

Euler Hermes

# EH Corporate Advantage

General Terms and Conditions

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## Allianz World Policy - Trade Credit Insurance

### Important customer information

Welcome to Allianz World Policy - Trade Credit Insurance.

#### About Allianz

The insurer of this product is Allianz Australia Insurance Limited ("Allianz") (ABN 15 000 122 850), AFS Licence No. 234708, of 2 Market Street, Sydney, NSW, 2000.

#### About Euler Hermes Australia Pty Limited.

Euler Hermes Australia Pty Limited ("Euler Hermes") (ABN 45 109 696 728 AFS Authorised Representative No. 303 418 of Suite 1403, 2 Market Street, Sydney, NSW 2000, GPO Box 3692, Sydney, NSW 2001, Tel: +612 8258 5108, Fax: +612 8258 5060) is authorised by Allianz to arrange, issue, vary and dispose of this insurance on our behalf under a binding arrangement we have with them. In this document, unless otherwise stated, a reference to "we", "our" or "us" is a reference to Allianz and/or a reference to Euler Hermes depending on their respective roles as described above.

#### Contact and Notification Details

All correspondence relating to the **Policy** must be sent to: Euler Hermes Australia Pty Limited, GPO Box 3692, Sydney, NSW 2001, Australia. Written notices sent by us to the Insured may be sent by facsimile, mail or email. Notices sent by facsimile will be effective on confirmation of successful transmission being obtained by the sender.

#### About this Insurance

When we agree to insure you (the Insured), we do so based on the information provided to us by you or on your behalf and subject to payment of the required Premium. We insure you in accordance with the terms and conditions of your **Policy**. Your **Policy** consists of this document and any Endorsement, specification, attachment or memoranda affixed (or intended to be affixed) to it, your **Special Terms** and **Proposal**. All of them should be read as if they were one document. Special Definitions apply which are set out in the Definitions Section. We only cover those parties shown in your **Special Terms** unless otherwise stated in the **Policy** as being a person or entity entitled to cover. We cover you for the **Policy** Period and do not pay more than the credit limits shown in the **Policy**. It is important you read this document and the other documents that make up your **Policy** carefully to ensure that you have appropriate protection. Keep your **Policy** in a safe place and ensure you read the following important Duty of Disclosure and Privacy information.

#### Your Duty of Disclosure

Before you enter into a contract of insurance with us, you have a duty, under the Insurance Contracts Act 1984, to disclose to us every matter that you know, or could reasonably be expected to know, is relevant to our decision whether to accept the risk of the insurance and, if so, on what terms.

You have the same duty to disclose those matters to us before you renew, extend, vary or reinstate the contract.

This duty of disclosure applies until the contract is entered into (or renewed, extended, varied or reinstated as applicable).

Your duty however does not require disclosure of any matter:

- that diminishes the risk to be undertaken by us; or
- that is of common knowledge; or

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- that we know or, in the ordinary course of our business as an insurer, ought to know; or
- as to which compliance with your duty is waived by us.

### **Non-disclosure**

If you fail to comply with your duty of disclosure, we may be entitled to reduce our liability under the contract in respect of a claim, cancel the contract, or both.

If your non-disclosure is fraudulent, we may also have the option of avoiding the contract from its beginning.

### **Who must tell us?**

Everyone who is insured under the **Policy** must answer the questions in this way. If any person to be insured has not disclosed their relevant information to us directly, the person applying to us directly is treated as having made disclosure on behalf of all such persons.

### **What happens if you or they do not comply with this duty?**

If you or they do not answer the questions in this way, we may cancel the **Policy** and/or reduce the amount we pay if you make a claim. If fraud is involved, we may treat the Policy as if it never existed, and pay nothing.

## **Privacy Act 1988 – Information**

### **PRIVACY NOTICE**

**This document sets out how we use, collect and disclose personal information about you. It replaces any information about privacy in the insurance documentation we have previously provided to you. Further information is in our Privacy Policy available at <http://www.oceania.eulerhermes.com/en/euler-hermes/legal.html>.**

In Australia, Euler Hermes provides trade-related credit insurance solutions as agent of the insurer Allianz.

At Allianz and Euler Hermes, we give priority to protecting the privacy of your personal information. We do this by handling personal information in a responsible manner and in accordance with the Privacy Act 1988 (Cth).

### **How We Collect Your Personal Information**

We usually collect your personal information from you, your creditors and mercantile agents. We may also collect it from our agents and service providers; other insurers and insurance reference bureaus; people who are involved in a claim or assist us in investigating or processing claims, including third parties claiming under your **Policy**, witnesses and medical practitioners; third parties who may be arranging insurance cover for a group that you are a part of; law enforcement, dispute resolution, statutory and regulatory bodies; marketing lists and industry databases; and publicly available sources.

### **Why We Collect Your Personal Information**

We collect your personal information to enable us to provide our products and services, including to process and settle claims; offer our products and services and those of our related companies, brokers, intermediaries and business partners that may interest you; and conduct market or customer research to determine those products or services that may suit you.

