to any amendment being made to it) and ending on expiry of a period equal to the Tenor after the Expiry Date (or, if payment under that Notified Letter of Credit is expressed to be due at sight of a Complying Presentation, on the Expiry Date);

- 1.63 “**Specified Rate**” means, for the purpose of converting into Sterling any amount in another Relevant Currency at any time, the rate of exchange of that Relevant Currency for Sterling as specified in Appendix VII as in force at that time;
- 1.64 “**Standby Letter of Credit**” means a letter of credit expressed to be a standby letter of credit and subject to either UCP600 or ISP98;
- 1.65 “**Sub-Participant**” means, in relation to a Letter of Credit, a party who enters into a Sub-Participation Arrangement with the Guaranteed Bank in respect of that Letter of Credit;
- 1.66 “**Sub-Participation Arrangement**” means, in relation to a Letter of Credit, an arrangement between the Guaranteed Bank and any other party under which:
- 1.66.1 that other party agrees either;
- (1) to put the Guaranteed Bank in funds in order to enable it to pay (or to reimburse the Guaranteed Bank in respect of) a specified proportion of any payment which the Guaranteed Bank is obliged to make in, or in consequence of, its Honouring or Negotiating that Letter of Credit; or
- (2) to pay to the Guaranteed Bank a specified portion of any Reimbursement Sum which the Issuing Bank fails to pay to the Guaranteed Bank when due; and, in either case,
- 1.66.2 the Guaranteed Bank agrees to provide to that other party the same specified proportion of each Reimbursement Sum if and when received by the Guaranteed Bank from the Issuing Bank in respect of that Letter of Credit;
- 1.67 “**Tenor**” means, in relation to a Letter of Credit, the period (if any) following a Complying Presentation at the end of which payment must

be made under that Letter of Credit or under any bill of exchange accepted, or deferred payment undertaken given, in connection with it;

- 1.68 **"UK"** means the United Kingdom of Great Britain and Northern Ireland and includes the Channel Islands and the Isle of Man;
- 1.69 **"UCP600"** means the Uniform Customs and Practice for Documentary Credits, 2007 revision, as published by the ICC, ICC Publication No. 600;
- 1.70 **"Withdrawal Notice"** means a notice in the form set out in Appendix III;
- 1.71 headings of Clauses are for ease of reference only and shall not affect the interpretation of this Agreement; and
- 1.72 any agreement, consent, consideration, direction, requirement, agreement or any other act decision or determination on the part of ECGD shall only be deemed unreasonable if no reasonable public body could have, done, made or, as the case may be, given it.

2 NOTIFICATION OF LETTERS OF CREDIT

- 2.1 If and on each occasion that, during the Guarantee Notice Period, ECGD receives a Guarantee Notice in respect of a Letter of Credit:
 - 2.1.1 that Letter of Credit shall thereupon become a Notified Letter of Credit for the purposes of this Agreement and, subject to Clause 4.2, become subject to the guarantee from ECGD set out in Clause 4.1; and
 - 2.1.2 the Guaranteed Bank shall, subject to Clause 2.6, thereupon become liable to pay to ECGD the Guarantee Fee in respect of that Notified Letter of Credit in accordance with Clause 7.
- 2.2 If the Guaranteed Bank sends a Guarantee Notice in respect of a Letter of Credit which has not been issued, the Guaranteed Bank shall, after that Letter of Credit has been issued, notify ECGD of the date and unique identification number of that Letter of Credit by including those details in the information to be provided to ECGD pursuant to Clause 12.1 following the end of the calendar month in which that Letter of Credit is issued.

- 2.3 The Guaranteed Bank may only send a Guarantee Notice in respect of a Letter of Credit if:
- 2.3.1 that Guarantee Notice will, by application of Clause 16.2, be deemed to be received by ECGD within the Guarantee Notice Period and not within any period during which the Guarantee Notice Period has been suspended pursuant to Clause 5.6; and
 - 2.3.2 that Letter of Credit is an Eligible Letter of Credit; and
 - 2.3.3 at the time at which it sends that Guarantee Notice, the Guaranteed Bank has not Confirmed or Negotiated that Letter of Credit (or, if that Guarantee Notice relates to a particular payment or particular payments under that Letter of Credit, the Guaranteed Bank has not Negotiated the payment(s) in question); and
 - 2.3.4 at the time at which it sends that Guarantee Notice, the Risk Period does not exceed the Maximum Risk Period for the Issuing Bank; and
 - 2.3.5 prior to sending that Guarantee Notice and to Confirming or Negotiating that Letter of Credit (or, if that Guarantee Notice relates to a particular payment or particular payments under that Letter of Credit, prior to Negotiating the payment(s) in question), the Guaranteed Bank has obtained from the Exporter an Exporter's Undertaking in respect of that Notified Letter of Credit and the Guaranteed Bank has no reason to believe that that Exporter's Undertaking, or any of the provisions in it, may be unenforceable against the Exporter; and
 - 2.3.6 the Guaranteed Bank has not entered into any arrangements (other than a Sub-Participation Arrangement which satisfies the conditions set out in Clause 11.4) to sub-participate or otherwise transfer the risk of the Issuing Bank failing to discharge any Reimbursement Obligation arising under that Letter of Credit; and
 - 2.3.7 prior to sending that Guarantee Notice, the Guaranteed Bank has performed the Guaranteed Bank's Assessment Procedures

in relation to that Letter of Credit and they have not produced any results which would cause the Guaranteed Bank to decline to confirm that Letter of Credit or to do business with the Exporter or the Issuing Bank; and

2.3.8 as at the date of the Guarantee Notice:

2.3.8.1 the Guaranteed Bank's Assessment Procedures, and the manner of their performance, comply with all applicable legislation and the rules of any body or bodies regulating the Guaranteed Bank's activities; and

2.3.8.2 the Guaranteed Bank has no actual knowledge of any defaults in payment, or of any other event which is reasonably likely to give rise to a default in payment, by the Issuing Bank under any Letter of Credit in relation to which the Guaranteed Bank has, within the period of 3 months immediately preceding the date of that Guarantee Notice, previously conducted business, as a Confirming Bank or a Negotiating Bank, with the Issuing Bank (other than, in each case, any such defaults or other events of which the Guaranteed Bank has notified ECGD in writing);

2.3.8.3 either the Guaranteed Bank is not aware, and has no reason to suspect, that that Letter of Credit, or any arrangement connected with it, has been, or will be, used for the purposes of money laundering (as defined in the Proceeds of Crime Act 2002) or, where the Guaranteed Bank has any such awareness or suspicion, the Guaranteed Bank has (1) complied with its obligations in that regard under the Proceeds of Crime Act 2002 and (2) notified ECGD of that awareness or suspicion (unless to do so would constitute the offence of 'tipping off' under s.333 of the Proceeds of Crime Act 2002); and

2.3.8.4 neither the Guaranteed Bank nor any person acting on its behalf has engaged in any Corrupt Activity in

relation to, or in connection with, that Notified Letter of Credit.

- 2.4 The Guaranteed Bank irrevocably and unconditionally agrees that, by sending a Guarantee Notice to ECGD, the Guaranteed Bank shall be thereupon deemed to represent and warrant to ECGD that all of the conditions set out in Clause 2.3 have been satisfied in relation to that Guarantee Notice and the Letter of Credit to which it relates.
- 2.5 If, after sending a Guarantee Notice in respect of a Letter of Credit, the Guaranteed Bank discovers that any of the conditions precedent to the sending of that Guarantee Notice set out in Clause 2.3 had not been satisfied at the time of its despatch, it shall forthwith notify ECGD accordingly.
- 2.6 A Guarantee Notice shall be of no effect for the purposes of Clauses 2.1 and 4.1, and the Letter of Credit to which it relates shall not be a Notified Letter of Credit for the purposes of this Agreement nor benefit from the guarantee in Clause 4.1, if:
- 2.6.1 that Guarantee Notice is sent in breach of Clause 2.3; or
 - 2.6.2 immediately prior to the time at which ECGD receives that Guarantee Notice:
 - 2.6.2.1 ECGD's Exposure under all Notified Letters of Credit is equal to, or greater than, the Guaranteed Bank's Limit; or
 - 2.6.2.2 ECGD's Exposure under all Notified Letters of Credit issued by the same Issuing Bank as that which has issued that Letter of Credit is equal to, or greater than, the Issuing Bank Limit; or
 - 2.6.2.3 ECGD's Exposure under all Notified Letters of Credit issued by the same Issuing Bank as that which has issued that Letter of Credit or by any other bank in the same country as that Issuing Bank is equal to, or greater than, the Country Limit for that country.

2.7 For the purposes of making any calculation under Clause 2.6.2, if the Relevant Currency of a Letter of Credit is not Sterling, the Maximum Value for that Letter of Credit shall be converted into Sterling using the Specified Rate as at the date of calculation.

