

LETTER OF UNDERTAKING – AFFILIATED COMPANY

Attachment to the application for a buyer credit cover

Complete name and address of the company giving the undertaking

Company ./.

Contact person ./.

Street and house no. ./.

P. O. Box ./.

Postcode and town ./.

Personal number (DN) of the company giving the undertaking PN (DN) ./.

Transaction ID of the supplier credit cover (if applied for) VG ID ./.

We are aware that

./.

- hereinafter Bank -

has applied or will apply for a buyer credit cover of the Federal Republic of Germany to secure a loan to

./.

- hereinafter Foreign Debtor -

The purpose of the loan is to finance a conjoint transaction concerning the delivery of goods and/or the provision of services between us and our affiliated company

./.

with ./.

- hereinafter Buyer -

for the supply of the following goods/services

./.

./.

./.

Contract constellations (please check as appropriate):

☐ Aligned contracts: affiliated company concludes contract with the Buyer, we are subcontractor to our affiliated company

☐ Parallel delivery respectively service contracts between the affiliated company and us with the Buyer

☐ Consortial delivery respectively service contract between the affiliated company and us with the Buyer

Financing this/these supply/supplies and/or service/services with a loan and cover for that loan under a buyer credit cover of the Federal Republic of Germany is also in our interest.

In the event that the Federal Government assumes a buyer credit cover in favour of the Bank, we hereby irrevocably commit ourselves vis-à-vis the Federal Government to the following:

1. a) We will completely and correctly describe in writing all material circumstances related to the delivery/service contract/s which may have a bearing on the assumption of the buyer credit cover to the Bank and immediately amend the information provided if there are any subsequent changes or modifications regarding our involvement in the delivery/service contract/s.

This duty shall apply mutatis mutandis if the determination of the eligibility of the delivery/service contract/s is based on a flex&cover commitment (an administrative assurance to accede to an expedited eligibility examination) and we have obtained the flex&cover commitment by fraudulent deception, threat, corruption, or incorrect information (see § 48 VwVfG).

- b) We will notify the Federal Government in writing of any risk-aggravating factors which may become known to us before the full disbursement of the buyer credit. Such risk-aggravating factors are in particular that
 - (1) the Buyer or the Foreign Debtor defaults on his payments or asks for an extension of the payment period;
 - (2) the financial situation, payment record or general market reputation of the Buyer, the Debtor or the Guarantor worsens, or the Buyer offers to discharge the debt in a manner that differs from his contractual obligations.
 - c) We will, at any time, inform the Federal Government or its agent about the details of our delivery/service contract/s and the state of its implementation as well as any other circumstances which may be of importance for the buyer credit cover of the Federal Government.
 - d) We herewith confirm to the Federal Government that we are not excluded from the award of public contracts as a consequence of a legally established breach of the LkSG (Supply Chain Act) (Section 22 para. 1 LkSG in conjunction with Section 24 para. 1 LkSG). We are aware that we are obliged to immediately inform the Federal Government of any legally effective ruling of the Federal Office for Economic Affairs and Export Control (BAFA) that may result in the exclusion from the award of public contracts until cover is finally granted.
2. a) In the event that we fail to perform our duty to provide information and amend it if necessary (item 1.a), we will indemnify the Federal Government for its obligation to pay a claim from the Bank under the terms of the buyer credit cover unless the incomplete or incorrect information constituting a breach of our duties had no influence on the Federal Government's decision to assume the buyer credit cover. We are not liable to indemnify the Federal Government if we were not aware or could not have been aware that the information provided was incorrect or incomplete.
 - b) If, due to a failure to exercise due care, we violate our duty to report any increases of risk (item 1.b) or to inform, upon request, the Federal Government about the delivery/service contract/s's state of implementation or any other circumstances which may be relevant to the buyer credit cover (item 1.c), we will indemnify the Federal Government for its obligation to pay a claim, unless the breach of duty neither caused a loss nor is of such nature as to expect that it may result in a loss.
 - c) If we breach our obligation to inform the Federal Government of our exclusion from the award of public contracts (item 1.d), we will indemnify the Federal Government for its obligation to pay a claim from the bank under the buyer credit cover.
3. The Federal Government may limit our obligation to indemnify it pursuant to item 2 above according to the circumstances of the individual case, particularly taking into account the risk which has arisen and the seriousness of the breach of duties.
 4. If any criminal offence, in particular bribery, was committed in connection with the conclusion of the delivery/service contract/s, we will indemnify the Federal Government for its obligation to pay a claim unless we neither knew nor could be expected to know about such offences.
 5. If the Foreign Debtor refuses to meet his obligations under the loan agreement citing incomplete or defective performance of the delivery/service contract, with respect to a claim which was asserted within the warranty period, we will indemnify the Federal Government for its obligation to pay a claim from the Bank, if and as long as we or any of our subcontractors are obliged to the Buyer under the warranty provisions of the delivery/service contract.
 6. We undertake to reimburse the Federal Government for any indemnified loan amount under the buyer credit cover which was meant as payment under the delivery/service contract if such loan amount was disbursed before the services agreed were performed. The aforementioned shall not apply if we have either performed our duties vis-à-vis the Buyer or the warranty period agreed upon in the delivery/service contract, but at least a period of two years, has expired so that the Buyer may not assert any warranty claims.

We will comply with this obligation towards the Federal Government if and when, following a request by Federal Government, we fail to show credibly that we performed our obligations under the delivery/service contract within a period of three months.

7. **Only applicable if a disbursement of the buyer credit pursuant to progress (progress payments) is documented in the guarantee**

Where, with the consent of the Federal Government, it is stipulated that the loan shall already be disbursed to us prior to the respective supply of goods or provision of services, we further undertake

- a) not to suspend or discontinue the manufacturing process without the consent of the Federal Government,

- b) to indemnify the Federal Government for its obligation to pay a claim from the Bank under the buyer credit cover in the event that the manufacturing process is discontinued and the Federal Government would, in principle, not be obliged to indemnify us under manufacturing risk cover - irrespective of the actual existence of such cover.
8. We will comply with our obligation to indemnify the Federal Government on first written demand.
9. The attachment/s "Combating Bribery in respect of Business Transactions covered by Federal Export Credit Guarantees"
- ☐ is/are enclosed.
- ☐ was/were submitted together with the application for a supplier credit cover for this/these delivery/service contract/s.

We hereby declare – in this respect also acting as representative for our affiliated company - that the above clauses apply in full both for us and for our affiliated company vis-à-vis the Federal Government and that we are liable for any breaches of duty by our affiliated company to the same extent as for our own breaches of duty. Furthermore, the above provisions shall apply irrespective of the structure of the delivery/service contract/s as aligned contracts, parallel contracts or consor-tial contract.

<u>./.</u>	<u>./.</u>
Place and Date	Exporter's signature/company stamp

Alternatively to submitting by physical mail, this declaration can be uploaded via [myAGA](#) customer portal or be sent by email to underwriting@exportkreditgarantien.de, provided that the declaration is signed with a qualified electronic signature (qeS) in accordance with Regulation (EU) No. 910/2014 (eIDAS Regulation). Further information regarding the qualified electronic signature (qeS) can be found, for example, on the information website of the Federal Network Agency (Bundesnetzagentur).

Explanations and FAQs regarding the Letter of Undertaking are available at exportkreditgarantien.de/en → Service → Downloads "[Letters of undertaking](#)"