



Mercury Trade Credit Top Up credit insurance General Conditions

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A. Definitions

Adverse information: circumstances that increase the probability of an imminent loss and you should declare to us;

Associated company: a legally established corporation, proprietorship, partnership or state-owned entity, influenced directly or indirectly by you;

Buyer overview: your customers listed by name and reference number in the specific conditions;

Buyer(s): your customer(s) and debtor(s);

Claims waiting period: the number of days that must elapse after the due date before an insolvency occurs;

Credit procedures: the way you conduct your credit management processes;

Delivery: the delivery of goods and/or rendering of services. The delivery of goods takes place at the time the goods are no longer in your possession. The rendering of services will take place after the completion of service;

Due date: the last day of the payment terms agreed with the buyer;

First credit insurance: the credit insurance which has been issued by the first and primary credit insurer;

First credit insurer: the credit insurer you are having a first credit insurance with and the one who has issued one or more credit limits for your buyers;

First credit limit: the maximum amount your first credit insurer issued on your buyer;

Insolvency: situation that your invoices remain unpaid following a bankruptcy, suspension of payment, liquidation, dissolution, debt restructuring scheme for the purposes of the “Wet schuldsanering natuurlijke personen” or a similar situation abroad or the situation that invoices remain unpaid for a certain period after the due date of the oldest unpaid invoice as defined in the policy conditions;

Insurers: we and the first credit insurer together;

Loss: the failure of your buyer to pay you all or part of your invoices due to insolvency, with respect to a delivery minus any recoveries over which part we will indemnify you;

Past due: if an invoice remains unpaid 60 days after due date no new delivery nor protracted delivery can be made to this buyer with cover under this policy;

Payment terms: the period and way your invoices need to be paid by your buyer;

Policy conditions: the set of terms and conditions arising from your questionnaire, risk declaration, credit application, general terms and conditions, specific terms and conditions, policy endorsements and buyer endorsements, plus letters and /or e-mails that are declared by us to be part of the policy;

Policy period: the period that the policy is valid, as stated in the specific conditions;

Risk declaration: your statement of insurable turnover, insurable outstanding balance or Top Up-credit limit received each period as stated in the policy conditions;

Sales contract: any legal contract between you and your buyer, which relates to a delivery of goods or rendering a service against payment;

Self retention: the part of the unpaid invoices that will be at your own expense when your customer will not pay;

Threshold: if a loss remains under this level no indemnification or allocation to a deductible will be made;

Top Up-credit limit: the maximum credit limit issued by Mercury Information Services BV, on top of your first credit limit;

We (our, us): Mercury Trade Credit Nederland BV acting as agent of the Lloyd's syndicate consisting of NVA Syndicate 2007 (50%), Kiln Europe on behalf of TMK Syndicate 510 (35%) and Antares (15%) -all liable severally for the mentioned percentage - located at One Lime Street, London EC3M 7HA in the United Kingdom;

You (your): the (co-) insured as defined in the policy conditions.

B. The policy

Art.1 What are you covered for

- 1.1 The Mercury Top Up policy offers additional cover next to the cover issued by the first credit insurer. In case the first credit insurer issues a partial Credit Limit on your Customer, we can offer additional cover with a Top Up-credit limit.
- 1.2 The Mercury Top Up policy offers cover in case insured invoices which are within the Top Up-credit limit remain unpaid after insolvency of your buyer. However, it should be clear it falls outside your first credit limit.
- 1.3 We will indemnify you in case all policy conditions of the Mercury Top Up Policy are met, and the first credit insurer has paid out a claim. If, for whatever reason the first credit insurer doesn't pay out the claim, we will not pay out either.

Art. 2 Insured and uninsured invoices

2.1 Insured invoices

An insured invoice must relate to the shipment of goods or the rendering of services stated in the policy conditions, which took place during the policy period to a buyer:

- a. for whom a Top Up-credit limit and first credit limit are valid on the relevant date of shipment; and
- b. with whom you have a sales contract that you can prove.

Only the net invoice amount including transportation, insurance and packaging, to the extent that such costs are included in the same invoice is insured. Components such as VAT, credit deductibles, interest, penalties and collection costs are not insured.