2.8 Subject to Clause 2.6:

2.8.1 if, on the day on which a Guarantee Notice is received by ECGD (or, if that day is not a Business Day, the next following Business Day), the Guaranteed Percentage of the Maximum Value of the Notified Letter of Credit to which that Guarantee Notice relates, when added to ECGD's Exposure under all other Notified Letters of Credit, produces an amount in excess of the Guaranteed Bank's Limit, the Guaranteed Percentage for that Letter of Credit shall (unless Clause 2.8.2 or 2.8.3 applies and the operation of that Clause produces a lower amount) be such percentage of the Maximum Value as would produce an amount equal to the difference between the amount of that exposure and the Guaranteed Bank's Limit;

2.8.2 if, on the day on which a Guarantee Notice is received by ECGD (or, if that day is not a Business Day, the next following Business Day), the Guaranteed Percentage of the Maximum Value of the Notified Letter of Credit to which that Guarantee Notice relates, when added to ECGD's Exposure under all other Notified Letters of Credit issued by the same Issuing Bank as that which has issued that Letter of Credit, produces an amount in excess of the Issuing Bank Limit, the Guaranteed Percentage for that Letter of Credit shall (unless Clause 2.8.1 or 2.8.3 applies and the operation of that Clause produces a lower amount) be such percentage of the Maximum Value as would produce an amount equal to the difference between the amount of that exposure and the Issuing Bank Limit; and

2.8.3 if, on the day on which the Guarantee Notice is received by ECGD (or, if that day is not a Business Day, the next following Business Day), the Guaranteed Percentage of the Maximum

Value of the Notified Letter of Credit to which that Guarantee Notice relates, when added to ECGD's Exposure under all other Notified Letters of Credit issued by the same Issuing Bank as that which has issued that Letter of Credit or by any other bank in the same country as that Issuing Bank, produces an amount in excess of the Country Limit for that country, the Guaranteed Percentage for that Letter of Credit shall (unless Clause 2.8.1 or 2.8.2 applies and the operation of that Clause produces a lower amount) be such percentage of the Maximum Value as would produce an amount equal to the difference between the amount of that exposure and the Country Limit.

- 2.9 ECGD's remedies in respect of a Guarantee Notice which is sent in breach of Clause 2.3 or in respect of any breach of the representation and warranty in Clause 2.4 shall, except where the relevant Guarantee Notice contains a fraudulent misrepresentation, be limited to those contemplated by Clauses 2.6 and 4.3.

3 WITHDRAWAL OF GUARANTEE NOTICES

- 3.1 If, when a Guarantee Notice is sent to ECGD, the Letter of Credit to which it relates has not been issued by the Issuing Bank, the Guaranteed Bank may, subject to Clause 3.2, withdraw that Guarantee Notice by delivering to ECGD, within 30 days of the date of that Guarantee Notice, a Withdrawal Notice in respect of that Guarantee Notice and, upon delivery of that Withdrawal Notice:

3.1.1 the Guarantee arising as a result of that Guarantee Notice shall be deemed to have been cancelled from its inception and the Letter of Credit to which it relates shall be deemed never to have been a Notified Letter of Credit (and, accordingly, but subject to Clause 3.1.2, neither ECGD nor the Guaranteed Bank shall have any liability to the other in respect of that Letter of Credit); and

3.1.2 the Guaranteed Bank shall become liable to pay to ECGD, within 15 days after the end of the calendar month in which that Withdrawal Notice is sent, a fee equal to 75% of the Guaranteed

Percentage of such fee, if any, as the Guaranteed Bank may charge to the Exporter in the event of the Notified Letter of Credit not being issued.

- 3.2 The Guaranteed Bank may not send a Withdrawal Notice in respect of a Notified Letter of Credit (and any Withdrawal Notice which the Guaranteed Bank may send in respect of a Notified Letter of Credit shall be ineffective), if, on or before the date on which ECGD receives that Withdrawal Notice, that Notified Letter of Credit is issued by the Issuing Bank and confirmed by the Guaranteed Bank.

4 GUARANTEE

- 4.1 Subject to Clause 2.6, Clause 2.8, the remainder of this Clause 4 and the provisions of this Agreement generally, if, and on each occasion that:

4.1.1 an Issuing Bank Default occurs in relation to a Notified Letter of Credit;

4.1.2 the Guaranteed Bank notifies ECGD of that Issuing Bank Default in accordance with Clause 13.1.1; and

4.1.3 the Guaranteed Bank submits to ECGD a valid Claim in respect of that Issuing Bank Default within 90 days of its occurrence,

ECGD shall, on the Guarantee Payment Date, pay to the Guaranteed Bank in the Relevant Currency the Guaranteed Percentage of the Amount Outstanding.

- 4.2 Without prejudice to ECGD's rights and remedies at law and in equity, the obligations of ECGD under Clause 4.1 in respect of a Notified Letter of Credit and any Issuing Bank Default arising in relation to it shall be conditional upon:

4.2.1 that Notified Letter of Credit not becoming an Amended Letter of Credit unless such Amended Letter of Credit is subject to an Amendment Notice in accordance with Clause 8 and, consequently, is also a Notified Letter of Credit;

4.2.2 the Guaranteed Bank not, after sending the Guarantee Notice for that Notified Letter of Credit, entering into any arrangements

(other than a Sub-Participation Arrangement which satisfies the conditions set out in Clause 11.4) to sub-participate or otherwise transfer the risk of the Issuing Bank's failing to discharge any Reimbursement Obligation arising under that Letter of Credit;

4.2.3 the Issuing Bank being, at the Guarantee Payment Date, under an enforceable legal obligation to pay to the Guaranteed Bank the whole of the Amount Outstanding;

4.2.4 the Guaranteed Bank's warranties in Clause 10.1 being true and correct in relation to that Notified Letter of Credit;

4.2.5 the Guaranteed Bank's observing and performing the undertakings in Clauses 10.2 and 10.3 in relation to that Notified Letter of Credit; and

4.2.6 the Guaranteed Bank's observing and performing its other obligations under this Agreement in relation to that Notified Letter of Credit, and under Clause 9.1.3, 9.3 and 12 generally, in all material respects and remedying any remediable breaches of those obligations as soon as reasonably practicable.

4.3 If, and on each occasion that, ECGD makes any payment in respect of any Letter of Credit pursuant to Clause 4.1 in the mistaken belief that that Letter of Credit is subject to the guarantee in Clause 4.1, the Guaranteed Bank shall, on demand, return that payment to ECGD irrespective of whether or not the Guaranteed Bank held the same mistaken belief.

5 ADJUSTMENT OF PARAMETERS

5.1 ECGD may, from time to time, by notifying the Guaranteed Bank accordingly in writing or by delivering to the Guaranteed Bank an amended version of Appendix IX:

5.1.1 increase or decrease the Guaranteed Bank's Limit;

5.1.2 remove any country from, or add any country, to the countries listed in Appendix IX;

5.1.3 adjust the Country Limit for any country in Appendix IX;

- 5.1.4 remove any bank from, or add any bank, to the list of Eligible Issuing Banks in Appendix IX; or
- 5.1.5 adjust the Guarantee Fee Rate, the Guaranteed Percentage, the Maximum Risk Period and/or the Issuing Bank Limit for any Eligible Issuing Bank(s).
- 5.2 ECGD may, from time to time, by notifying the Guaranteed Bank accordingly in writing or by delivering to the Guaranteed Bank an amended version of Appendix VII, remove any currency from, or add any currency, to the currencies listed in Appendix VII.
- 5.3 If, in relation to an Eligible Currency, the Specified Rate is, at any time, 10% or more greater or less than the Actual Rate, ECGD may, by notifying the Guaranteed Bank accordingly in writing or by delivering to the Guaranteed Bank an amended version of Appendix VII, adjust the Specified Rate so that it is equal to the Actual Rate.
- 5.4 ECGD may, from time to time, adjust the End Date by notifying the Guaranteed Bank accordingly in writing.
- 5.5 Any change or adjustment made pursuant to Clause 5.1, 5.2, 5.3 or 5.4:
 - 5.5.1 shall take effect immediately upon receipt by the Guaranteed Bank of the notice, or, as the case may be, the amended version of Appendix VII or IX, which contains that change or adjustment; but
 - 5.5.2 shall not affect the liability of ECGD or the Guaranteed Bank in relation to any Notified Letter of Credit which shall have become a Notified Letter of Credit prior to the time at which such notice is received by the Guaranteed Bank.
- 5.6 ECGD may in its absolute discretion, and upon giving the Guaranteed Bank not less than 24 hours written notice, suspend the Guarantee Notice Period at any time for such period as ECGD in its absolute discretion thinks fit provided that, without prejudice to Clauses 2.5, 4.2 and 4.3, the obligations of ECGD and the Guaranteed Bank in respect

of any and all Notified Letters of Credit as at the date of suspension shall continue as if this Agreement had not been suspended.