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### **Who We Disclose Your Personal Information To**

We may disclose your personal information to others with whom we have business arrangements for the purposes listed in the paragraph above or to enable them to offer their products and services to you. These parties may include our related body corporates, insurers, intermediaries, reinsurers, insurance reference bureaus, related companies, our advisers, persons involved in claims, external claims data collectors and verifiers, parties that we have an insurance scheme in place with under which you purchased your **Policy** and investigators and recovery agents. Disclosure may also be made to government, law enforcement, dispute resolution, statutory or regulatory bodies, or as required by law.

### **Disclosure Overseas**

Your personal information may be disclosed to other companies in the Allianz and Euler Hermes Groups, business partners, reinsurers and service providers that may be located in Australia or overseas. The countries to which this information may be disclosed will vary from time to time, but may include Canada, Germany, New Zealand, United Kingdom, United States of America, France and other countries in which the Allianz and Euler Hermes Groups have a presence or engages subcontractors. We regularly review the security of our systems used for sending personal information overseas. Any information disclosed may only be used for the purposes of collection detailed above and system administration.

### **Access to Your Personal Information and Complaints**

You may ask for access to the personal information we hold about you and seek correction by calling (02) 8258 5152 EST 8am-6pm, Monday to Friday. Our Privacy Policy contains details about how you may make a complaint about a breach of the privacy principles contained in the *Privacy Act 1988 (Cth)* and how we deal with complaints. Our Privacy Policy is available at [www.allianz.com.au](http://www.allianz.com.au) and <http://www.oceania.eulerhermes.com/en/euler-hermes/legal.html>.

### **Contact for assistance or confirmation of cover**

If you need to confirm any **Policy** transaction or clarify any of the information contained in this **Policy** Document or if you have any other queries, contact us.

### **General Insurance Code of Practice – providing you with even better service**

The General Insurance Code of Practice was developed by the Insurance Council of Australia to further raise standards of practice and service across the insurance industry. We keenly support the standards set out in the Code. You can obtain more information on the Code of Practice and how it assists you by contacting us. Preparation Date: 8/3/2010

### **Dispute resolution process – helping you solve any problems**

We have a free internal complaints resolution process that can be accessed by contacting us. If this process doesn't resolve the complaint we will give you information about how to access available external dispute resolution schemes.

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### **General Terms and Conditions**

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## A. Scope of your *Policy*

### 1. Insuring agreement

We, Euler Hermes Australia Pty Ltd, have issued the *Policy* to you, the Insured named in the *Special Terms*, to cover you for the losses you sustain from unpaid insured receivables. This is in exchange for payment in full of all premiums due, and is subject to all the terms and conditions of the *Policy*.

The words and phrases in italics defined in section E have the same meaning wherever used in the *Policy*.

### 2. Event and date of loss

The event of loss under the *Policy* will be when a *Buyer* fails to pay you an insured receivable for goods or services *Supplied* because of one of the following, whichever occurs first:

- a. the *Buyer* has become *Insolvent* (the date of loss will be the date of *Insolvency*), or
- b. *Protracted Default* has occurred (the date of loss will be the expiry of the relevant *Waiting Period*).

### 3. Insured receivable

A receivable resulting from goods or services *Supplied*, including taxes (except GST or similar sales taxes) and related transport, packing and insurance costs, is insured if:

- a. you had a valid *Permitted Limit* on the *Buyer* for the *Supply*,
- b. the receivable relates to goods or services *Supplied* by you or on your behalf during a *Policy Period*,
- c. your *Buyer* was not in a *State of Default* on the date of *Supply*,
- d. the *Supply* does not violate any applicable law or regulations (including any economic or trade sanction law or regulations of any international organisation recognised under international law) and all necessary licences, approvals, or authorisations have been obtained,
- e. you have not acquired the receivable from a third party,
- f. you have issued the relevant invoices within 30 days of the date of *Supply*,
- g. the *Supply* was made on credit terms no longer than the *Maximum Terms of Payment*,
- h. you own the receivable and have not irrevocably transferred it to anyone else,
- i. the goods or services *Supplied* comply with the description of trade specified in the *Special Terms*, and
- j. the *Buyer* is domiciled in a country listed in the *Special Terms*.

### 4. Uninsured receivable

4.1 Unless otherwise endorsed to the *Policy*, a receivable resulting from goods or services *Supplied* is not insured in the following circumstances:

- a. if it arises from or relates to:
  - contractual or legal damages or penalties,
  - exchange rate fluctuations, currency devaluations, interest on late payment, or banking or financial charges, or
  - a leasing, rental, license or royalty agreement;
- b. if the goods or services to which the receivable relates were *Supplied*:
  - under a consignment stock agreement,
  - to an *Affiliated Buyer*,
  - to a private individual acting in their personal capacity, or
  - to a *Public Buyer*;
- c. if the obligation to pay the receivable:
  - has been transferred from your *Buyer* to a third party,
  - has been fulfilled on or before the date of *Supply* by payment in cleared funds, or
  - is to be fulfilled by a confirmed or unconfirmed irrevocable documentary letter of credit.

