



GUARANTEE PRODUCTS AND OTHER INSURANCE DECLARATION AND INDEMNITY

The Customer (as identified in the signature section below) has requested that Export Development Canada ("EDC") provide it or its Affiliates with support by issuing (or amending): (i) guarantees ("**Guarantee Product(s)**") or, (ii) other insurance ("**Other Insurance**"), in each case, under EDC's International Trade Guarantee Program (formerly referred to as "Contract Insurance Bonding Program"). In connection with any such Guarantee Products or Other Insurance issued on or after the date of signature of this Guarantee Products and Other Insurance Declaration and Indemnity (the "**Indemnity**"), the Customer has agreed to make the following declarations and enter into the following indemnity all as set out in this Indemnity.

For greater certainty, any support provided by EDC under its International Trade Guarantee Program prior to the date of the signature of this Indemnity, will be subject to the terms of the applicable previous indemnity provided to EDC.

1. DEFINITIONS

In this Indemnity,

"Affiliate" means: (a) a person that is directly or indirectly controlled by the Customer or by a person that also directly or indirectly controls the Customer; or (b) a person that directly or indirectly controls the Customer, when either person participates or is involved in any business which is the object of an EDC Guarantee Product or Other Insurance;

"Beneficiary" means the third party that is the beneficiary of the guarantees or bonds in respect of which the Guarantee Product has been provided;

"Change of Control" means any acquisition of Control of the Indemnitor(s) by any person or two or more persons acting in concert, other than by an Indemnitor;

"Contract" means any contract or supply contract related to a Guarantee Product or Other Insurance;

"Control" means the ability, directly or indirectly, to direct or cause the direction of management or policies of a corporation, whether through ownership of voting shares of any class of any corporation, by contract, by de facto control or otherwise;

"Controlled" has a correlative meaning;

"Indemnitor" means the Customer and where applicable, each co-indemnitor identified in the signature section below;

"Material Adverse Change" means (a) any event or circumstance which, individually or together with other events or circumstances, could be expected to have a material adverse effect on, (i) the condition, financial or otherwise, (or on the earnings, operations, assets, business affairs or business prospects of an Indemnitor), (ii) the ability of an Indemnitor to perform or observe any of its material obligations under this Indemnity or any Contract, (iii) the rights and remedies available to EDC under this Indemnity, and (b) a Change of Control; and

"Related Person" means a person, (a) who has a direct or indirect equity interest in the Customer, or a person in whom the Customer has a direct or indirect equity interest, (b) who is related to the Customer through a common third party's direct or indirect equity interest in both that person and the Customer, (c) who, or whose direct or indirect owners, has a family relationship with the Customer or the Customer's direct or indirect owners, or (d) who has any other kind of relationship with the Customer which could give rise to a concern on the part of a reasonable person that the Customer might not behave in a prudent manner with respect to, (i) its sales to such person, or (ii) its financial performance obligations to such person, in either case, to the detriment of EDC. Where the Contract that is the subject of EDC's support has been entered into by an Affiliate, each reference to "Customer" in this definition shall be deemed to refer to "Affiliate".

2. DECLARATIONS FOR GUARANTEE PRODUCTS AND OTHER INSURANCE

The Customer declares, acknowledges, covenants, represents, and warrants to EDC as follows:

Information Contained is True and Correct and is Not Aware of Any Circumstance Likely to Give Rise to a Loss

(1) The information contained in this Indemnity is true and correct, and the Customer acknowledges that EDC is entitled to deny liability under any Other Insurance if this Indemnity, or any additional information requested by EDC, contains a

misrepresentation. The Customer is not aware of any circumstance likely to give rise to any call, claim or loss under any Guarantee Product or Other Insurance to be provided by EDC.

Beneficiary is Not Related

(2) No buyer under a Contract or Beneficiary is or will be a Related Person.