6 “REFER” CASES

- 6.1 Where, in Appendix IX, the Issuing Bank Limit for any Eligible Issuing Bank is marked “Refer”, that Issuing Bank Limit is zero.
- 6.2 If the Guaranteed Bank wishes to serve a Guarantee Notice in respect of a Letter of Credit issued, or to be issued, by an Eligible Issuing Bank whose Issuing Bank Limit is marked as “Refer”, the Guaranteed Bank must send to ECGD a written request in the form set out in Appendix IV(A) (or in such other form as ECGD may from time to time require) to provide an Issuing Bank Limit for that Eligible Issuing Bank in respect of that Letter of Credit and include in its request the information required by that form.
- 6.3 If ECGD receives a request from the Guaranteed Bank pursuant to Clause 6.2, and if it is agreeable to that request, it will, as soon as reasonably practicable, send to the Guaranteed Bank a notice to that effect in the form set out in Appendix IV(B) (or in such other form as ECGD may from time to time require), specifying the Issuing Bank Limit for the relevant Issuing Bank to be applied in relation to that Letter of Credit and any conditions to which the provision of that Issuing Bank Limit is subject, such as the service of a Guarantee Notice for the relevant Letter of Credit by a specified time.
- 6.4 Where ECGD issues a notice pursuant to Clause 6.3 in relation to an Eligible Issuing Bank and a Letter of Credit:
- 6.4.1 the Issuing Bank Limit, Maximum Risk Period and Guarantee Fee Rate stated in that notice shall apply to that Eligible Issuing Bank only so far as concerns that Letter of Credit (and a separate Issuing Bank Limit, Maximum Risk Period and Guarantee Fee Rate shall be notified to the Guaranteed Bank in respect of each other Letter of Credit which is issued by the same Eligible Issuing Bank and forms the subject of a request

under Clause 6.2 from the Guaranteed Bank to which ECGD agrees); and

6.4.2 the Issuing Bank Limit for that Eligible Issuing Bank shall:

(1) until a Guarantee Notice for that Letter of Credit is received by ECGD, be equal to the Maximum Value of that Letter of Credit;

(2) after that Guarantee Notice is received, be equal to ECGD's Exposure from time to time in respect of that Letter of Credit (and this shall be noted in Appendix IX in the cell for the Issuing Bank Limit for that Eligible Issuing Bank); and

(3) revert to zero upon ECGD's Exposure under that Letter of Credit becoming zero.

7 GUARANTEE FEE

7.1 In respect of each Notified Letter of Credit, the Guaranteed Bank shall pay to ECGD, in the Relevant Currency (or, if ECGD so requests, in Sterling in accordance with Clause 7.5), a fee equal to the greater of:

(1) the Maximum Value multiplied by the Guaranteed Percentage multiplied by the Guarantee Fee Rate (adjusted to reflect the Risk Period); and

(2) 75% of the Guaranteed Percentage of the Confirmation Fee less, where that Notified Letter of Credit is an Amended Letter of Credit which has become a Notified Letter of Credit pursuant to Clause 8.2, the amount of any Guarantee Fee already received by ECGD in respect of that Notified Letter of Credit before it became an Amended Letter of Credit (and, that where that subtraction results in a negative amount, a corresponding rebate shall be made by ECGD to the Guaranteed Bank);

7.2 The Guaranteed Bank shall pay to ECGD the Guarantee Fee for each Notified Letter of Credit by no later than 15 days after:

7.2.1 the end of the calendar month in which the Guaranteed Bank receives the Confirmation Fee; or

- 7.2.2 if no Complying Presentation is made in respect of that Notified Letter of Credit, the end of the calendar month in which the Expiry Date of that Notified Letter of Credit occurs.
- 7.3 In the payment of the Guarantee Fee time shall be of the essence.
- 7.4 If the Guaranteed Bank fails to pay to ECGD the Guarantee Fee in respect of a Notified Letter of Credit in accordance with the terms of this Clause 7, ECGD may in its absolute discretion give written notice to the Guaranteed Bank cancelling its Guarantee in respect of that Letter of Credit and, if ECGD does so, such cancellation shall take effect from the inception of that Guarantee.
- 7.5 If, in relation to a Notified Letter of Credit the Relevant Currency of which is not Sterling, ECGD requests that the Guarantee Fee in respect of that Notified Letter of Credit should be paid in Sterling, that Guarantee Fee shall be converted from the Relevant Currency into Sterling using such rate of exchange as is reasonably applicable at the time of conversion.

8 AMENDMENTS TO NOTIFIED LETTERS OF CREDIT

- 8.1 Subject to Clause 8.2, an Amended Letter of Credit shall cease to be a Notified Letter of Credit for the purposes of Clause 4.
- 8.2 An Amended Letter of Credit shall become a Notified Letter of Credit and subject to the guarantee in Clause 4.1 if, and when, the Guaranteed Bank delivers to ECGD an Amendment Notice in respect of that Amended Letter of Credit (and, for that purpose, Clauses 2.1, 2.3 (excluding Clause 2.3.3), 2.5 and 2.6 shall apply to Amendment Notices as if, in those Clauses, the terms “Guarantee Notice” and “Letter of Credit” had been replaced by “Amendment Notice” and “Amended Letter of Credit” respectively).

9 ACKNOWLEDGEMENTS, WARRANTIES & UNDERTAKINGS REGARDING THE APPLICATION AND THIS AGREEMENT

9.1 The Guaranteed Bank:

9.1.1 acknowledges that ECGD enters into this Agreement in reliance upon:

(1) the statements made and undertakings given, by the Guaranteed Bank in the Application; and

(2) the warranties given by the Guaranteed Bank in Clauses 9.1.2, 9.1.3, 9.2 and 10.1; and

(3) the representations made and undertakings given by the Guaranteed Bank in Clause 9.1.3;

9.1.2 warrants that the statements made, and undertakings given, by the Guaranteed Bank in the Application were true and correct as at the date of the Application; and

9.1.3 hereby repeats those statements and undertakings as at the date of this Agreement; and

9.1.4 undertakes that, if and on each occasion that:

(1) there is, or is to be, a change in the Guaranteed Bank's registered address, principal place of business in the UK or corporate status or in the identity of the body responsible for regulating the Guaranteed Bank's activities in the UK;

(2) the Guaranteed Bank ceases to carry on business in the UK or to carry on in the UK the business of acting as confirming and/or negotiating bank in relation to letters of credit issued by banks located in other countries and providing, among other things, short term trade finance to UK exporters;

(3) the Guaranteed Bank fails, in any material respect, to comply with:

(a) all such provisions of the Proceeds of Crime Act 2002 (as amended) and the Terrorism Act 2000 (as amended) as are applicable to its business and operations; or

(b) all laws and regulations binding on it which relate to the imposition of sanctions by the United Kingdom on any other country;

(4) the Guaranteed Bank or any person who is, or was during the preceding five years, a member of its board of directors, and whose principal place of employment is, or was, the United Kingdom:

(a) admits to the Guaranteed Bank's Compliance Officer to engaging in any Corrupt Activity; or

(b) is found by a court of competent jurisdiction to have engaged in Corrupt Activity,

the Guaranteed Bank will advise ECGD of that event as soon as reasonably practicable after becoming aware of its occurrence.

9.2 The Guaranteed Bank warrants that it:

9.2.1 has full power to enter into, and perform, this Agreement; and

9.2.2 has taken all corporate action and obtained all authorisations, consents and licences in the UK and, if not incorporated in the UK, in the country of its incorporation necessary to enable it to enter into and perform this Agreement.

9.3 The Guaranteed Bank shall not take any action, or refrain from taking any action, if it knows, or should reasonably know, that taking, or refraining from taking, that action may prejudice or adversely affect the rights or benefits of ECGD under this Agreement.

10 CORRUPT ACTIVITY AND EXPORTERS' UNDERTAKINGS

10.1 The Guaranteed Bank warrants that it has not:

10.1.1 engaged in any Corrupt Activity in relation to any Notified Letter of Credit;

10.1.2 authorised any person to engage in any such Corrupt Activity, or

- 10.1.3 consented to, or acquiesced in, any such Corrupt Activity on the part of any person.
- 10.2 The Guaranteed Bank undertakes that it will not:
- 10.2.1 engage in any Corrupt Activity in relation to any Notified Letter of Credit;
- 10.2.2 authorise any person to engage in any such Corrupt Activity; or
- 10.2.3 consent to, or acquiesce in, any such Corrupt Activity on the part of any person.
- 10.3 If, in relation to a Notified Letter of Credit, the Guaranteed Bank becomes entitled to claim any monies from the Exporter under the Exporter's Undertaking relating to that Notified Letter of Credit, the Guaranteed Bank shall enforce that Exporter's Undertaking and claim from the Exporter all amounts which the Issuing Bank has failed, and from time to time fails, to pay to the Guaranteed Bank pursuant to any Reimbursement Obligation.
- 10.4 If, and on each occasion that, the Guaranteed Bank becomes aware that any document presented to it in respect of a Notified Letter of Credit contains information which indicates that any representations or warranties in the Exporter's Undertaking may be untrue or incorrect, it shall, as soon as reasonably practicable after becoming aware of that information, notify ECGD of it in writing.
- 10.5 If, in relation to a Notified Letter of Credit, the Guaranteed Bank becomes aware of any circumstances (including, in particular, but without limitation, the procurement of the export contract to which that Notified Letter of Credit relates by fraud, corruption or other illegal means) which, in the reasonable opinion of the Guaranteed Bank, entitle the Guaranteed Bank to refuse to make payment under that Notified Letter of Credit in respect of a Complying Presentation, the Guaranteed Bank shall:
- 10.5.1 notify ECGD of those circumstances as soon as reasonably practicable after becoming aware of them (provided that to do so would not constitute the offence of "tipping off" under s.333 of the Proceeds of Crime Act 2002); and

10.5.2 shall not, after becoming aware of those circumstances, make any payments under that Notified Letter of Credit (unless specifically required to do so by law or the order of a competent court or by the British police or the Serious Fraud Office).

10.6 In relation to each Notified Letter of Credit, the Guaranteed Bank will take all such measures as are necessary or prudent to protect, preserve and enforce the rights powers and discretions of the Guaranteed Bank under, or arising by virtue of, or in connection with, the Exporter's Undertaking relating to that Notified Letter of Credit.