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4.2 Unless otherwise agreed by us beforehand in writing, a receivable resulting from goods or services **Supplied** is not insured if non-payment of the receivable results directly or indirectly from:

- a. Any acts, errors, omissions, or failure by you or anyone acting on your behalf to fulfill any of the material terms and conditions of **Supply** or any fraudulent conduct or set up, whichever person or party has initiated it,
- b. the **Buyer's** failure to accept your **Supply** of goods or services whether **Disputed** or not,
- c. the termination of a distribution, franchise or similar agreement by you or a company in your group,
- d. any natural disaster, or event arising out of natural causes which no human intervention could have prevented by reasonable care or foresight or any other form of force majeure,
- e. any event arising out of nuclear reaction, nuclear radiation or radioactive contamination,
- f. any armed conflict, war, terrorism, riot, civil disorder or any other form of violent disturbance,
- g. any legislation, order, decree or regulation issued by any government or any international organisation recognised under international law (including if you are prevented from **Supplying** goods or services), or
- h. currency shortages, or difficulties or disruption in transferring currency.

## B. Managing your *Policy*

### 5. Your credit management and reporting obligations

#### 5.1 Exercising care and preserving rights

For your insured receivables to be covered under your **Policy**:

- a. you must exercise reasonable care and prudence as if you were not insured, and
- b. you must take all practicable measures (including those requested by us) to prevent or reduce any loss and to maximise **Recoveries**, including but not limited to:
  - protecting and not waiving any rights against your **Buyers** and any third parties including enforcing any guarantee or security and filing your receivable against the **Insolvent Buyer** within the legal timeframe,
  - making all reasonable efforts to enforce any rights under a provision, when incorporated in your sales contract with your **Buyer**, under which you retain title to the goods **Supplied**, and
  - taking all appropriate collection action, and instructing the Collection Service Provider to start the collection process by filing a **Claim and Collection form** at any time before the end of the relevant **Claim Filing Period** after which any action by you must be taken in line with our instructions.

#### 5.2 Reporting a *State of Default*

Within 15 days of becoming aware of any **Buyer** entering a **State of Default** you must report it to us on our online information system or in writing, otherwise your insured receivables relating to goods and services **Supplied** before this date will not be covered under your **Policy**.

- a. You will not need to report it if:
  - the receivables causing the **State of Default** are paid within the above period, or
  - you have already filed a **Claim and Collection form**.
- b. Where the **State of Default** is due to a receivable remaining overdue beyond the **Maximum Extension Period** and the total amount overdue beyond the **Maximum Extension Period** is within the applicable reporting threshold specified in the **Special Terms** you do not need to report it. If your **Buyer** then subsequently becomes **Insolvent** you will need to report it.

#### 5.3 Postponing the *Due Date*

You may postpone the **Due Date** of your insured receivable without our prior written agreement unless:

- a. the period by which the **Due Date** is to be postponed exceeds the **Maximum Extension Period**, or
- b. your **Buyer** is in a **State of Default**.



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## 6. Your *Insured Turnover*, calculation and payment of premium

### 6.1 Your *Insured Turnover*

Your turnover is the amount used to calculate the premium. It is the total invoice value of all goods and services **Supplied** by you during the **Insurance Contract Period**.

- a. To calculate your **Insured Turnover**, you may deduct from your turnover the value of:
  - receivables which are entirely excluded from cover by section 4.1 of your **Policy**,
  - receivables resulting from goods or services **Supplied** which are not insured because we have issued a nil **Permitted Limit** or have withdrawn a **Permitted Limit**, and
  - GST (or similar sales taxes).
- b. You may not deduct the value of:
  - credit notes you have issued, or rebates you have granted (including retrospective volume rebates, loyalty rebates and early settlement rebates),
  - receivables where you are not entitled to a **Claim Payment** because of your failure to comply with the terms and conditions of your **Policy**.

### 6.2 Declaration and calculation of premium

For your insured receivables to remain covered under your **Policy**, you need to declare your turnover on our online information system or in writing within the timeframe specified in the **Special Terms**. For each **Declaration Period**, your turnover should be broken down between **Insured Turnover** and uninsured turnover and your **Insured Turnover** should be broken down annually for domestic and export.

By multiplying your **Insured Turnover** by the applicable rates specified in the **Special Terms**, we will calculate and invoice the premium you will need to pay us (and insurance taxes as required by applicable legislation) in line with the terms of payment specified in the **Special Terms**.

### 6.3 Minimum premium

A minimum premium as specified in the **Special Terms** is due for each **Policy Period**. Insurance taxes on minimum premium will be calculated using the average tax rate on the premium invoiced for the relevant **Policy Period**.

If we terminate your **Policy**, the minimum premium for the **Policy Period** then in force will become immediately due, calculated pro rata to the time that the **Policy** was on risk. If you terminate the **Policy**, no pro rata will apply.