Compliance with Applicable Laws Dealing with the Bribery

(3) With respect to any business which is the object of an EDC Guarantee Product or Other Insurance:

1. Neither the Customer, its Affiliates, nor, to the best of the Customer's knowledge (after reasonable inquiry in a manner consistent with reasonable commercial compliance practices), anyone acting on its or its Affiliates' behalf: (a) have been or will knowingly be party to any action which is prohibited by applicable laws dealing with the bribery (including without limitation, Canada's *Corruption of Foreign Public Officials Act*), which makes it illegal for persons to, directly or indirectly, give, offer, or agree to offer a loan, reward, advantage or benefit of any kind to any person in order to obtain or retain an advantage in the course of business;(b) are currently under charge in a court or are formally under investigation by public prosecutors or, within the last five years, have been convicted in a court for violation of laws of any country against bribery (including, without limitation, laws against bribery of foreign public officials) or, has entered into any form of settlement or other arrangement, including without limitation any publicly-available arbitral award in connection with the violation of laws against bribery (collectively, "Proceedings");
2. Upon request, the Customer agrees to provide to EDC the identity of persons acting on behalf of the Customer and its Affiliates and the amount and purpose of commissions and fees paid, or agreed to be paid, to such persons, the country or jurisdiction in which the commissions and fees have been paid or agreed to be paid;
3. The Customer further confirms to EDC that the commissions and fees paid, or agreed to be paid, to any natural or legal person acting on behalf of the Customer and its Affiliates, such as agents, is or will be, for legitimate services only; and
4. The Customer shall notify EDC immediately should any of the foregoing representations no longer be true or accurate, upon a breach of any covenant contained herein or the occurrence in the future of any Proceedings.

Contracts Do Not Contain Discriminatory Wording

(4) No Contract which is the object of a Guarantee Product or Other Insurance requires or will require an Indemnitor to: (i) engage in discrimination based on the race, national or ethnic origin or religion of any person; (ii) refuse to purchase from or sell to any other Canadian firm or individual; (iii) restrict its commercial investments or other economic activities in any country; or (iv) refuse to sell any Canadian goods and services to, or buy any goods or services from, any country.

EDC's Requirements to Comply with Applicable Laws

(5) EDC may be required to extend the timeframe for payment under a Guarantee Product or Other Insurance policy in order to determine EDC's compliance with any applicable law. The Customer agrees to provide EDC, promptly upon request, with such information and documents as EDC may reasonably request in connection with the foregoing purpose. Any determination of compliance with applicable laws made by EDC is for EDC's purposes only and cannot be relied upon by the Customer or its Affiliates.

Environment, Social and Human Rights

(6) The Customer and its Affiliates are in material compliance with applicable environmental, social and human rights laws and regulations and are not aware of any significant or severe environmental, social and/or human rights risk associated with the business which is the object of an EDC Guarantee Product or Other Insurance. "Environmental, social and/or human rights risk" refers to any actual or potential adverse impacts on the environment, occupational health and safety, communities, and/or fundamental human rights or freedoms as stated in the *International Bill of Human Rights*, resulting from or associated with:

1. the production or manufacturing of goods sourced, produced, manufactured or sold by the Customer or its Affiliates, including foreign Affiliates;
2. services rendered by the Customer or its Affiliates, including foreign Affiliates; or
3. the end use of goods produced, manufactured or sold by the Customer or its Affiliates, including foreign Affiliates.

3. INDEMNITY FOR GUARANTEE PRODUCTS

(1) In consideration of the issuance of any Guarantee Product, the Indemnitor(s) hereby jointly and severally and unconditionally and irrevocably agree to fully indemnify EDC against all claims and demands made in respect of a Guarantee Product, including the amount that EDC pays under any Guarantee Product, and to be liable to and

compensate EDC for and against all (a) costs, fees and expenses in connection with any Guarantee Product (including unpaid premium or fees due to EDC or any bank or expenses paid by EDC) and the costs of enforcing this Indemnity, and (b) damages directly or indirectly arising or resulting from any claims or demands made in respect of a Guarantee Product. The Indemnitor(s) also agree to pay interest to EDC on any such amounts, such interest to accrue from the date of demand by EDC to the date of payment at a rate per annum quoted by EDC's bank as its prime rate for the currency of the applicable Guarantee Product as of the date of EDC's demand for payment.