11 RIGHTS AND OBLIGATIONS REGARDING NOTIFIED LETTERS OF CREDIT

11.1 Except on ECGD's written direction, the Guaranteed Bank shall not disclose to the Issuing Bank that any Notified Letter of Credit is subject to the Guarantee.

11.2 The Guaranteed Bank shall do nothing to prejudice or adversely affect the Guaranteed Bank's rights against the Issuing Bank under, or in connection with, any Notified Letter of Credit or any related Reimbursement Obligation or Issuing Bank Default.

11.3 Other than in accordance with clause 11.4 below, the Guaranteed Bank shall not, without the prior consent in writing of ECGD, assign, transfer or otherwise dispose of, or grant any interest in, any rights and benefits to which it shall from time to time be entitled under any Notified Letter of Credit or any related Reimbursement Obligation except to ECGD.

11.4 The Guaranteed Bank may, either before or after a Letter of Credit becomes a Notified Letter of Credit, enter into one, or more than one, Sub-Participation Arrangement in respect of that Letter of Credit **provided that:**

11.4.1 that Sub-Participation Arrangement does not contain or create a legal or equitable assignment, a novation or any other form of transfer of the Guaranteed Bank's rights or obligations under that Letter of Credit or in relation to any Reimbursement Obligation

arising from time to time in respect of it or under this Agreement (but that Sub-Participation Arrangement may provide that, in the event of an irreconcilable dispute between the parties to it, the Guaranteed Bank may assign to each other party, a portion of such rights in accordance with its interest in that Sub-Participation Arrangement);

11.4.2 each Sub-Participant has been notified of the existence of the Guarantee and of ECGD's rights, and the Guaranteed Bank's obligations in relation to that Letter of Credit under Clause 13 (or, where, as at the date of the Sub-Participation Arrangement, that Letter of Credit is not a Notified Letter of Credit, the Sub-Participant is given notice of those matters before it becomes a Notified Letter of Credit);

11.4.3 the value of the risk assumed by all Sub-Participants under all Sub-Participation Arrangements in relation to that Letter of Credit, when added to the Guaranteed Percentage of the Maximum Value does not exceed 90% of the Maximum Value; and

11.4.4 the Guaranteed Bank shall be responsible for making such arrangements with each Sub-Participant as the Guaranteed Bank may require regarding that Sub-Participant's entitlement (as against the Guaranteed Bank) to share in any payments received by the Guaranteed Bank from ECGD in respect of that Letter of Credit pursuant to this Agreement.

12 INFORMATION AND AUDIT

12.1 The Guaranteed Bank shall:

12.1.1 within 10 days after the end of each calendar month, provide to ECGD, in respect of each Notified Letter of Credit, the information set out in Appendix VIII in the form of the pro forma report form set out in that Appendix or such other information and/or in such other form as ECGD may from time to time reasonably require; and

- 12.1.2 provide to ECGD such other information and documents as ECGD may from time to time reasonably require regarding any Notified Letter(s) of Credit or any amounts paid or payable in connection with any Notified Letter(s) of Credit.
- 12.2 If, and on each occasion that, the Guaranteed Bank decides, as a matter of policy, that, as a result of a deterioration in the creditworthiness of an Eligible Issuing Bank or of the country in which that Eligible Issuing Bank is incorporated or has its principal place of business, the Guaranteed Bank will not confirm any Letters of Credit issued in future by that Eligible Issuing Bank, the Guaranteed Bank shall notify ECGD of that decision as soon as possible after that decision is notified to the division of the Guaranteed Bank which administers Letters of Credit.
- 12.3 ECGD may, on reasonable notice and within normal working hours, attend any premises occupied by the Guaranteed Bank in order to inspect documents and records held by the Guaranteed Bank (whether electronically, in hard copy or otherwise) in order to audit the Guaranteed Bank's compliance with the terms of this Agreement, including, but not limited to, the eligibility of any Notified Letter of Credit to be guaranteed under it, the validity of any Claim, the amount of Recoveries received in respect of amounts due from any Issuing Bank in respect of an Issuing Bank Default in respect of which a Claim has been made and the calculation of ECGD's share of those Recoveries and the application by the Guaranteed Bank of the Guaranteed Bank's Assessment Procedures.
- 12.4 The Guaranteed Bank shall promptly:
- 12.4.1 provide to ECGD such oral or written explanations as ECGD may reasonably require and as are within the Guaranteed Bank's knowledge regarding any documents and records inspected by, or provided to, ECGD; and
- 12.4.2 provide to ECGD, or permit ECGD to take copies of, such information or record preserved in any medium or form (including records stored electronically) as is in the

Guaranteed Bank's control and relates to an Notified Letter of Credit as ECGD may reasonably require.

12.5 Subject to ECGD's obligations at law (including, without limitation, under the FOIA) and ECGD's obligations to Parliament as a government department, ECGD shall hold in confidence, and not disclose to any third party (other than in confidence to its external legal advisers or other government departments), any information or documents acquired by ECGD from the Guaranteed Bank pursuant to this Agreement except for information or documents which has, or have, entered the public domain other than as a result of a breach by ECGD of this Clause 12.5.

12.6 If ECGD receives a request under the FOIA for any information which has been provided to ECGD by a third party, it is ECGD's normal practice, to the extent that it is lawful for ECGD to do so, to:

12.6.1 advise that third party that ECGD has received that request;

12.6.2 before disclosing any information in response to that request, give that third party an opportunity to make representations on the applicability of any exemption in the FOIA in relation to the information which has been requested;

12.6.3 consider such representations as that third party might make; and

12.6.4 if ECGD decides to disclose any information in response to that request, advise that third party of that decision in advance of disclosing that information

and ECGD will use reasonable endeavours to follow that practice in relation to any request received by it under the FOIA for any information acquired by ECGD from the Guaranteed Bank pursuant to this Agreement and, in addition, will, unless it is unlawful to do so, provide the Guaranteed Bank with a copy of any response to such a request which discloses any of that information.

13 CLAIMS

13.1 If, in relation to a Notified Letter of Credit, the Guaranteed Bank wishes to make a claim under the Guarantee in respect of an Issuing Bank Default:

13.1.1 the Guranteed Bank must first notify ECGD of that Issuing Bank Default as soon as practicable after, and in any event within 15 Business Days of, its occurrence by sending to ECGD a notice in the form of Appendix V (or in such other form as ECGD may from time to time require); and

13.1.2 the Guranteed Bank must make that claim by submitting to ECGD, so that ECGD receives it no later than 90 days after the date of that Issuing Bank Default, a letter making that claim in the form of that set out in Appendix VI (or in such other form as ECGD may from time to time require), duly completed and signed on behalf of the Guaranteed Bank by a person or persons authorised by the Guaranteed Bank for that purpose and accompanied by such documents, information and explanations as may be required by that form of letter.

13.2 For the purpose of submitting a Claim in the form set out in Appendix V (as in force from time to time), the value of any Recoveries received or receivable in a currency other than the Relevant Currency shall be expressed in the Relevant Currency and the Guaranteed Bank shall do so by converting those Recoveries into the Relevant Currency using such rate as is reasonably applicable as at the time of receipt or, in the case of receivables, as at the date on which the Claim is submitted.

14 MINIMISING LOSS AND PURSUING RECOVERIES

14.1 In relation to each Notified Letter of Credit, the Guaranteed Bank shall, at all times, take all such measures as are necessary or prudent to prevent or minimise loss and to protect and preserve the rights powers and discretions of the Guaranteed Bank under, or arising by virtue of, or in connection with, the Reimbursement Obligation.

14.2 Following an Issuing Bank Default in relation to a Notified Letter of Credit, and subject to such directions as ECGD may give pursuant to Clause 14.3, the Guaranteed Bank shall:

14.2.1 take all steps which are necessary or prudent to:

(1) preserve its rights under, and enforce, the Reimbursement Obligation and any security which may be applied in respect of it; and

(2) minimise loss or make Recoveries in respect of that Issuing Bank Default;

14.2.2 notify ECGD in a timely manner of such action as the Guaranteed Bank proposes to take (or, where the urgency of the need for such action does not permit the Guaranteed Bank to notify ECGD of it in advance, has taken) pursuant to Clause 14.2.1;

14.2.3 provide ECGD with such further documents, information and explanations as are possessed, or can reasonably be obtained, by the Guaranteed Bank which ECGD may from time to time require with regard to that Issuing Bank Default or any action which the Guaranteed Bank has taken, or proposes to take in relation to it; and

14.2.4 not take any action, or refrain from taking any action, if it knows, or should reasonably know, that taking, or refraining from taking, that action may prejudice, or adversely affect, its ability or entitlement to make Recoveries in respect of that Issuing Bank Default.

14.3 In the event of an Issuing Bank Default in relation to a Notified Letter of Credit (but subject to Clause 14.4), the Guaranteed Bank will take, at ECGD's written direction, all steps which ECGD may reasonably require to preserve its rights in relation to that Issuing Bank Default and make Recoveries including, without limitation:

14.3.1 in the Guaranteed Bank's sole name or as one of several claimants or defendants, bringing, defending or otherwise participating in proceedings of any kind in any jurisdiction arising

under or in connection with the relevant Notified Letter of Credit;
and

14.3.2 giving all assistance to ECGD to enable ECGD to take such steps as ECGD may deem necessary in relation to such rights, and those of ECGD, whether arising directly under the relevant Notified Letter of Credit or by virtue of any payment made by ECGD pursuant to Clause 4.1, including (without prejudice to the generality of the foregoing) the placing at the disposal of ECGD of all relevant documents in relation to such rights, powers and discretions.