### 6.4 Failure to declare your turnover or to pay premium

- a. We may send you a **Notice** suspending our liability under the **Policy**, if:
  - you do not pay your premium or your minimum premium in full when due,
  - you do not send us your turnover declaration when due, or
  - you do not send us within 30 days of us asking you to do so any document or information we may reasonably request to assess your turnover declaration.
- b. If you do not remedy such failures within 30 days of our **Notice**, we will have no liability for insured receivables relating to the goods or services **Supplied** and/or invoiced during the period where we are missing the payment of premium, your turnover declaration or the additional documentation requested by us. The premium will still be due on your turnover, yet our liability will resume only on and after the date you have paid the premium or provided the missing turnover declaration or the additional documentation requested by us. Furthermore, we shall have the right to terminate the **Policy** where you have failed to pay us the outstanding premium within the period of our **Notice** as stipulated in this section. The termination shall take immediate effect upon our notification to you of the termination of the **Policy** and notwithstanding section 6.3 above, you shall pay us the minimum premium stated in the **Special Terms** of the **Policy** in full with adjustments to be applied in relation to any premium which you have already paid to us and which we have confirmed receipt before the termination of the **Policy**.



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- c. However, where your payment of the minimum premium is overdue, our liability will be reinstated for receivables relating to goods or services **Supplied** and invoiced within the relevant **Policy Period** after we receive your payment.

### 7. Your Permitted Limits

#### 7.1 Setting your Permitted Limits

- a. For the **Policy** to cover your insured receivables due from a **Buyer**, you need to request and obtain from us or the Risk Service Provider a **Permitted Limit** on that **Buyer** using our online information system or in writing.
- b. We may issue a temporary **Permitted Limit**. The valid **Permitted Limit** for the period of time specified in our temporary **Permitted Limit** endorsement will be the sum of the temporary **Permitted Limit** and any pre-existing **Permitted Limit** for that **Buyer**.
- c. If we have issued a **Permitted Limit** containing specific conditions, to be entitled to any **Claim Payment** for the **Buyer** concerned you must have met all those conditions in full.
- d. If you grant credit on payment terms more favourable to your **Buyer** than those specified in the **Special Terms**, for your receivables to be covered under the **Policy**, this needs to be agreed by us on our **Permitted Limit** endorsement.
- e. You are responsible for ensuring that the **Buyer** named in our **Permitted Limit** endorsement is the same legal entity to which you invoice the goods or services **Supplied**.

#### 7.2 Start and continuation of Permitted Limits

- a. Unless stated otherwise in our endorsement, **Permitted Limits** and **Permitted Limit** increases are retrospective and take effect from the start date of the **Policy**.
- b. Regardless of the **Policy Period**, and unless we have issued a temporary **Permitted Limit**, no more than one **Permitted Limit** may be in effect for a **Buyer** at any time and successive **Permitted Limits** on a **Buyer** are not cumulative.

#### 7.3 Amendments to your Permitted Limits and country cover

- a. You may apply for an increase, a decrease or a cancellation of a **Permitted Limit**. Any cancellation or decrease will take effect for goods or services **Supplied** on or after the date of your request.
- b. We may at any time withdraw, reduce or modify a **Permitted Limit** by issuing a **Permitted Limit** endorsement. Any such withdrawal, reduction or modification will take effect for goods or services **Supplied** on and after the date of our endorsement.

This effective date will be delayed by 30 days provided that:

- your **Buyer** is not in a **State of Default**,
- the **Policy** has not terminated, and
- this period does not exceed the expiry date where it is a temporary **Permitted Limit**, in which case the expiry date will prevail.

If the **Buyer** enters into a **State of Default** or the **Policy** is terminated after the date we issue our **Permitted Limit** endorsement, the withdrawal, reduction or modification will become immediately effective.

- c. Your cover for goods or services **Supplied** after the effective date of the reduction will be the amount of the reduced **Permitted Limit** less any amounts outstanding from the **Buyer**.
- d. Your cover for goods or services **Supplied** after the expiry of a temporary **Permitted Limit** will be the amount of the pre-existing **Permitted Limit** issued by us less any amounts outstanding from the **Buyer**.
- e. We may at any time in writing modify your cover on a specific country for all **Buyers** domiciled in that country. Such modification will take effect 5 days after the date we issue our written notification.

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- f. If we withdraw a **Permitted Limit** or if we believe there is some other material reason, we may ask you to immediately file a **Claim and Collection form**.

### 7.4 Amendment of cover when your **Buyer** enters and exits a **State of Default**

Cover is automatically withdrawn for receivables relating to goods or services **Supplied** at any time after the **Buyer** has entered a **State of Default**.

Where we have not cancelled, withdrawn, reduced or modified the **Permitted Limit** for the **Buyer**, and no event of loss has occurred, cover on that **Buyer** will be reinstated retrospectively when the **State of Default** has been resolved.

## C. Claims and Debt Collection

### 8. Making a claim under your **Policy** by filing a **Claim and Collection form**

8.1 To make a claim for unpaid insured receivables, you need to file a **Claim and Collection form** including all receivables owed to you by the relevant **Buyer**, whether **Disputed** or not. You will give us, at our request, additional supporting documents when necessary to evidence your claim against your **Buyer**.

