

**AB SVENSK EXPORTKREDIT'S**

**GENERAL CONDITIONS FOR**

**ASSIGNMENTS OF ECA GUARANTEED EXPORT CREDITS**

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## 1. DEFINITIONS AND CONSTRUCTION

### 1.1 Definitions:

**Acceptance** means the Assignor's acceptance of SEK's Binding Offer, which acceptance shall include, to the extent applicable, the following information: (i) project name, (ii) SEK's reference, (iii) date of SEK's Binding Offer, (iv) description of the Financing Agreement (including date of the Finance Agreement and loan amount), (v) CIRR rate, (vi) the interest rate, (vii) any fees under the Finance Agreement, (viii) Disbursement Period, (ix) information on frequency and profile of the Disbursements during the Disbursement Period, and (x) repayment period and profile (including date for first installment).

**Affiliate** means, in relation to any person, a subsidiary of that person or a holding company of that person or any other subsidiary of that holding company.

**Agent** means:

- (a) if there is one Assignor with respect to the Financing Agreement, such Assignor; and
- (b) if there is more than one Assignor with respect to the Financing Agreement, the Assignor appointed as agent in accordance with paragraph (a) of Clause 4.4 (*More than one Assignor*).

**Application** means an application, substantially in the form provided by SEK on its website ([www.sek.se](http://www.sek.se)), submitted to SEK by the Exporter or a Lender for the financing by SEK of an ECA guaranteed export credit.

**Assignment** means an assignment, transfer or novation (as the case may be) to SEK of a Commitment or Loan, as further set out in Clause 4.1 (*Scope of Assignment*).

**Assignment Certificate** means:

- (a) the relevant assignment, transfer or novation certificate provided under the Financing Agreement; or
- (b) any other document pursuant to which an Assignment is agreed.

**Assignment Documents** means a Binding Offer, an Assignment Certificate, an Assignor Guarantee and these General Terms.

**Assignor** means a Lender that applied for or has made an Assignment.

**Assignor Guarantee** means a guarantee agreement executed by the Assignor and SEK, substantially in the form provided by SEK on its website ([www.sek.se](http://www.sek.se)), and including, a guarantee from the Assignor covering the Residual Risk (if any) and an acknowledgement by the Assignor of its obligations and liability under these General Terms.

**Authorisation** means any authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

**Binding Offer** means an offer labelled "Binding Offer" or similar (as amended or supplemented from time to time), issued by SEK in relation to an Application, addressed to a Lender and, read together with the Application and the Indicative Offer, if applicable, setting out the SEK Interest, any SEK Fees, the disbursement

and repayment terms and any other terms and conditions as determined by SEK and upon which SEK is willing to enter into an Assignment.

**Borrower** means a borrower under a Financing Agreement.

**Business Day** means a day (other than a Saturday or Sunday) on which banks are open for general business in Stockholm and (i) in relation to payments in Euro, which is a Target Day, (ii) in relation to payments in US Dollars, on which banks are open for general business in New York and (iii) in relation to payments in currencies other than Euro, US Dollars or SKr, on which commercial banks are generally open for business and money market transactions in the principal financial centre of the respective currency.

**CIRR** means commercial interest reference rate which is published by the OECD on its website.

**Commitment** means a Lender's commitment or similar undertaking to provide ECA covered export credit financing under the relevant Finance Documents and which has been or is to be assigned to SEK through an Assignment.

**Compensation Basis Amount** means each of:

- (a) an amount that SEK, under a Binding Offer in relation to which an Acceptance has been provided, has committed to make available for a Facility and for which an Assignment does not occur, which is cancelled or which is subject to Re-Assignment;
- (b) an outstanding Loan amount which is prepaid or subject to Re-Assignment, and
- (c) an amount that SEK, under a Binding Offer in relation to which an Acceptance has been provided, has committed to make available for a Facility and for which the Disbursement Period is extended.

**Default Interest** means one (1) per cent per annum increased by the higher of:

- (a) the SEK Interest; and
- (b) the screen rate, benchmark rate or other rate generally applied by SEK for a period chosen by SEK for the currency of the relevant Loan.

**Disbursement** means a disbursement of a Loan by SEK.

**Disbursement Date** means the date for Disbursement as further described in Clause 6 (*Disbursement*).

**Disbursement Period** means a disbursement period set out in the Binding Offer, or any other period agreed by SEK in writing.

**Disbursement Request** means a request for a Disbursement submitted by the Agent to SEK's credit administration department.