14.4 ECGD's rights of direction under Clause 14.3 shall only apply in relation to a Notified Letter of Credit if:

14.4.1 the Guaranteed Percentage is 50% or more; or

14.4.2 where a Sub-Participation Arrangement has been made in relation to that Notified Letter of Credit, the Guaranteed Percentage of the Maximum Value exceeds the value of the risk assumed by any one Sub-Participant, or retained by the Guaranteed Bank, in respect of that Notified Letter of Credit.

14.5 If, in relation to an Issuing Bank Default which has occurred in respect of a Notified Letter of Credit, the Issuing Bank alleges that it is not under a Reimbursement Obligation in respect of all or part of the amount claimed by the Guaranteed Bank:

14.5.1 the Guaranteed Bank shall (unless ECGD otherwise agrees, such agreement not to be unreasonably withheld):

(1) as soon as reasonably practicable, commence, and diligently pursue, proceedings to obtain a judgement or award from a competent court or arbitral tribunal establishing the existence of that Reimbursement Obligation for the full amount of the Reimbursement Sum;
or

(2) (if, by reason of the insolvency of the Issuing Bank and the laws relating to the pursuit of claims against insolvent or

bankrupt debtors in the country in which the Issuing Bank is established or carrying on business, the Guaranteed Bank cannot commence or continue such proceedings) take, and diligently pursue, such other action as is open to it in order to obtain a decision on the matter from a court of competent jurisdiction or from any receiver, liquidator or trustee in bankruptcy (or the equivalent office in any jurisdiction outside England and Wales) of the Issuing Bank or of its assets and/or business; and

14.5.2 if the Guaranteed Bank:

- (1) fails to initiate the proceedings or action required by Clause 14.5.1 within 6 months of ECGD's paying a Claim in respect of that Issuing Bank Default; or
- (2) having initiated those proceedings or that action, fails to prosecute the same diligently,

the Guaranteed Bank shall, on demand, repay to ECGD the amount paid by ECGD in respect of that Claim.

14.6 Subject to the Guaranteed Bank performing its obligations under Clause 14.2.2, ECGD shall reimburse the Guaranteed Bank in respect of the Guaranteed Percentage of all reasonable expenses which have been incurred by the Guaranteed Bank with third parties (other than members of any group of companies to which the Guaranteed Bank may belong) in acting pursuant to Clauses 14.1 14.2, 14.3 and 14.5 in relation to a Notified Letter of Credit or any related Reimbursement Obligation, Issuing Bank Default or Exporter's Undertaking **provided that** ECGD shall not be liable to reimburse the Guaranteed Bank in respect of any such expenses:

14.6.1 if those expenses have been incurred prior to the occurrence of an Issuing Bank Default in relation to that Notified Letter of Credit; or

14.6.2 if those expenses have been incurred by the Guaranteed Bank in complying with any written requirements or directions given by ECGD as a result of any failure on the part of the Guaranteed

Bank to carry out its obligations under, or in relation to, this Agreement or any Notified Letter of Credit; or

14.6.3 if no demand for reimbursement of those expenses has been made to the Issuing Bank or any person liable to make such reimbursement (except where ECGD has directed that no such demand be made); or

14.6.4 in the circumstances contemplated by the opening of Clause 14.5, unless and until the Guaranteed Bank obtains a judgement or award in its favour for the whole of the amount in dispute (and, if that judgement or award is only in respect of part of that amount, ECGD's obligation to reimburse expenses to the Guaranteed Bank shall be reduced in inverse proportion).

14.7 If the Guaranteed Bank has received or is holding a sum which the Guaranteed Bank is able lawfully to appropriate in or towards payment of amounts due from an Issuing Bank, some of which amounts are due in respect of the relevant Notified Letter of Credit and others of which are not, the Guaranteed Bank will appropriate that sum in or towards payment of those amounts according to the proportion which each bears to the aggregate of all such amounts.

14.8 If, and on each occasion that, having made a Claim in respect of an Issuing Bank Default under a Notified Letter of Credit, the Guaranteed Bank receives a Recovery in respect of that Issuing Bank Default (other than any Recovery which has been taken into account in the calculation of the Amount Outstanding in the Claim but including any amount appropriated in or towards payment of amounts due from the Issuing Bank to the Guaranteed Bank in respect of that Notified Letter of Credit in accordance with Clause 14.7), the Guaranteed Bank shall:

14.8.1 notify ECGD of that Recovery as soon as possible after receiving (or appropriating) it;

14.8.2 immediately upon receipt or appropriation of that Recovery (or, in the case of a receivable, when the same falls due), credit that Recovery to a separate account in the books of the Guaranteed

Bank to be called "The ECGD Letter of Credit Guarantee Scheme Trust Account";

14.8.3 out of such account, within 15 days of the end of the calendar month in which that Recovery has been received (or, as the case may be, appropriated) by the Guaranteed Bank, pay the Guaranteed Percentage of that Recovery (in the currency in which that Recovery is received or receivable by the Guaranteed Bank) to ECGD by paying that amount into such account as ECGD may from time to time notify to the Guaranteed Bank in writing; and

14.8.4 receive, and, until such payment is made to ECGD in accordance with Clause 14.8.3, hold, the Guaranteed Percentage of that Recovery in trust for ECGD.

15 ENTIRE AGREEMENT

All of the provisions of the agreement between ECGD and the Guaranteed Bank in relation to ECGD's guaranteeing of any Notified Letter of Credit are contained in this Agreement and the Guarantee Notice for that Notified Letter of Credit, and, where applicable, the Amendment Notice for an Amended Letter of Credit.

16 NOTICES

16.1 Each Communication:

16.1.1 shall be in writing and, unless otherwise stated, may be given in person, by post, fax or by e-mail or other form of electronic communication agreed between ECGD and the Guaranteed Bank;

16.1.2 shall be sent to its intended recipient at that recipient's address as given in Clause 16.4 or, as the case may be, 16.5

16.2 Subject to Clause 16.3, any Communication sent by the Guaranteed Bank or ECGD to the other will be deemed to have been received by the recipient:

Communications as given in Clause 16.4 or, as the case may be, Clause 16.5.

17 WAIVERS

17.1 The obligations, rights, powers and remedies conferred on the Guaranteed Bank or ECGD by this Agreement are cumulative and not exclusive of any obligations, rights, powers or remedies which the Guaranteed Bank or ECGD may have at law.

17.2 No failure to exercise, nor any delay in exercising, on the part of the Guaranteed Bank or ECGD, any right, power or remedy under this Agreement shall impair or operate as a waiver of that right, power or remedy.

17.3 A single or partial exercise of any right, power or remedy under this Agreement shall not prevent any further or other exercise of that right, power or remedy or the exercise of any other right or power or remedy.

18 NO ASSIGNMENT

The Guaranteed Bank may not assign, transfer or otherwise dispose of any of its rights or obligations under this Agreement without the prior written consent of ECGD (which ECGD may give or refuse at its sole and absolute discretion).

19 NO PARTNERSHIP OR AGENCY

Save as expressly agreed otherwise, nothing in this Agreement shall be taken as:

19.1 constituting or creating a partnership between ECGD and the Guaranteed Bank; or

19.2 making or appointing either ECGD or the Guaranteed Bank the agent of the other for any purpose; or

19.3 treating either ECGD or the Guaranteed Bank as owing a fiduciary duty to the other.

20 AMENDMENTS AND VARIATIONS

No purported amendment or variation to the terms of this Agreement shall be effective unless recorded in writing and signed on behalf of the Guaranteed Bank and ECGD by their respective duly authorised signatories.

21 INVALIDITY AND SEVERABILITY

The illegality, invalidity or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any of the other provisions of the Agreement.

22 COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original but all of the counterparts shall constitute one and the same original.

23 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

For the avoidance of doubt, the parties to this Agreement do not intend that any of the terms of this Agreement should, by virtue of the Contracts (Rights of Third Parties) Act 1999, be enforceable by any person who is not a party to this Agreement, nor should such party enjoy the benefit of any provision of this Agreement.

24 LAW AND JURISDICTION

24.1 This Agreement, and any non-contractual obligations arising in relation to it, shall be governed by, and construed in accordance with, English law.

24.2 Save as provided in Article 24.4, the courts of England and Wales shall have exclusive jurisdiction to hear and determine all disputes, actions, claims and proceedings of whatever nature arising out of, or in connection with, this Agreement or the transaction contained in it and, for such purpose, the Guaranteed Bank hereby submits to the exclusive

APPENDIX I(A)
Guarantee Notice

To:	The Export Credits Guarantee Department P.O. Box 2200 2 Exchange Tower Harbour Exchange Square London E14 9GS
From:	[Name of Guaranteed Bank]
On:	[dd/mm/yyyy]
Re:	Guarantee Notice issued pursuant to the Master Guarantee Agreement between yourselves and ourselves dated [dd/mm/yyyy]
1	Each capitalised expression used in this Notice and defined in the MGA shall bear the meaning attributed to in the MGA. " Section " means a section of this Notice.
2	We hereby notify you that, with effect from your receipt of this Guarantee Notice, the Letter of Credit described in Section 1 (the " Letter of Credit ") shall, subject to clause 2.3 of the MGA, be a Notified Letter of Credit for the purposes of the MGA.
3	If we Confirm or Negotiate the Letter of Credit, we will charge the Confirmation Fee specified in Section 2 which has been calculated on the basis of the rate specified in that Section.
4	The Guarantee Fee Rate currently specified in Appendix IX to the MGA is as set out in Section 4 and, for the purpose of reading and construing the MGA in relation to the Letter of Credit, we wish the Guaranteed Percentage to be as specified in Section 3. On that basis, we calculate that the Guarantee Fee will be as set out in Section 4 and that the extent of the risk assumed by you under the Guarantee relating to the Letter of Credit will be as set out in Section 5.