8.2 You must file your **Claim and Collection form** before the expiry of the earliest applicable **Claim Filing Period**.

- a. Where your **Buyer** is **Insolvent**, whether or not your invoices are overdue, the **Claim Filing Period** expires 30 days after the date on which **Insolvency** occurs.
- b. For **Protracted Default**, the **Claim Filing Period** expires 60 days after (i) the earliest expiry of the **Maximum Extension Period** of the unpaid insured receivables or (ii) the earliest non-payment of any insured receivable for which we agreed a postponed **Due Date**, whichever is the later.
- c. If your **Buyer** becomes **Insolvent** during the **Claim Filing Period** for **Protracted Default**, you need to file your **Claim and Collection form** within the **Claim Filing Period** for **Protracted Default** or **Insolvency**, whichever is the earlier.

### 9. Collection mandate on the **Claim and Collection form**

When you file a **Claim and Collection form** with us against a **Buyer**, you give the Collection Service Provider named in the Debt Collection Services endorsement a mandate to collect the receivables and to exercise all rights relating to the receivables, whether they are partly or fully insured, in line with the Debt Collection Services endorsement. You must comply with the terms and conditions of the Debt Collection Services endorsement and follow any reasonable instructions we may give you regarding the collection actions carried out by the Collection Service Provider.

We will contribute to a share of the **Insurable Collection Costs** invoiced by the collection service provider pro rata based on the ratio specified in section 10.1c below subject to our prior written approval to the incurring of such **Insurable Collection Costs** and provided that the insured debt at the date we receive your **Claim and Collection Form** exceeds the excess amount as specified in the **Special Terms**.

We will not contribute to any costs which are incurred

- In the course of settling a Dispute, and/or
- In your ordinary course of business (including costs for staff and materials)

### 10. Recoveries

All **Recoveries** received from your **Buyer** or any third party will be shared between you and us as specified in this section and we will apply this allocation even if your **Buyer** or any third party suggests the **Recoveries** should be allocated differently. Any part of a **Recovery** which relates to GST (or similar sales taxes) will be allocated to the GST (or similar sales taxes) element of the outstanding receivables.

Where you have **Supplied** goods or services to a **Buyer** on a cash payment basis after you have filed a **Claim and Collection form**, we will apply any money received from the **Buyer** to reduce your Insured Debt.

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### 10.1 Recoveries before settlement of your *Claim Payment*

- a. You need to inform us as soon as possible of any **Recovery** received by you or on your behalf by any third party.
- b. Before the date we receive your **Claim and Collection form**, we will allocate all sums recovered to reduce the total outstanding receivables due from the **Buyer** from your oldest invoices up to your most recent invoices.
- c. After the date we receive your **Claim and Collection form** but before settlement of your claim payment we will share all Recoveries (ex GST) between you and us pro rata based on the ratio between the Insured Debt and the total indebtedness (ex GST) of the **Buyer** at the date we receive your **Claim and Collection form**. Your share of **Recoveries** will be allocated to the total outstanding receivables due from the **Buyer** which exceeds the Insured Debt, until this amount has been recovered in full. Our share will be used to reduce the Insured Debt.

### 10.2 Recoveries after settlement of your *Claim Payment*

- a. We will allocate all sums we or you recover between you and us. Our share will be calculated based on the ratio specified in section 10.1.c. above and we will allocate our share to the amount of the **Claim Payment** until this amount has been recovered in full. Any **Recoveries** in excess of this amount will be due to you.
- b. In order for you to remain entitled to the **Claim Payment** received, you must inform us immediately of any **Recovery** received by you or any third party on your behalf and remit to us our share within 30 days of receipt of our payment request.

## 11. Claim Payment

We will calculate your **Claim Payment** in accordance with the steps set out below.

### 11.1 Calculation of your Insured Debt

- a. We will take the total amount of the receivables filed in the **Claim and Collection form**, from which we will deduct where applicable:
  - receivables not covered under your **Policy**,
  - **Disputed** receivables,
  - the value of any guarantees or other security which you have not enforced, and
  - the value of any rights of retention of title, when incorporated in your sales contract with your **Buyer**, which you have not made all reasonable efforts to enforce.
- b. We will then deduct the value of any applicable GST (or similar sales taxes) from the amount calculated above.
- c. The resulting amount will be your Insured Debt unless it exceeds the applicable **Permitted Limit**, in which case, your Insured Debt will be the amount of the **Permitted Limit**.

### 11.2 Calculation of your Insured Loss

- a. We will deduct from your Insured Debt the amount of our share of any **Recoveries** which are allocated to your Insured Debt in line with section 10.1.
- b. If an each and every first loss amount is specified in your **Special Terms**, we will deduct it from the amount calculated in section 11.2.a to calculate your Insured Loss.
- c. If a non-qualifying loss amount is specified in your **Special Terms**, the amount calculated in section 11.2.a above will be your Insured Loss, however you will not be entitled to a **Claim Payment** if the amount calculated in section 11.2.a does not exceed this non-qualifying loss amount.