**ECA** means an entity providing guarantees or other credit risk cover for export credits.

**ECA Agent** means:

- (a) the legal entity appointed as agent to represent the Lender(s) in relation to EKN for the purposes of the EKN Guarantee; or

- (b) in relation to any ECA other than EKN, the legal entity or entities arranging the ECA Guarantee or appointed as agent to represent the Lender(s) in relation to the ECA for the purposes of the ECA Guarantee.

**ECA Documents** means:

- (a) the EKN Documents; or
- (b) in relation to any ECA other than EKN, the documents containing all terms and conditions for the ECA Guarantee.

**ECA Guarantee** means:

- (a) the EKN Guarantee; or
- (b) in relation to any ECA other than EKN, the guarantee or other credit risk cover provided by the ECA.

**EKN** means the Swedish Export Credit Agency (*Exportkreditnämnden*).

**EKN Documents** means all documents which form part of a “Guarantee Agreement” pursuant to and as defined in EKN’s General Conditions.

**EKN’s General Conditions** means EKN’s general terms and conditions for buyer credit guarantees applicable in relation to an ECA Guarantee.

**EKN Guarantee** means the buyer credit guarantee provided by EKN under the EKN Documents and which guarantees the Loans and interest thereon.

**Environmental and Social Law** means any host-country governmental law, rule, regulation, order, writ, judgment, injunction or decree relating to pollution or protection of the environment, all local laws and regulations related to those environmental and/or social aspects, and any specific agreements entered into with any competent authorities which include commitments related to environmental and social matters, identified as applicable for the relevant transaction.

**Environmental and Social Obligations** means the Obligors environmental and social obligations relevant to the relevant transaction to comply with Environmental and Social Law, applicable Environmental and Social Standards, undertake the agreed environmental and social actions and management plans, for the relevant transaction.

**Environmental and Social Standards** includes the IFC Performance Standards on Environmental and Social Sustainability and the Project-relevant World Bank Group Environmental, Health and Safety (EHS) Guidelines (each as from time to time amended or updated), as determined applicable for the relevant transaction by SEK.

**Equator Principles** means a risk management framework (as from time to time amended or updated) available at [www.equator-principles.com](http://www.equator-principles.com), adopted by financial institutions, including SEK, for determining, assessing and managing environmental and social risk in projects.

**Euro** means the single currency of the participating member states in accordance with the legislation of the European Community relating to Economic and Monetary Union.

**Export Contract** means the supply contract or similar arrangements entered into between the Exporter and the Borrower or another party, relating to goods and/or services being financed under the Financing Agreement.

**Exporter** means one or more suppliers or sellers, or if relevant sub-supplier under the Export Contract, each as identified in an Assignment Document.

**Facility** means an ECA covered export credit granted or committed to a Borrower under a Financing Agreement.

**Finance Documents** means the Financing Agreement together with any other agreement or document ancillary thereto, including but not limited to security documents, guarantees (but excluding the ECA Documents), intercreditor or subordination agreements, common terms agreements, legal opinions, environmental and social assessments and reports, technical reports and reliance letters.

**Financing Agreement** means the loan agreement, credit facility agreement, common terms agreement or other document evidencing a debt obligation incurred, or to be incurred, by the Borrower in relation to the Lender(s).

**General Terms** means these general terms and conditions.

**Guarantee Holder** means:

- (a) the legal entity designated as "Guarantee Holder" under and as defined in the EKN Documents; or
- (b) in relation to any other ECA, the ECA Agent or SEK.

**Indicative Offer** means a non-binding offer (as amended or supplemented from time to time) issued by SEK, addressed to an Exporter or a Lender and indicating an interest by SEK to enter into an Assignment.

**Interest Loss** means, unless otherwise agreed in writing by SEK:

- (a) in relation to floating interest rate Loans, the Present Value of the amount by which:
  - (i) the SEK Interest which SEK should have received for the period from the date of receipt of all or any part of a Loan to the last day of the then current interest period in respect of that Loan, had the amount received been paid on the last day of that interest period;  
exceeds:
  - (ii) the amount which SEK would be able to obtain by investing an amount equal to the amount received by it in government securities in the currency of the relevant Loan or any other available risk free rate chosen by SEK (acting reasonably) for a period starting on the Business Day following receipt and ending on the last day of the current interest period in respect of that Loan; and
- (b) in relation to CIRR Loans or other fixed interest rate Loans, the Present Value of the amount by which:
  - (i) in relation to Clauses (a) and (b) of the definition of Compensation Basis Amount:

- (a) the CIRR or other fixed interest rate payable by the Borrower in relation to the Compensation Basis Amount during the entire term of the relevant Facility, had the event giving rise to the Compensation Basis Amount not occurred;

exceeds:

- (b) the amount which SEK would be able to obtain by investing an amount equal to the Compensation Basis Amount in government securities or any other available risk free rate chosen by SEK (acting reasonably) in the currency of the relevant Loan or Commitment during the entire term of the relevant Facility; and

- (ii) in relation to Clause (c) of the definition of Compensation Basis Amount:

- (a) the CIRR payable by the Borrower in relation to the Compensation Basis Amount during the extension of the Disbursement Period, had such extension not occurred and the remaining part of the Commitment been utilized through Disbursement on the last day of the original Disbursement Period;

exceeds:

- (b) the amount which SEK would be able to obtain by investing an amount equal to the Compensation Basis Amount in government securities or any other available risk free rate chosen by SEK (acting reasonably) in the currency of the relevant Loan or Commitment during the extended part of the Disbursement Period.

