

**EXPORT-IMPORT BANK OF THE UNITED STATES
SHORT TERM
SINGLE BUYER EXPORT CREDIT INSURANCE POLICY FOR EXPORTERS**

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

ARTICLE 1. POLICY CONTENTS

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

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

ARTICLE 2. INSURING AGREEMENT

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

There shall be no coverage under this *Policy* to the extent *your products* are lost or damaged and such loss or damage is insurable by *you* under property, casualty, shipping, freight, cargo or other similar insurance coverage.

ARTICLE 3. REQUIREMENTS OF AN INSURED TRANSACTION

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

- A. comprised of *products* that: (i) are not military equipment or defense related, (ii) are not for sale to, or for use by, a military or security agency, and (iii) meet the *United States content requirements* (see definition in Article 10); and
- B. shipped during the *policy period* (shipment begins when the *products* are placed en route to the *buyer* by *you*, *your* supplier or agent); and
- C. evidenced by a *buyer obligation* payable to *you*; and
- D. an export sale evidenced by a bill(s) of lading or other shipping document(s) showing shipment of the *products* from the United States (or its territories) to the *buyer* in the *buyer's* country, in all cases the shipping document(s) must be issued by an unaffiliated third party (unless otherwise approved in writing by Ex-Im Bank) and be consistent with the other documents evidencing a *buyer obligation*.

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

A. Policy Payment Limit

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

B. Reduction of Liability

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

ARTICLE 5. EXCLUSIONS

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

- A. if *you*, or any of *your* employees or agents fail to strictly comply with any of the terms or conditions of this *Policy* at the time such term(s) or condition (s) was (were) required to be performed; or
- B. arising out of, or related to, *your* actions or any actions of *your* employees or agents or any assignee of this *Policy*; or
- C. where any unresolved dispute, of any nature, exists between *you* and the *buyer* until *you* have established the *buyer obligation* to be valid and legally enforceable against the *buyer* in the courts of the *buyer's* country or *you* have otherwise settled the dispute to the satisfaction of Ex-Im Bank; or
- D. to the extent that the amount of, or the obligation to pay, the *buyer obligation* has been relieved, in whole or in part, by payment or by an express or implied agreement by *you* or *your* employees or agents.

ARTICLE 6. AGREEMENTS OF THE INSURED

You agree to:

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

- G. cooperate with Ex-Im Bank to make *recoveries*; and
- H. comply with all laws and regulations related to the *insured transaction*, including but not limited to applicable export and import laws and regulations, the Foreign Corrupt Practices Act, and regulations issued by the Office of Foreign Assets Control (OFAC) and the related statutes; and
- I. not ship to any *buyer* that is listed on the Government debarment list know as the Excluded Parties List System (<http://www.sam.gov>) without express permission from Ex-Im Bank.

ARTICLE 7. PROOF AND PAYMENT OF CLAIMS

- A. Ex-Im Bank will pay *you* in accordance with the insuring agreement set forth in Article 2 of the *Policy* within 60 days of receipt of a complete *Notice of Claim and Proof of Loss* provided *you*:
 - 1. have made a written demand for payment from the *buyer* and any applicable guarantor at least 30 days prior to submission of the *Notice of Claim and Proof of Loss*; and
 - 2. submit a signed and complete *Notice of Claim and Proof of Loss* between 3 and 8 months after the date of *default* or, if specifically requested by Ex-Im Bank, within 30 days from the date of such request by Ex-Im Bank (*you* may immediately submit a *claim* when the *buyer* is declared bankrupt, insolvent or placed into receivership); and
 - 3. specify in the *Notice of Claim and Proof of Loss* all amounts outstanding under *insured transactions* and *uninsured debt* with the *buyer* on the date of *your* completed form.
- B. If *you* failed to stay at risk for the *buyer obligation* less the *insured percentage*, Ex-Im Bank will reduce any *claim* payment by the amount for which *you* failed to stay at risk.
- C. If *you* have any other valid and collectible insurance applicable to a *loss* covered by this *Policy*, any *claim* amount paid by Ex-Im Bank pursuant to this *Policy* shall be excess insurance over the applicable limit of liability of the other insurance.
- D. Upon receipt of notification of a *claim* approval, *you* will have a maximum of 30 days to provide any additional documentation requested by Ex-Im Bank, including (i) wire instructions, (ii) taxpayer identification number, (iii) a completed original "Release and Assignment" form for all *insured transactions* and, unless otherwise agreed to in writing by Ex-Im Bank, all *uninsured debt*, and (iv) if applicable, original loan documentation endorsed to Ex-Im Bank. *You* may forfeit *your* rights to the *claim* payment if *you* fail to provide this information in the timeframe set forth above.
- E. Notwithstanding the provisions of Sections A(1) and A(2) above, *you* may submit a *Notice of Claim and Proof of Loss* with respect to any payment from the *buyer* that is rescinded or must otherwise be returned by *you* if such rescission or return of payment has been compelled by law as the result of the bankruptcy or insolvency of the *buyer*. The submission of a *Notice of Claim and Proof of Loss* with respect to any such returned payment must be made promptly but in no event later than 30 days after *you* have returned the amount.