Section 1: The Letter of Credit	
Type of Letter of Credit (Documentary / Standby)	
Unique Identification Number	<i>[If the Letter of Credit has not yet been issued, the Guaranteed Bank should state "To be provided once the Letter of Credit is issued"]</i>
Issue Date	<i>[If the letter of credit has not yet been issued, the Guaranteed Bank should state this fact and give an anticipated issue date]</i>
Expiry Date (dd/mm/yyyy)	
Country of Issuing Bank	
Issuing Bank	
Maximum Value (in the Relevant Currency)	<i>[Where only one, or some, of several payments is/are to be Negotiated, state the maximum possible amount of the payment in question]</i>
Relevant Currency	
Tenor/Payment Terms	<i>[E.g "At Sight" or "[] days after presentation of complying documents]</i>
Guarantee Bank's Reference No.	
Section 2: The Confirmation Fee	
Confirmation Fee rate	<i>([...])% p.a. actual / [360] / [365]</i>
Confirmation Fee (in Relevant Currency)	
Section 3: The Guaranteed Percentage	
Guaranteed Percentage (%)	
Section 4: The Guarantee Fee	
Guarantee Fee Rate	<i>([...]) % p.a. actual / [360] / [365]</i>
Guarantee Fee (in Relevant Currency)	
Section 5: Risk Information	
ECGD Maximum Guaranteed amount (in Relevant Currency)	[i.e. Maximum Value x Guaranteed Percentage]
End of Risk Period (dd/mm/yyyy)	

Sent for and on behalf of:	[Name of Guaranteed Bank]	
By:	Name:	
	Position:	

APPENDIX I(B)

Amendment Notice

To:	The Export Credits Guarantee Department P.O. Box 2200 2 Exchange Tower Harbour Exchange Square London E14 9GS
From:	[Name of Guaranteed Bank]
On:	[dd/mm/yyyy]
Re:	Guarantee Notice issued pursuant to the Master Guarantee Agreement between yourselves and ourselves dated [dd/mm/yyyy]
1	Each capitalised expression used in this Notice and defined in the MGA shall bear the meaning attributed to in the MGA. " Section " means a section of this Notice.
2	The Letter of Credit described in Section 1 below (the " Letter of Credit ") was the subject of our Guarantee Notice dated [dd/mm/yyyy] and numbered []
3	The Letter of Credit has now been amended so that its terms are as stated in Section 2 (and that Section indicates which of those terms have been amended on this occasion).
4	Pursuant to clause 8.1 of the MGA, the Letter of Credit is, by reason of its amendment, no longer a Notified Letter of Credit for the purposes of the MGA.
5	However, we hereby notify you pursuant to Clause 8.2 of the MGA that, with effect from your receipt of this Amendment Notice, the Letter of Credit (as so amended) shall, subject to clause 2.3 of the MGA, be a Notified Letter of Credit for the purposes of the MGA.
6	We will charge the fee specified in Section 3 for Confirming or Negotiating the Letter of Credit (as amended)
7	The Guaranteed Fee Rate currently specified in Appendix IX to the MGA is as set out in Section 4 and for, the purpose of reading and construing the MGA in relation the Letter of Credit (as amended), we wish the Guaranteed Percentage to be as specified in that Section.
8	On the above basis, we calculate that the Guarantee Fee in respect of the Letter of Credit (as amended) will be as set out in Section 4 and that the extent of the risk assumed by you under the Guarantee relating to the Letter of Credit (as amended) will be as set out in Section 5.

Section 1: The Letter of Credit		
Unique Identification Number		
Issue Date (dd/mm/yyyy)		
Country of Issuing Bank		
Issuing Bank		
Guarantee Bank's Reference No:		
Section 2: Terms of Letter of Credit (as amended)		
Expiry Date (dd/mm/yyyy)		Amended / Not Amended
Maximum Value (in the Relevant Currency)	[Where only one or some, of several payments is/are to be Negotiated, state the maximum possible amount of the payment in question]	Amended / Not Amended
Relevant Currency		Amended / Not Amended
Tenor/Payment Terms	[E.g. "At Sight" or" []" days after presentation of complying documents"]	Amended / Not Amended
Section 3: The Confirmation Fee		
Confirmation Fee Rate	([...] % p.a. actual / [360] / [365])	
Confirmation Fee (in Relevant Currency)		
Section 4: The Guaranteed Percentage and Guarantee Fee		
Guaranteed Percentage (%)		
Guarantee Fee Rate	([...] % p.a. actual / [360] / [365]) (dd/mm/yyyy)	
Guarantee Fee (in		

Relevant Currency)	
Section 5: Risk Information	
ECGD Maximum Guaranteed amount (in Relevant Currency)	[i.e. Maximum Value x Guaranteed Percentage]
End of Risk Period (dd/mm/yyyy)	

Sent for and on behalf of:	[Name of Guaranteed Bank]	
By:	Name:	
	Position:	

APPENDIX II

Exporter's Undertaking

To:	[Full legal Name of Guaranteed Bank (<i>Guaranteed Bank to insert</i>)]
From:	[Full legal Name of Exporter (<i>Guaranteed Bank to insert</i>)]
Re:	Undertaking in connection with the letter of credit described below (the "Letter of Credit")
The Letter of Credit	<p>The description of the letter of credit which forms the subject of this Undertaking is as follows:</p> <p><u>Unique identification number:</u> <i>[If the letter of credit has not been issued, the Guaranteed Bank should insert "Letter of Credit not yet issued"]</i></p> <p><u>Date:</u> <i>[If the letter of credit has not been issued, the Guaranteed Bank should insert "Letter of Credit not yet issued"]</i></p> <p><u>Issuing Bank:</u></p> <p><u>Beneficiary:</u> Ourselves</p> <p><u>Applicant:</u></p> <p><u>Maximum Value:</u></p>
Background	<p>We understand that you have been requested to confirm or negotiate the Letter of Credit, under which we are to be the beneficiary, and you are prepared to do so provided that you receive this Undertaking, signed on our behalf by a duly authorised signatory.</p> <p>By signing this Undertaking and delivering it to you, we, in consideration of your confirming or negotiating the Letter of Credit, give the acknowledgements, representations, warranties and undertakings set out below.</p>
Interpretation	Capitalised words and phrases appearing in this letter Undertaking shall bear the meanings attributed to them in the section below entitled "Defined Terms"
Acknowledgements	<p>We acknowledge that:</p> <p>(1) the countries which are members of the Organisation for Economic Co-Operation and Development, including the UK, are committed to combating corruption and money laundering and the law in the UK has been strengthened in order to do so;</p> <p>(2) we are responsible for ensuring that our activities comply with all laws which are relevant to the Export Contract and we should have regard, in particular, to the amendments to the applicable law on corruption contained in Part 12 of the Anti-terrorism, Crime and Security Act 2001 (as a result of which certain acts committed abroad now constitute criminal offences in the UK) and the applicable law on money laundering contained in Part 7 of the Proceeds of Crime Act 2002; and</p> <p>(3) it is good practice for businesses to develop, apply and document appropriate and effective management control systems to combat bribery.</p>
About us	We warrant and undertake that we carry on business in the UK and have an established place of business there.
The Export Contract	<p>We warrant that:</p> <p>(1) all of the goods and services to be supplied under the Export Contract will be supplied by us to a person carrying on business outside the UK;</p>