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## 11.3 Calculation of your *Claim Payment*

- a.** If an aggregate first loss deductible is specified in your *Special Terms*, we will only have liability under your *Policy* when the total value of all Insured Losses and our contribution to the related *Insurable Collection Costs* for the relevant *Policy Period* exceeds the amount of the aggregate first loss deductible. We will calculate your *Claim Payment* by multiplying any amount exceeding the aggregate first loss deductible of (i) the Insured Loss amount and (ii) our contribution to the *Insurable Collection Costs* by the insured percentage specified in the *Special Terms*, or any lower insured percentage specified in the applicable *Permitted Limit* endorsement.
- b.** Any *Claim Payment* will be subject to the applicable Maximum Liability set out in section 12.

## 11.4 Making your *Claim Payment*

- a.** We will make your *Claim Payment*:
- if your *Buyer* is *Insolvent*, within 30 days from the date we receive your completed *Claim and Collection form* and any additional documents or information we may reasonably request (Information required by us to make a *Claim Payment* will include confirmation the debt has been scheduled or allowed pursuant to a court order in a bankruptcy or relief of debt proceedings), or
  - if *Protracted Default* has occurred, within 30 days from expiry of the relevant *Waiting Period* and our receipt of any additional documents or information we may reasonably request.
- b.** If any part of your receivable was *Disputed*, we will recalculate your *Claim Payment* in line with section 11 when it is no longer *Disputed*. This will happen upon our receipt of evidence that the *Buyer's* liability has been established by agreement in writing or by a final binding court judgment or arbitration award. We will make any additional *Claim Payment* due to you within 30 days from the date you provide us with such evidence. Final binding court judgment must be obtained in a jurisdiction in which the *Buyer* has a majority of its assets.
- c.** If you receive a *Claim Payment* from us to which you are not entitled under the *Policy*, you will repay it to us within 30 days of our written *Notice* or of you becoming aware that you are not entitled to it.

## 12. Maximum Liability

**12.1** We will have no further liability to you for a *Policy Period* when the total amount of *Claim Payments* made for receivables relating to goods or services *Supplied* during that *Policy Period* first reaches the Maximum Liability specified in the *Special Terms*, even if the total value of your *Permitted Limits* exceeds the Maximum Liability. If our liability ceases because of the Maximum Liability being reached, your obligations under the *Policy* are not affected.

If we terminate the *Policy* in line with section 22.2, we will recalculate the Maximum Liability pro rata for the reduced *Policy Period* during which the *Policy* was on risk.

**12.2** If the Maximum Liability is specified in the *Special Terms* as a multiplier, we will calculate the amount applicable for a *Policy Period* by applying at any time the multiplier specified in the *Special Terms* to the greater of your premium paid or the minimum premium, excluding insurance taxes.

If we terminate the *Policy* in line with section 22.2, we will calculate the Maximum Liability based on the premium paid or the minimum premium pro rated to the time the *Policy* was on risk, whichever is the greater.

## 13. Subrogation

**13.1** As soon as we make a *Claim Payment*, we become entitled to enforce all of your rights, claims, guarantees, security, collateral, causes of action and defenses against a *Buyer* (or other third parties) relating to all receivables included in the applicable *Claim and Collection form* (our Subrogation Rights). For each *Claim Payment* made, our Subrogation Rights will end once the *Claim Payment* amount has been fully repaid to us.

**13.2** If our Subrogation Rights are not transferred to us automatically by law, then for you to be entitled to retain the *Claim Payment* we have made, you will execute all assignments and other documents, and take all other actions necessary to effect a transfer to us of such rights in full.

# EH Corporate Advantage General Terms and Conditions

## 14. Shared risk

**14.1** Unless otherwise endorsed to the **Policy**, you will remain solely responsible for any part of the insured receivables owed to you by a **Buyer** which does not qualify for a **Claim Payment**. You must not assign it wholly or in part to any third party (including but not limited to any financial institution), or insure it with any other insurer. If you fail to comply with the above, we will not be liable for any **Claim Payment** relating to these insured receivables even if you have not made a claim or received a claim payment under that policy or facility.

**14.2** In addition, we will not be liable for your **Claim Payment** if the applicable insured receivables are insured or covered under any other insurance policy or facility even if you have not made a claim under that policy or facility.

## 15. Assignment of your **Policy** or of your **Claim Payment**

You may not assign the **Policy** to any third party.

However, when endorsed to the **Policy**, you may assign to a third party the right to receive the part of the **Claim Payment** payable to you under the **Policy** to compensate you for the losses you have sustained from unpaid receivables excluding any contribution to the **Insurable Collection Costs**.

## D. General conditions

### 16. Your Questionnaire

**16.1** You and we agree that your Questionnaire and any related supporting information provided by you or on your behalf, form the basis of and are part of the **Policy**.