- (2) Where EDC has also issued a Performance Security Insurance ("PSI") policy to the Indemnitor(s) in respect of the bank instruments covered by a Guarantee Product, the Indemnitor(s) will pay to EDC, on demand, 5% of the amount that is payable under Section 3(1). Where EDC has determined that no loss is payable under the PSI policy, the Indemnitor(s) will also pay to EDC, on demand, the remaining 95% of the amount that is payable under Section 3(1).
- (3) Each Indemnitor agrees that its liability hereunder shall not be varied or discharged by reason of a Guarantee Product or any related document being or becoming in whole or in part, illegal, unenforceable, void or discharged, or by reason of any negligence (other than gross negligence) on the part of EDC, or by reason of any indulgence or time being granted to or by EDC or by any compromise, arrangement or plan whatsoever between EDC and any party in respect of EDC's liability under a Guarantee Product. The Indemnitor(s)' liability under this Indemnity shall not be discharged, released, or otherwise terminated except by full payment to EDC of all amounts payable to EDC hereunder.
- (4) The Indemnitor(s) absolutely and irrevocably authorizes EDC to (i) pay immediately, at its absolute and sole discretion, in whole or in part, any amounts claimed pursuant to and in accordance with a Guarantee Product, (ii) enter into any agreement with any person for the purpose of discharging, in whole or in part, its obligation under a Guarantee Product, or (iii) take any other action in respect of a Guarantee Product.
- (5) The Indemnitor(s) agrees that, without prejudice to EDC's rights or to the Indemnitor(s)' liability under this Indemnity, EDC may (i) make any amendments to a Guarantee Product, (ii) waive any breach of a Guarantee Product, (iii) agree to extend, substitute or renew a Guarantee Product or (iv) refuse to extend, substitute or renew a Guarantee Product.
- (6) The Indemnitor(s) will not, without obtaining EDC's prior written consent, either directly or indirectly, assign, transfer, sell, cancel, terminate, materially amend any Contract.
- (7) Each Indemnitor hereby waives any right of counterclaim, set-off, deduction, or any right to notice or consultation with EDC which it may have, with the intent that it and its successors or assigns will not be able to claim or assert any such right in any legal proceedings which may be brought by EDC against the Indemnitor(s) pursuant to this Indemnity. Each Indemnitor also hereby expressly waives the benefit of all privileges and defences which now or hereafter may be available to indemnitors, including, in situations where there is more than one Indemnitor with respect to a Guarantee Product, the benefit of discussion and division, and each Indemnitor waives diligence, presentment, demand, protest, notice of every kind. EDC is not bound to exhaust its recourse against any person, securities or collateral it may hold before demanding or being entitled to a payment under this Indemnity.
- (8) Each Indemnitor will deliver or cause to be delivered to EDC (a) within one hundred and twenty (120) days after the end of the Indemnitor's financial year all annual financial statements, audited if available, and (b) such other reports and information respecting the Indemnitor's financial condition and operation as EDC may reasonably request from time to time.
- (9) Each Indemnitor will allow EDC and its representatives access to its property, premises, books and records and will provide to EDC, at its expense, electronic and paper copies of any information, in each case, as EDC may reasonably request.
- (10) Each Indemnitor will immediately advise EDC of (1) any call or claim under a bank instrument supported by a Guarantee Product, or (2) any occurrence of any event likely to result in a call or claim thereunder, including a breach of any covenant under any of the Indemnitor's credit facilities, which has not been waived by, or on behalf of, the applicable lenders.
- (11) Each Indemnitor agrees that it will not, without EDC's prior written consent, which consent will not be unreasonably withheld:
 - (1) sell or otherwise dispose of all or a substantial part of its assets to a person or entity which is not an Indemnitor;
 - (2) cease to conduct all or a substantial part of its business as conducted as at the date of signature on this Indemnity;
 - (3) amalgamate, merge or consolidate with any other company; or
 - (4) permit any Change of Control of the Indemnitor.
- (12) Each Indemnitor will, (1) notify EDC in writing of any event or condition which will or would reasonably be expected to result in a Material Adverse Change or in the failure of the Indemnitor to perform or observe any of its material obligations under this Indemnity, in any case, as soon as the Indemnitor obtains knowledge of such event or condition, (2) upon the occurrence of a Material Adverse Change, as determined by EDC in its sole and absolute opinion, and upon demand by EDC, deposit with EDC sufficient collateral, in form, amounts, substance and ranking acceptable to EDC, and, (3) upon request by EDC, grant EDC a security interest in such collateral.