	<p>(2) any goods supplied under the Export Contract have been either:</p> <p>(a) produced, manufactured or assembled in the UK; or</p> <p>(b) imported into the UK from another country in the European Union before being exported from the UK; or</p> <p>(c) imported into the UK from outside the European Union and cleared inwards through UK Customs before being exported from the UK; and</p> <p>(3) each invoice for amounts payable in respect of any services supplied under the Export Contract will be raised in the UK and will require payment to be made to us in the UK or to our bank account in the UK..</p> <p>We undertake that we will provide to you or to ECGD such information, documents and explanations concerning the Export Contract and our obtaining it as you or, as the case may be, ECGD may from time to time require.</p>
<p>Export Licences</p>	<p>We warrant that we have obtained all consents and authorisations (including, where applicable, export licences) which are required in relation to the goods or services to be supplied under the Export Contract and their supply to the buyer under the Export Contract.</p>
<p>Corrupt Activity</p>	<p>We warrant and undertake that:</p> <p>(1) we have not engaged, and will not engage, in any Relevant Corrupt Activity;</p> <p>(2) we have not authorised and will not authorise any person to engage in Relevant Corrupt Activity; and</p> <p>(3) we have not consented to or acquiesced in, and will not consent to or acquiesce in, any Relevant Corrupt Activity on the part of any person.</p> <p>We further undertake that:</p> <p>(i) if (a) we have engaged or engage, or if anyone (including, without limitation, any employee or agent) acting on our behalf (with due authority) or with our prior consent or subsequent acquiescence has engaged, or engages, in any Relevant Corrupt Activity or (b) any of the warranties or undertakings in paragraphs (1), (2) or (3) above is untrue, incorrect or breached; and</p> <p>(ii) if the Issuing Bank at any time or times becomes obliged to pay to you any amount as a result of your making any payment to us under the Letter of Credit but fails to pay all or any part of that amount to you when due,</p> <p>we will, on demand by you or ECGD from time to time, pay to you or, as the case may be, ECGD a sum equal to that amount (or, as the case may be, such part of it as has not been paid by the Issuing Bank).</p>
<p>ECGD</p>	<p>We acknowledge that ECGD will give a guarantee to you in respect of the obligation of the Issuing Bank to reimburse you in respect of any payments which, as confirming or negotiating bank, you may from time to time make to us under the Letter of Credit should you confirm or negotiate it.</p> <p>We therefore agree that:</p> <p>(1) the representations, warranties and undertakings in this Undertaking are made and given, not only for your benefit, but also for the benefit of ECGD and that, accordingly, they should be enforceable by ECGD by virtue of the Contracts (Rights of Third Parties) Act 1999;</p> <p>(2) you may provide to ECGD a copy of this Undertaking and the Letter of Credit and any information which you may possess, and which ECGD may reasonably require, regarding ourselves, the Letter of Credit or the Export Contract; and</p> <p>(3) we will not disclose the existence of the guarantee from ECGD mentioned above, or that ECGD has an involvement with the Letter of Credit or the Export Contract, to the Applicant or the Issuing Bank or to any person or organisation acting on behalf of either of them.</p>

<p>Defined Terms</p>	<p>In this Undertaking:</p> <p>“Applicant” means the entity at whose request the Letter of Credit has been, or will be, issued, as identified in the above description of the Letter of Credit;</p> <p>“Corrupt Activity” means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person) which:</p> <p>(1) is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered a contract illegal, void, voidable or unenforceable under its governing law; or</p> <p>(2) we have, or anyone (including any employee) acting (with due authority) on our behalf or with our subsequent acquiescence has, other than under duress, admitted engaging in; or</p> <p>(3) is subsequently found by a court in any competent jurisdiction (after all available rights of appeal have been exhausted) outside the UK to constitute an offence under any applicable law (except by virtue of any changes to that law having retrospective effect); or</p> <p>(4) is subsequently found by a court in the UK (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts (as defined below);</p> <p>and which activity, in respect of paragraphs (1), (2) and (3) above corresponds to an offence under the Relevant Acts</p> <p>provided that, where, for the purposes of paragraph (1) above, any such activity is admitted by either (i) a person other than a national of the UK (as defined in section 109(4) of the Anti-terrorism, Crime and Security Act 2001) or (ii) a body incorporated under the laws of a country other than the UK, such activity shall not, for the purposes of this Undertaking, constitute “Corrupt Activity” if such activity was not, at the time it was engaged in, unlawful under the laws and regulations of the country in which it took place;</p> <p>“ECGD” means the Secretary of State acting by the Export Credits Guarantee Department;</p> <p>“Export Contract” means the contract to which the Letter of Credit relates, being one for the supply of goods and/or services by us to the Applicant;</p> <p>“Issuing Bank” means the bank which has issued, or will issue, the Letter of Credit, as identified in the above description of the Letter of Credit;</p> <p>“Relevant Acts” means, the Prevention of Corruption Acts 1889 to 1916 and Part 12 of the Anti-Terrorism Crime and Security Act 2001 (as, in each case, from time to time amended or re-enacted); and</p> <p>“Relevant Corrupt Activity” means Corrupt Activity in connection with the Export Contract or the Letter of Credit.</p> <p>“UK” means the United Kingdom of Great Britain and Northern Ireland and, for the purposes of this letter, includes the Channel Islands and the Isle of Man.</p>
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<p>Signed for and on behalf of:</p>		<p><i>[Guaranteed Bank to insert full legal name of Exporter]</i></p>
<p>By:</p>	<p>Name:</p>	
	<p>Position:</p>	
	<p>Date:</p>	

APPENDIX III

Withdrawal Notice

[On the Guaranteed Bank's Headed Notepaper]

Export Credits Guarantee Department
PO Box 2200
Harbour Exchange
Harbour Exchange Square
London E14 9GS

Dear Sirs,

Our Guarantee Notice dated [] (the "Guarantee Notice") which was issued pursuant to the Master Guarantee Agreement dated [] between yourselves and ourselves (the "MGA"): Our reference []

1. In exercise of the rights conferred on us by clause 3 of the MGA, we hereby withdraw the Guarantee Notice with immediate effect.
2. We acknowledge and agree that, as a result of this withdrawal of the Guarantee Notice:
 - 2.1 the letter of credit to which the Guarantee Notice relates is no longer, and shall be deemed never to have been, a Notified Letter of Credit for the purposes of the MGA and, accordingly, you have, and shall be deemed never to have had, any liability whatsoever to us under the MGA in respect of that letter of credit; and
 - 2.2 we are obliged to pay you a Withdrawal Fee in accordance with clause 3.1.2 of the MGA.

Yours faithfully,

For and on behalf of
[Name of Guaranteed Bank]

Signature: _____

Name: _____

Position: _____

Date: _____

Appendix IV(A)

Limit Request

To:	The Export Credits Guarantee Department P.O. Box 2200 2 Exchange Tower Harbour Exchange Square London E14 9GS
From:	[Name of Guaranteed Bank]
On:	[dd/mm/yyyy]
Re:	Limit Request issued pursuant to the Master Guarantee Agreement between yourselves and ourselves dated [dd/mm/yyyy] (the "MGA")
1	Each capitalised expression used in this Notice and defined in the MGA shall bear the meaning attributed to in the MGA. " Section " means a section of this Request.
2	We have been asked to Confirm or Negotiate the letter of credit described in the Schedule (the " Letter of Credit ")
3	We wish to send you a Guarantee Notice in respect of the Letter of Credit.
4	However, in Appendix IX to the MGA, the Issuing Bank Limit for the issuing Bank is marked as "Refer"
5	Accordingly, we hereby request you, pursuant to Clause 6.2 of the MGA, to provide an Issuing Bank Limit, Maximum Risk Period and Guarantee Fee for the Issuing Bank in relation to the Letter of Credit.
6	We would request that, in relation to the Letter of Credit, the Guaranteed Percentage should be as specified in Section 2.
7	On the basis of that Guaranteed Percentage, we calculate that the extent of the risk assumed by you under a Guarantee relating to the Letter of Credit would be as set out in Section 3.

Section 1: The Letter of Credit	
Issuing Bank	
Country of Issuing Bank	
Type of Letter of Credit (Documentary / Standby)	
Unique Identification Number	<i>[If the Letter of Credit has not yet been issued, the Guarantee Banks should state 'To be provided once the Letter of Credit is issued']</i>
Issue Date (dd/mm/yyyy)	<i>[If the Letter of Credit has not yet been issued, the Guaranteed Bank should state this fact and give an anticipated issue date]</i>
Expiry Date (dd/mm/yyyy)	
Maximum Value in the Relevant Currency	<i>[Where only one, or some, of several payments is/are to be Negotiated, state the maximum possible amount of the payment in question]</i>
Relevant Currency	
Tenor/Payment Terms	<i>[E.g "At Sight" or "[] days after presentation of complying documents"]</i>
Guaranteed Bank's Reference No.	

Section 2: The Guaranteed Percentage	
Guaranteed Percentage (%)	

Section 3: Risk Information	
ECGD's Maximum Guaranteed amount (in Relevant Currency)	[i.e. Maximum Value x Guaranteed Percentage]
End of Risk Period (dd/mm/yyyy)	

Sent for and on behalf of:	[Name of Guaranteed Bank]	
By:	Name:	
	Position:	

Appendix IV(B)

Response to Limit Request

To:	[Name of Guaranteed Bank] [Address]
From:	The Export Credits Guarantee Department
On:	[dd/mm/yyyy]
Re:	Response to your Limit Request dated [] (the "Limit Request"), which was issued pursuant to the Master Guarantee Agreement between yourselves and ourselves dated [dd/mm/yyyy] (the "MGA")
1	Each capitalised expression used in this Notice and defined in the MGA shall bear the meaning attributed to in the MGA. " Section " means a section of this Response.
2	In response to the Limit request, which related to Issuing Bank named in Section 1 and the letter of credit described in that Section (the " Letter of Credit "), we confirm that Issuing Bank Limit for that Issuing Bank in relation to the Letter of Credit shall be as set out in Section 2 and that Appendix IX to the MGA shall be deemed to have been amended accordingly with immediate effect.
3	However, if we do not receive a Guarantee Notice from you in respect of the Letter of Credit by [time] hours on [date], those items will, at that time, revert to zero.