2.2 Uninsured invoices

You are not covered for an invoice that is related to a shipment:

- a. to an individual;
- b. to an associated company;
- c. for which payment is guaranteed by an irrevocable letter of credit confirmed by a bank accepted by us;
- d. to be paid in cash (including cash on delivery as means of payment, payment by credit card, payment in advance);
- e. to a buyer for whom a Top Up-credit limit and/or first credit limit is denied or fully withdrawn the time of delivery.

Art. 3 Inception of risk

The non-payment risk under this policy starts the moment you send a shipment on open account basis in line with the sales contract during the policy period.

Art. 4 Cover

- 4.1 An insured invoice that your buyer fails to pay is eligible for coverage with respect to the policy conditions if:
 - a. for those buyers a first credit limit is valid and we have issued a Top Up-credit limit;

- b. it follows a legal sales contract;
- c. it is not disputed; and
- d. you have not acted in contravention of rules and regulations.

4.2 There is no cover if the losses are directly or indirectly related to:

- a. the failure of you or any of your agents to fulfil any terms of your sales contract with your buyer or to comply with the provisions of any law, or caused by your insolvency;
- b. an event occurring in a country other than the buyer country, unless this country is approved in the declarations;
- c. any form of nuclear reaction, nuclear radiation, or radioactive contamination however caused;
- d. any chemical, biological, bio-chemical or electromagnetic weapon;
- e. the outbreak of war or the equivalent between two of the following powers: the People's Republic of China, France, the United Kingdom, the Russian Federation and the United States of America;
- f. any sales transaction with your buyer that falls outside the scope of this policy;
- g. a payment in a currency that is not freely convertible;
- h. a change in exchange rates;
- i. anything that you have agreed with your buyer besides delivery and payment;
- j. a natural disaster or general strike;
- k. war or civil war, occupation or partial occupation of that country by a foreign power, revolution, insurrection, social or political disturbances, seizure, expropriation or destruction of property by order of a lawful or unlawful authority;
- l. a delivery or payment of an insured invoice which is forbidden in any country or in contravention of resolutions, trade and/or economic sanctions from the EU, the United Nations, the United States of America, or national penalty legislation or regulations that are applicable;
- m. the part that exceeds the Top Up-credit limit;
- n. another insurance contract you are the beneficiary to which covers the sustained loss;
- o. a shipment that is in violation of the past due or otherwise in violation of the policy.

Art. 5 Automatic slide in

If the sum of your insured invoices exceeds the Top Up-credit limit, the excess will automatically slide in the Top Up-credit limit for the part that these insured invoices are being paid. This automatic slide in applies only when:

- a. no adverse information has become known; and
- b. no invoice for more than 60 days after due date has remained unpaid at that moment; and
- c. no notification of imminent loss occurred or took place.

Each payment you receive will be deducted from the oldest unpaid invoice.

Art. 6 Insured percentage

The amount of a claim is limited to the insured percentage under the policy conditions. The uninsured part must remain uninsured and cannot be covered in another way.

Art. 7 Your loss

7.1 Loss occurs when a buyer fails to pay any of your insured invoices.

7.2 Insolvency occurs in two cases:

7.2.1. Fixed insolvency:

If the buyer who is established in the Netherlands:

- a. goes bankrupt;
- b. requests suspension of payment; or
- c. a “crediteurenakkoord” (arrangement with the creditors) occurs; or a similar situation outside of the Netherlands occurs.

7.2.2. Protracted default:

When an insured invoice remains fully or partially unpaid after the claims waiting period. The period of protracted default is stated in the policy conditions.

Art. 8 Determined loss and claims

8.1 Your loss is equal to the amount of the insured unpaid invoices due to insolvency, minus:

- a. the amount of the first credit limit;
- b. the amount of the uninsured invoices as stated in article 4.2;
- c. the value of realization of collateral, including retention of title;
- d. any other form of payment of the debt, including settlements;
- e. the deductible, if any.

When a judge, receiver, administrator or another equivalent person declares differently, the loss will be adjusted accordingly.

8.2 The amount of a claim is calculated by multiplying the amount of loss as stated in article 8.1 with the insured percentage, possibly limited by other specific terms and conditions.