**16.2** For your insured receivables to be and remain covered under the **Policy**, you warrant that the information in the above documents was complete, true and accurate when we issued the **Policy** and that you will immediately notify us of any material change to the information supplied or any other material facts that may affect the risks insured under the **Policy**. This does not limit your legal obligation to act with utmost good faith at all times.

**16.3** If you, or anyone acting on your behalf, fail to comply with the above warranty we will be entitled to avoid the **Policy** which we will confirm by our **Notice**.

### 17. Inspection of documents

**17.1** At our request you will allow us or any of our representatives to inspect and take copies of any information, documents or records in your possession relating to your insured receivables and the **Policy**. You will take all reasonable and necessary steps to obtain and produce the information, documents or records in the possession of third parties.

**17.2** Our right of inspection continues after termination of your **Policy** for all obligations arising under the **Policy** while it was in force.

### 18. Notices, amendments and waiver

**18.1** Unless specified otherwise in the **Policy** under certain circumstances, we may amend the **Policy** terms and conditions by sending you advance **Notice**. If these amendments are required by law or regulation, or do not negatively affect your rights, they will automatically take effect when you receive our **Notice**. All other amendments will take effect 30 days after you receive our **Notice**, unless you object in the meantime in writing. In these circumstances, your **Policy** terms and conditions will remain unchanged until you and we reach an agreement.

**18.2** We do not waive any material breach by you of any term or condition of the **Policy** unless we have specifically agreed to do so in writing.

# EH Corporate Advantage General Terms and Conditions

## 19. Policy currency

19.1 We will cover receivables invoiced in any currency. However **Permitted Limits**, declared turnover, premium, **Recoveries**, Insured Debt, Insured Loss, and **Claim Payments** will be in Policy currency.

19.2 When making your turnover declaration, you must convert each invoice to the **Policy** currency using the Exchange Rate published monthly on the Euler Hermes Online System, provided by Commonwealth Bank of Australia Ltd, for the month in which the invoice was raised.

19.3 We will use the same exchange rate when calculating the amount of your Insured Debt and any related **Claim Payment**.

The value of any **Recoveries** will be converted into the **Policy** currency using the exchange rate ruling on the date the **Recoveries** arise or are received, as provided to us by Commonwealth Bank of Australia Ltd.

## 20. Set-off

20.1 We alone may use any premium or other amounts you owe us or any Euler Hermes affiliate to pay off any amounts we are due to pay you under the **Policy**, regardless of the **Insurance Contract Period**.

20.2 You may not use any **Claim Payment** due to you as a reason to refuse or defer payment of premium or other amounts you owe us.

## 21. Applicable taxes, duties and other charges

21.1 You alone will be responsible for paying all current and future taxes, duties and bank receipt and transfer charges arising under or in connection with the **Policy**.

21.2 We will determine your liability to pay taxes and duties on the basis of the information you give us.

## 22. Policy duration

### 22.1 Start, continuation and termination of cover

- a. Cover under your **Policy** begins for insured receivables relating to goods or services **Supplied** and invoiced on and after the **Policy** start date specified in the **Special Terms**, when you have paid your first premium instalment due.
- b. Unless the **Policy** is terminated earlier in line with its terms, cover continues under the **Policy** from its start date for goods or services **Supplied** during:
  - the initial **Insurance Contract Period**, and
  - subsequent **Insurance Contract Periods** unless you or we give 3 months written **Notice** of termination, to take effect at the end of the relevant **Insurance Contract Period**.
- c. If the **Policy** continues for a further **Insurance Contract Period**, we will provide you with written confirmation of its terms (a renewal certificate).

### 22.2 Specific events of termination

Upon **Notice**, we may terminate your **Policy** with immediate effect if:

- a. you become **Insolvent**,
- b. you agree a compromise with your creditors

## 23. Language, applicable law and jurisdiction

### 23.1 Language

If the **Policy** has been provided to you in different languages, the binding version will be English.

### 23.2 Applicable law and jurisdiction

- a. The **Policy** will be interpreted and governed in all respects under the Australian law and courts of Sydney, New South Wales Australia.



# EH Corporate Advantage General Terms and Conditions

## E. Definitions under your Policy

“**Affiliated Buyer**” means a **Buyer** (i) over which you or any company in your group has direct or indirect control through participation in its management, administration or capital, or (ii) which has similar control over you or a company in your group or (iii) is part of the same group as you, or (iv) to whom you have a family relationship (either direct relatives or persons related by marriage), or (v) where such person with whom you have such family relationship has direct or indirect control through participation in the **Buyer’s** management, administration or capital.

“**Buyer**” means a legal entity to which you have **Supplied** the goods or services, which is responsible for the payment of the related invoice and which is domiciled in any of the countries specified in the **Special Terms**.

“**Claim and Collection form**” means our form, completed using our online information system or in writing, by which you, (i) notify a claim to us and (ii) give a mandate to the Collection Service Provider in line with section C. The **Claim and Collection form** specifies supporting documents which you need to provide to us on filing.

“**Claim Filing Period**” means the period during which you must submit a **Claim and Collection form** in line with section 8.