- (13) Until all sums owing to EDC under this Indemnity have been paid in full, an Indemnitor will (1), with respect to any payment made or to be made to EDC under this Indemnity, subordinate and postpone all rights and claims it may now or hereafter acquire against any other Indemnitor to any rights and claims of EDC on account of amounts owing to EDC under this Indemnity, and (2) not claim the benefit of any security or monies held by or for the account of EDC.

4. **OTHER**

- (1) Each Indemnitor represents and warrants to EDC that, (1) if it is a corporation, it is duly incorporated and validly subsisting under the laws of its place of incorporation, and (2) this Indemnity has been duly authorized, executed and delivered by it and is a legal, valid and binding obligation of the Indemnitor, enforceable against the Indemnitor in accordance with its terms.
- (2) EDC's rights, powers and remedies under this Indemnity are cumulative and are in addition to, and not in substitution for, any rights, powers or remedies provided or hereafter acquired by law or equity, or under any other agreement with EDC, including any indemnity agreement previously executed by the Indemnitor(s) in favour of EDC.
- (3) The Customer and all additional indemnitors shall be jointly and severally or solidarily as applicable, liable to perform all of the obligations, covenants, terms and agreements contained in this Indemnity.
- (4) If any provision of this Indemnity becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.
- (5) Any demand or notice to be given hereunder shall be in writing and sent to the other party by electronic mail or prepaid registered mail. It shall be deemed to have been received, if sent by electronic mail, on the day following the transmission thereof and, if sent by prepaid registered mail, on the fifth (5th) day after mailing, excluding Saturdays, Sundays and those statutory holidays upon which the offices of the addressee are normally closed for business. The addresses of the Indemnitor(s) for the purposes of this Section are set out in the signature section below, or as may be notified in writing to EDC. The addresses of EDC for the purposes of this Section are as follows, or as may be notified in writing to the Indemnitor(s):
- Export Development Canada
150 Slater Street
Ottawa, Canada
K1A 1K3
Email: itg-apsq-coverage@edc.ca
- (6) This Indemnity is binding upon and shall enure to the benefit of EDC and its successors and assigns. No Indemnitor may assign or transfer all or part of its obligations under this Indemnity without EDC's prior written consent. EDC may assign all or part of its rights or obligations under this Indemnity without an Indemnitor's consent. An Indemnitor is bound by this Indemnity only in the event a Guarantee Product or Other Insurance is issued by EDC.
- (7) Each Indemnitor understands the nature and effect of, and agrees to be bound by, the terms of this Indemnity and has had the opportunity to obtain independent legal advice in relation to this Indemnity.
- (8) This Indemnity: (i) may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute together one and the same instrument, and (ii) may be delivered by electronic mail. Receipt by electronic mail of an executed copy of this Indemnity shall be deemed to be receipt of an original.
- (9) This Indemnity will be governed by the laws of the Canadian province or territory in which the Customer has its registered head office, and if the Customer has no registered head office in Canada, by the laws of the Province of Ontario. The Indemnitor(s) submits to the non-exclusive jurisdiction of the Canadian province which laws will govern this Indemnity.
- (10) The Customer and all Indemnitors have explicitly requested that this Indemnity and the documentation related thereto be drafted in the English language. Le client et tous les indemnisants ont expressément demandé et accepté que la présente Indemnité et toute documentation qui y est rattachée soient rédigées en langue anglaise.

The Customer and all Indemnitors hereby consent and agree to the terms and conditions set out in this Indemnity, and certifies the truth and accuracy of all representations and warranties contained therein, provided that the Indemnitors, other than the Customer, make no representations with respect to Section 2.

Customer Signature

Legal name of the company (**Customer**):

Address:

City, Province, Country:

Email:

Duly Authorized Signature

Name & Title (please print)

Date signed

Co-Indemnitor Signature

Legal name of the company (**Indemnitor**):

Address:

City, Province, Country:

Duly Authorized Signature

Name & Title (please print)

Date signed

Co-Indemnitor Signature

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