8.3 Every payment and / or amount of realisation of collateral to be received by you or us before indemnification will be allocated to the oldest unpaid invoice. Payments received or collected by either you or the insurer after claims payment will be allocated to the insurers up until the amount of the indemnification paid by the first credit insurer and the remainder to us. Any surplus of the indemnification will be paid to you.

Art. 9 Maximum claims payment

9.1 The maximum claims payment for each claim will be the insured percentage of the Top Up-credit limit.

9.2 Policy limit

The maximum claims payment for each insurance year for this policy is limited to the amount mentioned in the policy conditions. This also applies in case the individual Top Up-credit limit of the total Top Up-credit limits are higher.

C. Your obligations

Art. 10 Basis for cover

Shipment to customers is only covered when the first credit insurer issued a valid credit limit and we provided a Top Up-credit limit. Furthermore, all policy conditions need to be met.

Art. 11 Premium and costs

- 11.1** You must submit your risk declaration within 20 days after the agreed period of time per payment terms. The premium is calculated by multiplying the premium rate to the insurable turnover, or the outstanding balance as described in the policy conditions. The premium is due as of inception of the risk of the whole turnover less the uninsured invoices.
- 11.2** You must submit the premium fee, including taxes via direct debit and pay at least before the due date of the premium invoice. Whatever the size of the insured risk, you have to pay the minimum premium per year at least. The minimum premium is stated in the specific terms and conditions. We have the possibility to ask you to pay premium in advance. This amount must then be paid before the start of the period.
- 11.3** At our request, you need to report the accounting details of your sales in respect to the total insured invoices. We therefore might ask you to grant us access to your entire administration and all related documents.
- 11.4** We may settle amounts that we owe under this policy with amounts that you owe under this policy. You are not entitled to settle the amounts due under this policy.
- 11.5** At the start of the policy we charge policy costs. Costs for analysis of your buyer and the Top Up-credit limits we issue, as well as for collection costs will, if any, be charged additionally.

Art. 12 Risk management

- 12.1** You need to exercise due care and diligence while taking all reasonable measures to prevent or minimize loss. This means at least:
- that you establish and maintain your sales conditions to be applicable to all sales contracts and you follow our indications;
 - that you send invoices timely, at least within 14 days after shipment;
 - that you haven't agreed on an extension of payment for your buyer unless we have provided our prior written consent;
 - that you adhere strictly to the credit procedures, as approved by us;
 - that you will not make any amicable settlement, unless we have provided our written consent;
 - that you will not make a delivery when your buyer is insolvent or an invoice to this buyer is past due.

12.2 When an invoice is not paid on the due date you are obliged to:

- a. exert real pressure on your buyer to receive payment;
- b. at least once a month send a reminder in the most effective manner;
- c. send a written notice of default and claim late payment interest and collection costs.

Art. 13 Report a (imminent) loss

13.1 You report a (imminent) loss immediately in case of:

- a. payment has not been received 90 days after the due date of the oldest unpaid invoice;
- b. having submitted an imminent loss to the first credit insurer;
- c. there is insolvency of your buyer;
- d. the first credit insurer has cancelled a first credit limit;
- e. we withdraw a Top Up-credit limit.

13.2 In the above cases, please provide us with all unpaid invoices and mention any partial payments, the basis for cover and other relevant information. You will grant us your full cooperation in assessing the extent of the loss and the recovery of the claim with your buyer.

Art. 14 Report adverse information

14.1 You have to notify us of any adverse information that increases the threat of a loss, so that we can agree on any mitigation measures to ensure that the imminent risk does not occur or is detained, like but not restricted to measures to stop a shipment, withdrawing goods, ceasing of services already started, or the assertion of all your rights, securities or privileges.

14.2 There is adverse information at least if:

- a. your buyer has asked you for a longer payment terms or postponement of payment;
- b. it is clear whether your buyer will not be able to comply with the sales contract;
- c. an invoice is not paid after 60 days of the due date;
- d. a form of determined insolvency is submitted or similar types of determined insolvency was submitted abroad;
- e. a confiscation on a significant portion of the assets has taken place and detention is not withdrawn within a reasonable time;
- f. an incident which may be a sign of deterioration in the financial condition of your buyer;
- g. the first credit insurer reduces or withdraws the first credit limit;
- h. you have notified or should have notified the first credit insurer.

