

EXPORT CREDIT GUARANTEES OF THE
FEDERAL REPUBLIC OF GERMANY► **Hermes Cover**

LETTER OF UNDERTAKING

Attachment to the application for a Buyer Credit Guarantee

Complete style and address of the company giving the undertaking

Company ./.Contact person ./.Street and house no. ./.P.O. Box ./.Postcode and town ./.DN number of the company giving the undertaking DN number ./.FA number of the Supplier Credit Guarantee (if applicable) FA number ./.

We are aware that

./.

- hereinafter Bank -

has applied or will apply for a Buyer Credit Guarantee of the Federal Government of Germany to secure a loan to

./.

- hereinafter: Foreign Debtor.

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

./.

- hereinafter: Buyer -

for the supply of the following goods and/or services:

./.

Financing these supplies and/or services with a loan and cover for that loan under a Buyer Credit Guarantee of the Federal Republic of Germany is also in our interest.

In the event that the Federal Government assumes a Buyer Credit Guarantee 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 which may have a bearing on the assumption of the Buyer Credit Guarantee to the Bank and immediately amend the information provided if there are any subsequent changes or modifications regarding the delivery/service contract.

This duty shall apply mutatis mutandis if the determination of the eligibility of the delivery/service contract is based on a flex&cover commitment (an administrative assurance to accede to an expedited eligibility examination) and the flex&cover commitment has been obtained 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 the delivery/service contract and the state of its implementation as well as any other circumstances which may be of importance for the Buyer Credit Guarantee 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 Guarantee 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 Guarantee. 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 state of implementation or any other circumstances which may be relevant to the Buyer Credit Guarantee (item 1. c), we will indemnify the Federal Government for its obligation to pay a claim unless such breach of duty neither caused a loss nor is of such a 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 Guarantee.
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, 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. **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 Guarantee 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.
 7. **Only applicable in the case of consortia and joint ventures**
Where the goods are delivered and/or the services are rendered by a consortium or joint venture, the letter of undertaking is to be issued by the leader for all members of the consortium or by one partner to the joint venture on behalf of all other partners. The consortium or joint venture partners' obligation to indemnify the Federal Government pursuant to items 2, 4, 5 or 6 is limited to each party's individual quota share in the transaction under the delivery/service contract. If not all consortium or joint venture partners are liable to indemnify the Federal Government, each party's maximum liability is limited to the amount that corresponds to its quota share in the transaction under the delivery/service contract.
 8. We will comply with our obligation to indemnify the Federal Government on first written demand.
 9. The attachment "Combating Bribery in respect of Business Transactions covered by Federal Export Credit Guarantees"
 - ☐ is enclosed.
 - ☐ was submitted together with the application for a Supplier Credit Guarantee for this delivery/service contract.

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Place and date

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Signature/company stamp

Alternatively to submitting by physical mail, this declaration can be uploaded via [myAGA](#) customer portal or be sent by email to <mailto: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 – Affiliated Company can be found [here](#).