Section 1: The Letter of Credit	
Issuing Bank	
Country of Issuing Bank	
Type of Letter of Credit (Documentary / Standby)	
Unique Identification Number	<i>[If the Letter of Credit has not yet been issued, the Guarantee Banks should state 'To be provided once the Letter of Credit is issued']</i>
Issue Date (dd/mm/yyyy)	<i>[If the Letter of Credit has not yet been issued, the Guaranteed Bank should state this fact and give an anticipated issue date]</i>
Expiry Date (dd/mm/yyyy)	
Maximum Value (in the Relevant Currency)	<i>[Where only one, or some, of several payments is/are to be Negotiated, state the maximum possible amount of the payment in question]</i>
Relevant Currency	
Tenor/Payment Terms	<i>[E.g "At Sight" or "[] days after presentation of complying documents"]</i>
Guaranteed Bank's Reference No.	

Section 2: Issuing Bank Limit	
Issuing Bank Limit	

Sent for and on behalf of:	The Export Credits Guarantee Department	
By:	Name:	
	Position:	

APPENDIX V

Issuing Bank Default Notice

[On the Guaranteed Bank's Headed Notepaper]

The Export Credit Guarantees Department
P.O. Box 2200
2 Exchange Tower
Harbour Exchange Square
London E14 9GS

Dear Sirs,

Notice pursuant to clause 12.1.1 of the Master Guarantee Agreement between yourselves and ourselves dated [] (the "MGA") in respect of the letter of credit bearing the unique identification number [] which formed the subject of our Guarantee Notice dated [] (the "Letter of Credit")

An Issuing Bank Default (as defined in the MGA) has occurred in relation to the Letter of Credit in that:

- (1) as result of our making payment under the Letter of Credit, the Issuing Bank (as defined in the MGA) was due to pay to us the sum of [] by [];
- (2) the Issuing Bank failed to pay that amount by that date; and
- (3) that amount remains unpaid.

Yours faithfully,

For and on behalf of
[Name of Guaranteed Bank]

Signature: _____

Name: _____

Position: _____

Date: _____

APPENDIX VI

Claim Form

[On the Guaranteed Bank's Headed Notepaper]

The Export Credit Guarantees Department
P.O. Box 2200
2 Exchange Tower
Harbour Exchange Square
London E14 9GS

Dear Sirs,

Claim made under the Master Guarantee Agreement between yourselves and ourselves dated [] (the "MGA") in respect of the letter of credit bearing the unique identification number [] which formed the subject of our Guarantee Notice dated [] (the "Letter of Credit")

- 1 In this letter:
 - 1.1 each capitalised expression not otherwise defined in this letter shall bear the meaning attributed to it in the MGA; and
 - 1.2 "**Schedule**" means a schedule to this letter.
- 2 [An] Issuing Bank Default[s] [has][have] occurred in relation to the Letter of Credit in that:
 - 2.1 as result of our making [a] payment[s] under the Letter of Credit, the Issuing Bank has a legally enforceable obligation to pay to us each amount described in Schedule 1 as being a Reimbursement Sum (each a "**Reimbursement Sum**") by the date specified opposite it; and
 - 2.1 the Issuing Bank has failed to pay each such amount by that date.
- 3 We have received or realised in respect of the Reimbursement Sum(s) the amounts described as in Schedule 1 and, as a result, the Amount Outstanding is as stated in Schedule 1.
- 5 We therefore claim from you, pursuant to clause 4.1 of the MGA, the sum described in Schedule 1 as the Amount Claimed, being the Guaranteed Percentage of the Amount Outstanding.
- 4 Details of any security or rights of set-off against the Issuing Bank which we possess and which may be enforced or exercised in order to recover all or part of the Reimbursement Sum(s) are set out in Schedule 2, together with their respective estimated current values.

- 6 Any payment in respect of the claim contained in this letter should be made to the account specified in Schedule 3 and any communication relating to that claim should be sent to the person(s) whose details are given in Schedule 4.
- 7 We have enclosed with this letter a full and true copy of each of the following documents:
- 7.1 the Letter of Credit;
- 7.2 the Exporter's Undertaking for that Letter of Credit.

Schedule 1

Amounts Due and Received

Reimbursement Sum(s)	Date	Amount	
		[*]	
	Total Due		[*]
Recoveries received to date (as, in the case of amounts not received in Sterling, converted into the Relevant Currency in accordance with clause 13.2 of the MGA)			
From the Issuing Bank	[*]		
From the Exporter	[*]		
From realising security	[*]		
From set-off	[*]		
	Total Recoveries		[*]
	Amount Outstanding		[*]
	Guaranteed Percentage		%
	Amount Claimed		[*]

* In the Relevant Currency

Schedule 2

Details of Security and Rights of Set-Off

Description	Value
[If none, state "None"]	

Schedule 3

Account to which payments should be made

Account Name:

Account Number:

Bank:

Schedule 4

Contact Details

Name:

Position:

Tel No:

Fax No:

Email Address:

Postal Address:

Yours faithfully,

For and on behalf of
[Name of Guaranteed Bank]

Signature: _____

Name: _____

Position: _____

Date: _____

APPENDIX VII

Eligible Currencies and Applicable Exchange Rates

Currency	Exchange Rate
Sterling	
US Dollars	1.6327
euro	1.1041
Japanese Yen	148.69
Swiss Francs	1.6684

APPENDIX VIII

Monthly Management Information

MONTHLY LCGS MI REPORTS

THIS WORKBOOK CONSISTS OF THE FOLLOWING 4 WORKSHEETS:

1. INTRODUCTORY WORKSHEET
2. EXPOSURE RECONCILIATION REPORT
3. LIMITS RECONCILIATION REPORT
4. PAYMENTS RECONCILIATION REPORT

PARTICIPATING BANKS SHOULD UPDATE AND SUBMIT THE REPORTS IN THE FORMAT PROVIDED EVERY MONTH

PARTICIPATING BANKS ARE RESPONSIBLE FOR THE CONTENT OF THESE REPORTS

1. THIS IS THE INTRODUCTORY WORKSHEET
2. THE EXPOSURE RECONCILIATION REPORT PROVIDES THE LATEST INFORMATION FROM PARTICIPATING BANKS ON THE LCGS.
3. THE LIMITS RECONCILIATION REPORT PROVIDES THE UTILISATION OF THE SCHEME TO DATE AND COMPARES IT TO THE APPLICABLE LIMITS.
4. THE PAYMENTS RECONCILIATION REPORT PROVIDES DETAILED INFORMATION ON PAYMENTS RECEIVED (AS RECOVERIES OR AS GUARANTEE FEES) AND THOSE SCHEDULED TO BE MADE IN THE FOLLOWING MONTH.

EXPOSURE RECONCILIATION REPORT

**Reporting
Period:**

Month	YYYY
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Unique Identification No.	Guaranteed Bank's Reference No.	ECGD Guarantee Start Date (dd/mm/yyyy)	Issuing Bank	Country of Issuing Bank	Refer Market (Y/N)	Type of LC	Relevant Currency	Maximum Value (in Relevant Currency)	Maximum Value less Reimbursements Made to Date (in Relevant Currency)	Guaranteed Percentage	Outstanding Amount Guaranteed (in Relevant Currency)	End of Risk Period (dd/mm/yyyy)	Guarantee Fee (% per annum)	Guarantee Fee (in Relevant Currency)	Status	Amendment Notice Submitted (Y/N)	Complying Presentation Made (Y/N)	Comments
											-							
											-							
											-							
											-							
											-							
											-							
											-							

LIMITS RECONCILIATION REPORT

EXCHANGE RATES WILL BE PROVIDED BY ECGD

Reporting Period:	Month	YYYY
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Specified Exchange Rates:	CHF	
	EUR	
	JPY	
	USD	

Table 1: Maximum Exposure

Figures in Sterling	Limit	Utilisation/Commitments	Claims	Overall Utilisation	Headroom
Maximum Exposure				-	-

Table 2: Exposure by Country

Figures in Sterling	Limit	Utilisation/Commitments	Claims	Overall Utilisation	Headroom
Country1				-	-
Country2				-	Refer
Country3				-	-
Country4				-	-
Country5				-	-
Total	-	-	-	-	-

Table 3: Exposure by Issuing Bank

Figures in Sterling	Limit	Utilisation/Commitments	Claims	Overall Utilisation	Headroom
BankA				-	-
BankB				-	Refer
BankC				-	-
BankD				-	-
BankF				-	-
Total	-	-	-	-	-

PAYMENTS RECONCILIATION REPORT

PAYMENTS ARE DUE BY THE 15TH DAY OF EACH CALENDAR MONTH (OR THE IMMEDIATELY PRECEDING BUSINESS DAY)

Reporting Period:	Month	YYYY
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Payment Date:	Day	Month
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Currency	Total payments due this period (in Relevant Currency)
GBP	
CHF	
EUR	
JPY	
USD	

GUARANTEE FEE PAYMENTS

Unique Identification No.	Guaranteed Bank's Reference No.	Relevant Currency	Guarantee Fee Amount (in Relevant Currency)	Guarantee Fee paid to ECGD to date (in Relevant Currency)	Guarantee Fee due this period (in Relevant Currency)	Guarantee Fee Balance Outstanding (in Relevant Currency)
						-
						-
						-
						-
						-

RECOVERIES

Unique Identification No.	Guaranteed Bank's Reference No.	Relevant Currency	Amount of Claims Payment (in Relevant Currency)	Recoveries paid to ECGD to date (in Relevant Currency)	Recoveries made this period (in Relevant Currency)	Claims Balance Outstanding (in Relevant Currency)
						-
						-
						-
						-
						-