14.3 In the above cases, please provide us with all unpaid invoices and mention any partial payments, basis for cover and other relevant information. You will grant us your full cooperation in assessing the extent of the loss and there is a mutual agreement to take any mitigation measures to ensure the imminent risk does not occur or is detained.

Art. 15 Dispute

Even if your buyer disputes an insured invoice, you should report the imminent loss and / or adverse information in the usual way. You thereby must mention that there is a dispute. You are required to settle the dispute amicably or in court and to keep us informed of the progress. Any costs to settle the dispute are at your expense. The coverage remains in place, however, the indemnification shall be suspended as long as the dispute remains unresolved.

Art. 16 Sanctions

16.1 We consider a number of provisions in the policy conditions so important that strict compliance is necessary for the validity of the insurance cover of the insured invoice, but also in order to assess a credit risk as a credit insurer for you and other policyholders, so that the imminent risk does not occur or the loss is detained.

This applies specifically to:

- a. timely and full declaration of risk;
- b. application of the Top Up-credit limits;
- c. to provide us with full and accurate information before the issue of the policy and during the policy period;
- d. timely payment of the premium and relevant fees under this policy;
- e. reporting immediately if the business activity is no longer consistent with the scope of the policy;
- f. timely reporting an (imminent) loss as defined in art. 13;
- g. timely reporting of adverse information as defined in art. 14;
- h. having the uninsured part remain uninsured;
- i. the insured amount by us that you cannot insure elsewhere;
- j. timely reporting of cancellation or decrease of the first credit limit.

If you fail to comply with one or more of these conditions, you risk losing your coverage. If no specific penalty is imposed on non-compliance to an obligation, we are entitled to refuse payment of claims.

16.2 Should you make a fraudulent claim under this policy, we:

- a. shall not be liable to pay the claim;
- b. may recover from you any sums paid by us to you in respect of any claims; and
- c. may by notice to you treat the contract as having been terminated with effect from the time of the fraudulent act.

In this case we shall not be liable to you in respect of any loss occurring after the time of the fraudulent act. If we exercise our rights as mentioned in this article, we shall not be liable to you in respect of any loss occurring after the time of the fraudulent act and retain any premiums paid.

D. Our commitments

Art. 17 Credit limit

- 17.1** When you request a Top Up-credit limit from us for your buyer, Mercury Information Services BV will perform an analysis of the risk and inform you of our decision. The Top Up-credit limit is valid from the date of your request, unless requested otherwise by you and approved by us.
- 17.2** The cost of obtaining a Top Up-credit limit will be charged to you on behalf of us by Mercury Information Services BV. The amounts exclude taxes and could be modified during the policy period. The fees are depicted in the policy conditions.
- 17.3** If we decrease a Top Up-credit limit or cancel it, the decision will take effect from the moment you receive or could have received the notice.
- 17.4** When we issue a non-cancellable Top Up-credit limit, the period is set out in the credit limit endorsement. When we issue a non-cancellable Top Up-credit limit, the period is detailed in the credit limit decision. However, the coverage on your buyer will be invalid from the moment your buyer has not paid an invoice for more than 60 days past due, has become insolvent, or there is adverse information as stated in art. 14 and you had or could have had knowledge of the event, unless we notify you otherwise in the credit management procedure as approved by us.
- 17.5** The withdrawal or reduction of a Top Up-credit limit will occur under the same circumstances and conditions which are applicable for the withdrawal or reduction of the first credit limit of the first credit insurer. This will mean, whatever basis used for adjusting the first credit limit, the Top Up-credit limit:
- automatically will be cancelled, when the first credit insurer withdraws the first credit limit;
 - will be reduced with the same percentage, when the first credit insurer reduces the first credit limit.
- 17.6** You need to inform us as soon as possible, however within 10 working days, if the first credit insurer has withdrawn or reduced a first credit limit substantiated with an explanation on what basis and for what reason this was done.
- 17.7** We can reduce or withdraw the Top Up-credit limit at any moment, unless it is a non-cancellable Top Up-credit limit.