**KYC** means know your customer.

**KYC Requirements** means (i) all legislation applicable to the relevant person in relation to the prevention of money laundering and terrorist financing and (ii) the recommendations of the Financial Action Task Force (FATF) against money laundering and terrorist financing.

**Lender** means a lender (other than SEK) under a Financing Agreement.

**Loan** means a loan disbursed under a Financing Agreement and for which SEK is or shall become the lender.

**Obligor** means the Borrower or any party (other than an ECA) providing a guarantee or security for the Borrower's payment obligations under the Finance Documents.

**OECD** means the Organisation for Economic Co-operation and Development.

**OECD Arrangement** means the Arrangement on Officially Supported Export Credits, approved by the participants of such arrangement within the OECD, regulating the terms of the officially supported export credits which have a repayment term of two years or more, as published by the OECD and in effect on the date of the Binding Offer.

**OECD Common Approaches** means the recommendation of the council on common approaches for officially supported export credits and environmental and social due diligence (as from time to time amended or updated), as published by the OECD available at <https://www.oecd.org/trade/topics/export-credits/environmental-and-social-due-diligence/> and being in effect on the date of the Assignment.

**Present Value** means the amount arrived at by discounting the relevant amount with the interest rate of the government securities in the currency of the relevant Loan or any other available risk free rate chosen by SEK (acting reasonably) for the relevant period and for the currency of the relevant amount.

**Pro Rata Share** means, unless otherwise set out in the Binding Offer or the Assignor Guarantee, the proportion of the Assignor's Commitment and/or Loan(s) prior to the Assignment in relation to the entire Facility.

**Re-Assignment** means an assignment, transfer or novation of a Commitment or Loan from SEK to the Assignor as set out in Clause 11 (*Re-Assignment*).

**Residual Risk** means the share of Loans and interest thereon which is not covered by the ECA Guarantee.

**Restricted Party** means a person:

- (a) that is listed on any list of persons published in connection with Sanctions Laws by or on behalf of the United Nations, the European Union, the United States, the United Kingdom, Sweden, or any authority acting on behalf of any of them (whether designated by name or by reason of being included in a class of person); or
- (b) that is owned or controlled (as each such terms are defined by the relevant Sanctions Laws) directly or indirectly by a person referred to in paragraph (a) above.

**Related Party** means, in relation to any person, any of its Affiliates, directors, officers, employees, agents and representatives, which is involved in the transactions to which the Assignment relates.

**Sanctions Laws** means the economic or financial sanctions laws and/or regulations, trade embargoes or other restrictive measures imposed, enacted and/or enforced by the United Nations, the European Union, the United States, the United Kingdom, Sweden, or any authority or agency of any of them.

**SEK** means AB Svensk Exportkredit, Swedish Reg. No. 556084-0315.

**SEK Fees** means the fees (if any) payable to SEK for its participation in a Facility pursuant to the terms of the Assignment Documents. Such fees may include commitment fee for undisbursed amounts and risk fee for the Residual Risk.

**SEK Interest** means the interest due to SEK for a Loan pursuant to the terms of the accepted Binding Offer.

**SKr** means the lawful currency of Sweden.

**TARGET2** means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007, and any successor thereto or replacement thereof .

**TARGET DAY** means any day on which TARGET2 is open for the settlement of payments in Euro.

**US Dollars** means the lawful currency of the United States.

## 1.2 Construction

Unless a contrary indication appears, any reference in the Assignment Documents to:



- (a) the terms defined in Clause 1.1 (*Definitions*) shall have the meaning ascribed to such terms when used in the Assignment Documents, unless otherwise provided;
- (b) no delay or omission of SEK to exercise any right or remedy under any Assignment Document shall impair or operate as a waiver of any such right or remedy;
- (c) references to a “person” shall be construed so as to include that person’s permitted assigns, transferees or successors in title and shall be construed as including references to any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (d) a time of day is a reference to Stockholm time (unless otherwise stated); and
- (e) the words “include” and “including” are to be construed without limitation.