ARTICLE 8. RECOVERIES

- A. After paying any *claim*: (i) Ex-Im Bank will undertake all collection efforts against the *buyer* on *your insured transaction* and, if applicable, all *uninsured debt*, if any, and (ii) *you* will be precluded from any independent *recovery* actions against the *buyer*. Any amounts *you* receive from the *buyer* after a *claim* payment, whether from *insured transactions* or *uninsured debt* must be

remitted, without reduction, directly to Ex-Im Bank.

- B. Any *recovery* shall be applied first to *collection costs*. The balance of the *recovery* shall be shared by *you* and Ex-Im Bank in the proportion in which the *loss* was shared on the date of *claim* payment. All *recoveries* shall be shared in accordance with these proportions, without limitation, even if Ex-Im Bank collects more than the *claim* payment plus accrued interest, if any.

ARTICLE 9. GENERAL CONDITIONS

A. Premiums and Reporting

1. *You* must pay minimum premium in the amount and as set forth in the declarations.
2. *You* must report and pay shipment premiums on *your insured transaction*, at the rate set forth in the declarations, no later than 30 days following the end of the month during which the *insured transaction* was made.
3. *You* must report shipment premiums on the "Report of Premiums Payable for Exporters Only" via the Exim Online web portal. Alternatively, a copy of this form can be found on Ex-Im Bank's website at "<http://www.exim.gov/tools-for-exporters/applications-forms/complete-list>" or a hard copy may be delivered to *you* by mail upon written request.
4. In the event *you* fail to file any report or pay any premium when due, Ex-Im Bank may reject or accept, at its sole discretion, any such report or premium when tendered. Any *claim you* submit on a shipment for which premium was not paid or rejected will be denied.

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

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

D. Notices, Reports and Communications

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

E. Action Against Ex-Im Bank

1. No action may be brought against Ex-Im Bank prior to 60 days after submission of a complete and accurate *Notice of Claim and Proof of Loss* and unless a written demand is made on Ex-Im Bank 30 days prior to bringing such action.

2. No action of any kind may be brought against Ex-Im Bank more than 18 months after the date of *default*.
3. Any action or proceeding against Ex-Im Bank arising out of or relating to this *Policy* shall be instituted only in a Federal court sitting in the District of Columbia, or the state or jurisdiction in which *your* principal business is located.
4. In any action or proceeding against Ex-Im Bank, service of process shall be made upon Ex-Im Bank in accordance with Rule 4 of the Federal Rules of Civil Procedure.

Service upon Ex-Im Bank shall be given to Ex-Im Bank at its Office of General Counsel at 811 Vermont Avenue, N.W., Washington, D.C. 20571.

5. In any *claim*, action, suit or proceeding to enforce a claim for *loss* hereunder, the burden of proving the following is on *you*: (i) the *loss* is recoverable under this *Policy*, (ii) all conditions of coverage related to the *loss* in question have been satisfied, (iii) all other obligations of the *insured* related to the *loss* in question have been satisfied and (iv) no exclusion applies to the *loss* in question.
6. The construction, validity and performance of the *Policy* shall be governed by and construed in accordance with uniform Federal Law.

F. False or Fraudulent Statements, Reports, Claims or Concealment - If *you* knowingly make false statements to Ex-Im Bank, conceal facts *you* should disclose to Ex-Im Bank, or report a *claim* that is false or fraudulent, this *Policy* will be void and Ex-Im Bank will not pay any *claim*. If Ex-Im Bank has already made a *claim* payment in connection with a *claim* or *insured transaction* for which *you* committed any of the actions described in this Section F, *you* will promptly refund the payment to Ex-Im Bank, with interest.