Art. 18 Collection

- 18.1** Unpaid invoices may be collected by the (third party of) the first credit insurer. You need to inform us as soon as possible on any progress or result in this collection procedure.
- 18.2** In case the first credit insurer will not start up the collection process, we will have the right to start up the collection process according to our collection procedures. The decisions taken by us are binding.
- 18.3** You can submit the costs of collection to us. Costs related to the part of your claim that is covered under the Top Up-credit limit will be multiplied by the insured percentage and reimbursed. If your claim is partly insured or uninsured, the recovery costs will be proportionally divided.

18.4 If your claim is disputed, the cost to resolve the dispute will be at your expense.

Art. 19 Indemnification

- 19.1 Indemnification will be paid when all policy conditions for the Mercury Top Up policy are met;
- a. within 30 days after we have received a written confirmation your first credit insurer has paid your claim; and
 - b. we have received all relevant information to take a decision.

E. General information

Art. 20 Exchange rate

All amounts stated in foreign currencies will be converted as follows:

- a. issue of a limit: the reference rate of the European Central Bank on the last day of the month in which the Top Up-credit limit is fixed;
- b. the calculation of losses and recoveries collected after that date: the reference rate of the European Central Bank on the day that we are going to perform a loss calculation.

Art. 21 Assignment of rights

The right to be indemnified under the policy may be assigned to a third party only with our written consent. You remain obliged to comply with the policy conditions. The beneficiary shall not have more rights than you had as policyholder. In particular, our right to offset any unpaid premium and costs remains.

Art. 22 Termination of policy

22.1 The period that the policy is valid is stated in the policy conditions. We will do a renewal proposal, stating your ability to terminate the policy before the end of the policy period. Regardless of our renewal proposal you can terminate the policy no later than two months before the end of the policy period by informing us that you want to terminate the policy.

22.2 We reserve the right to cancel the policy within two months after becoming aware of:

- a. if you are declared bankrupt: at the date of bankruptcy;
- b. if you have applied for a suspension: at the date of the application of suspension of payments; and
- c. when your first credit insurance has been cancelled by either you or your first credit insurer: at the date your first credit insurance is no longer valid.

22.3 Termination for any reason whatsoever, does not affect our other rights, such as collecting premiums and denying coverage.

Art. 23 Expiration of claims

Any claim for an indemnification shall expire six months after you had to report a (imminent) loss or adverse information and which you did not. When we need information in order to settle the loss you must provide it within two months.

Art. 24 Applicable law and jurisdiction

The policy is subject to the Dutch law. All disputes shall be exclusively submitted to the competent court in Rotterdam.

Art. 25 Our administration is binding

Our administration is binding with respect to all rights and obligations arising from the insurance policy.

Art. 26 Amendments

26.1 The latest version of your policy will always apply from the date of issue, unless we decide otherwise.

26.2 The policy remains in effect even if we undergo changes, mergers or transfer our portfolio to a third party.

Art. 27 Complaints

Any complaint should be addressed in the first instance to Mercury Trade Credit Nederland BV, PO Box 2508, 3000 CM Rotterdam.

The Lloyd's managing agent NVA Syndicate 2007, or the party named above that it has appointed to adjudicate on your complaint on its behalf, will acknowledge your complaint, in writing, and inform you of the period it will take them to answer the complaint within two weeks of the complaint being received.

The Lloyd's managing agent NVA Syndicate 2007, or the party named above that it has appointed to adjudicate on your complaint on its behalf, with aim to provide you with its decision on your complaint, in writing, within six weeks of the complaint being received. Should you remain dissatisfied with the final response from the above or if you have not received a final response within eight weeks of the complaint being made or within six weeks after the complaint has been received by the insurer, you may be eligible to refer your complaint to the Financial Ombudsman Service (FOS) in the UK. If you have received a final response then you must contact the FOS within six months of the date of that communication. The FOS may be contacted at:

The Financial Ombudsman Service
Exchange Tower
London, United Kingdom
E14 9SR
Tel: 0800 0234567

Further details regarding the FOS can be obtained from their website at www.financial-ombudsman.org.uk.

The above is without prejudice to your rights in law.