“**Claim Payment**” means the total of (i) any amount payable to you under the **Policy** to indemnify you for the losses you have sustained from unpaid insured receivables and (ii) our contribution to the **Insurable Collection Costs**.

“**Declaration Period**” means the period specified in the **Special Terms** for which your turnover needs to be declared to calculate your premium.

“**Dispute**” / “**Disputed**” means any unresolved and documented disagreement between you and a **Buyer** that results in the **Buyer** refusing to pay you all or part of any receivables. In addition, a receivable that is subject to the assertion of an offset or counterclaim is also a **Disputed Invoice**.

A **Dispute** ends when the **Buyer’s** liability is established by agreement in writing or by a final binding court judgment or arbitration award. Final binding court judgment must be obtained in the jurisdiction being the **Buyer’s domicile**

“**Due Date**” means the original date when a **Buyer** must pay a receivable under the terms of your invoice.

“**Insolvency**” / “**Insolvent**” means when:

- An insolvency practitioner or other similar official is appointed over your **Buyer** (but only if this affects your rights as a creditor of the **Buyer**),
- a debt restructuring arrangement is approved and made binding on your **Buyer** and all its creditors, or
- circumstances exist that are equivalent to those specified above.

“**Insurable Collection Costs**” means

- the success fee invoiced by the Collection Service Provider, and
- legal costs resulting from any legal action initiated by the Collection Service Provider according to Debt Collection endorsement.

For the avoidance of doubt, we will not contribute to :

- your internal administrative costs and expenses;
- the Debt Placement Fees payable to the Collection Service Provider

“**Insurance Contract Period**” means the initial duration of the **Policy** and any subsequent period of a duration specified in the **Special Terms** for which the **Policy** continues as set out in section 22.1.b. An **Insurance Contract Period** may comprise one or several **Policy Periods**.

“**Insured Turnover**” means the value of goods or services **Supplied** by you and insured under the **Policy** calculated in line with section 6.1.

“**Maximum Extension Period**” means the maximum period specified in the **Special Terms** by which you can extend the **Due Date** and work with your **Buyer** to collect payment of an insured receivable. The **Maximum Extension Period** starts on the day after the **Due Date**.



# EH Corporate Advantage

## General Terms and Conditions

“**Maximum Terms of Payment**” means the maximum period specified in the **Special Terms** for the **Buyer** to pay a receivable.

“**Notice**” means the following agreed methods of communication:  
fax, registered mail and electronic mail.

“**Permitted Limit**” means the maximum amount of credit and the specific conditions for which a **Buyer** is covered as specified in the **Permitted Limit** endorsement issued by us or the Risk Service Provider named in the Risk Information Services endorsement. The **Permitted Limit** may also be referred to as an Approved Limit in our communications with you.

“**Policy**” means this Credit Insurance contract including these terms and conditions, the **Special Terms**, any amendment or endorsement issued under or in connection with the **Policy**, including our **Permitted Limit** endorsements. Your **Policy** also includes your Proposal and any related supporting information provided by you or on your behalf.

“**Policy Period**” means any period specified in the **Special Terms** included in an **Insurance Contract Period**.

“**Protracted Default**” means the non-payment at the end of the **Waiting Period** of all or part of an insured receivable by a **Buyer** that is not **Insolvent**.

“**Public Buyer**” means a **Buyer** being:

- a government department,
- a public authority or agency, or
- an organisation where the state has direct or indirect control through participation in its management, administration or capital, against which you cannot take collections actions by means of forced execution, and which is not subject to corporate **Insolvency** law.

“**Recovery**” / “**Recoveries**” means any:

- a. money received from the **Buyer** or any third party on behalf of the **Buyer**, including dividends received out of the **Buyer's Insolvent** estate,
- b. indemnities, guarantees or other security obtained and realised,
- c. goods recovered and sold,
- d. counter claims or set-off applied or available, and/or
- e. other advantages or rights of actions available against the **Buyer** or any third party.

“**Special Terms**” means the part of the **Policy** named the **Special Terms** .

“**State of Default**” means the situation of a **Buyer** immediately after:

- a. the **Buyer** has become **Insolvent**,
- b. a receivable due to you is outstanding beyond the expiry of the **Maximum Extension Period** (excluding **Disputed** receivables) or the postponed **Due Date** agreed by us, whichever is the later,
- c. the **Buyer's** payment order or request has been rejected by its bank,
- d. you commence legal proceedings against the **Buyer**, or
- e. you become aware of any event or information that indicates that your receivable may not or will not be paid by your **Buyer**.

“**Supply**” / “**Supplied**” means (and a “**Supply**” will be interpreted accordingly):

- a. the goods have been passed to the first independent carrier for transport to the place where the **Buyer** is obliged to accept them,
- b. if there is no independent carrier, the goods have been deposited into the possession of the **Buyer** or a third party agent who agrees to hold the goods to the order of the **Buyer**, or
- c. the services have been completed as contracted.

“**Waiting Period**” means the relevant period specified in the **Special Terms** which starts on the date on which you file a completed **Claim and Collection form**.