G. Assignment of Policy Proceeds

1. This *Policy* may not be assigned or transferred without the prior written consent of Ex-Im Bank.
2. *Assignment* of any *Policy* proceeds shall bind Ex-Im Bank only if Ex-Im Bank has executed an *Assignment* completed by *you* and a financial institution (the assignee) acceptable to Ex-Im Bank. If Ex-Im Bank pays the assignee amounts that *you* would not have been entitled to hereunder, *you* agree to indemnify Ex-Im Bank for such amounts plus any costs and expenses incurred by Ex-Im Bank to enforce this provision.

H. Compliance by Insured - Notwithstanding any other action by Ex-Im Bank, *your* failure to timely comply with any term or condition of this *Policy* shall not be deemed to have been excused or accepted by Ex-Im Bank unless explicitly agreed to by Ex-Im Bank in writing.

I. Cancellation - This *Policy* will automatically expire at the end of the *policy period* unless extended in writing by Ex-Im Bank prior to that time.

J. Indemnification and Repayment of Ex-Im Bank - *You* will indemnify and hold Ex-Im Bank harmless for all costs and expenses incurred by Ex-Im Bank of any nature, including: (1) costs of defense; (2) costs of collection; and (3) attorney's fees relating to any of these items IF (i) *you* (or *your* employees or agents, distributors or contractors) fail to fulfill *your* contractual or legal

obligations to the *buyer* or to Ex-Im Bank or (ii) as a result of any unresolved dispute, of any nature, between *you* and the *buyer*, the *buyer* is relieved, in whole or in part, of its obligations to pay the *buyer obligation*.

ARTICLE 10. DEFINITIONS

“*Assignment*” means one of the following forms, as applicable: (1) “Notification by Insured of Amounts Payable Under Single Buyer Export Credit Insurance Policy” or (2) “Small Business Single Buyer Export Credit Insurance Policy (ESS/ESSP) Enhanced Assignment of Policy Proceeds”, as found on Ex-Im Bank’s website at "<http://www.exim.gov/tools-for-exporters/applications-forms/complete-list>" or delivered to *you* by mail upon written request.

“*buyer*” means the person or entity approved by Ex-Im Bank, named in the declarations and with whom *you* have contracted for the sale of *products*.

“*buyer obligation*” means the written agreement of the *buyer* to order the *products* and pay *you* the invoice value of the *products* as evidenced, collectively, by the documents identified in Item 12 of the declarations. This amount may include insurance and freight costs incurred by *you* on the *buyer’s* behalf and which support the sale of the *products*.

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

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

“*default*” means non-payment, in whole or in part, of the amount of principal and/or interest, if any, due on a *buyer obligation* in accordance with its terms. *Default* shall not include any non-payment resulting from any tax or other charge levied by withholding or otherwise, on the *buyer obligation*.

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

“*insured percentage*” means the percentage of coverage, applicable to the *buyer credit limit*, as specified in the declarations or in a *special buyer credit limit* endorsement.

“*insured transaction*” means a sale and shipment of *products* which complies with all the requirements specified in Article 3 of this *Policy*.

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

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

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

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

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

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

“*policy payment limit*” means the payment limit for the *Policy* as set forth in the declarations.

“*policy period*” means the period identified as the “Policy Period” in the declarations

“*products*” means each of the items specified in the declarations.

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

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

“*United States content requirements*” means:

1. If *you* meet the criteria of a “small business”, as defined by the Small Business Administration, then one of the following:
 - (a) Item-by-Item: Each product on an invoice must be manufactured or reconditioned with more than 50% United States content (comprised of all direct and indirect costs including, but not limited to, labor, materials, research and administrative costs, but excluding net profit) for 100% of the gross invoice value to be eligible for coverage. If the United States content is 50% or less, then the value of the United States content only is eligible for coverage; or
 - (b) Aggregate: If *you* submitted a Content Report at the time of shipment, the aggregate percentage of United States content (comprised of all direct and indirect costs, including, but not limited to, labor, materials, research and administrative costs, but excluding net profit) of all *products* on the invoice must be greater than 50% for 100% of the gross invoice value to be eligible for coverage. If the aggregate United States content is 50% or less, then the value of the United States content only is eligible for coverage.

OR

2. If *you* do not meet the criteria of a “small business”, as defined by the Small Business

Administration, then each product on an invoice must be manufactured or reconditioned with more than 50% United States content (comprised of labor, materials and direct overhead, exclusive of profit).

“you” and “your” refer to the *insured*.

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

Export-Import Bank of the United States



James Burrows
Senior Vice President
EXIM Bank
811 Vermont Ave, N.W.
Washington, D.C. 20571

ESSBPLT4 (06/10)