## **2 ELIGIBILITY OF ASSIGNOR AND AGENT**

### **2.1 SEK’s credit approval and credit limit**

A Binding Offer will only be issued by SEK if:

- (a) SEK’s available credit limit on the Assignor exceeds the Residual Risk which the Assignor is to guarantee;
- (b) SEK has obtained credit approval of the proposed Assignment; and
- (c) the credit limits are not exceeded and credit approvals are in place in relation to the Borrower, any other Obligor and the other Assignors (if any) party to the Financing Agreement.

### **2.2 Export finance capabilities**

A Binding Offer will only be issued by SEK to the Assignor, if the criteria set out in paragraphs (a) to (d) are, in SEK’s opinion, fulfilled:

- (a) the Assignor has sufficient knowledge and expertise in arranging export credits including knowledge of the OECD Arrangement;
- (b) the Agent has sufficient knowledge of the relevant ECA and expertise in administrating export credits and export credit guarantees;
- (c) SEK shall have available a sufficient credit risk limit on the Assignor; and
- (d) the Assignor shall, upon SEK’s request in connection with the Application, provide SEK with a list of export credit transactions in which the Assignor has participated in.

### **2.3 KYC requirements**

The Assignor shall at all times have policies and processes for KYC in place that are in compliance with (i) all legislation applicable to the Assignor in relation to the prevention of money laundering and terrorist financing, (ii) Directive (EU) 2015/849, as amended or replaced (or any equivalent regulation applicable on an

Assignor), and (iii) the recommendations of the Financial Action Task Force (FATF) against money laundering and terrorist financing.

### **3. APPLICATION, OFFER AND ACCEPTANCE**

#### **3.1 Application**

- (a) An Exporter or a Lender may submit an Application to SEK for export credit financing.
- (b) An Application submitted by an Exporter shall be replaced by an Application from a Lender no later than the date stipulated in the Indicative Offer.
- (c) The Lender shall, upon SEK's request in connection with the Application, provide SEK with a list of export credit transactions in which the Lender has participated, provided that the Lender is not prohibited from doing so under any laws or regulations applicable to it.

#### **3.2 Indicative Offer**

Upon receipt of an Application SEK will conduct in accordance with its internal policies:

- (a) a preliminary KYC review of the Borrower, any other Obligor, their beneficial owners and any other relevant parties; and
- (b) a review with respect to Sanctions Laws of the country or countries of the Borrower, any other Obligor, their beneficial owners and any other relevant parties and any other recipient country in the export transaction,

following which SEK may provide the applicant with an Indicative Offer.

#### **3.3 Binding Offer**

- (a) Upon receipt of the conditions precedent set out in Clause 5.1 (*Conditions precedent to Binding Offer*) to the satisfaction of SEK, the applicant may request SEK to provide a Binding Offer.
- (b) Provided that the conditions set out in Clauses 2.1 (SEK's credit approval and credit limit) and 2.2 (Export finance capabilities) have been fulfilled to SEK's satisfaction or waived by SEK, SEK will provide the Lender(s) with a Binding Offer subject to these General Terms and any conditions stipulated in the Binding Offer and the Assignor Guarantee.
- (c) A Binding Offer is valid for a limited period of time which shall be set out in the Binding Offer. Upon the request of the Lender(s) a Binding Offer may be extended, amended, renewed or replaced by SEK in its full discretion. An extension or renewal of a Binding Offer may require payment by the Lender(s) of an extension fee to SEK.
- (d) For CIRR financings the Agent (acting on behalf of the Assignors) is entitled to an administration fee of 0.25 per cent. per annum calculated on the outstanding loan amount, such fee will be deducted by the Agent from the CIRR interest payments received from the Borrower and be for the account of the Agent and any other arrangers of the financing.

#### **3.4 Acceptance**

- (a) A Binding Offer, but not an Indicative Offer, may be accepted by a Lender or the Agent (as applicable). A Lender or the Agent (as applicable) who wishes to accept a Binding Offer must do so within the validity period for the Binding Offer by submitting an Acceptance to SEK in accordance with the terms of the Binding Offer.
- (b) Upon Acceptance of a Binding Offer SEK shall take an Assignment on the terms set out in the Binding Offer and these General Terms. SEK is under no obligation to take an Assignment if the signed Finance Document deviates from the terms of the Binding Offer or from the latest draft version of the Finance Document reviewed by SEK prior to issuing the Binding Offer and any such deviation, in SEK's reasonable opinion, is materially adverse to SEK.
- (c) Upon Acceptance of a Binding Offer the Lender becomes liable to SEK for its Pro Rata Share of any costs, expenses and Interest Loss suffered by SEK due to any event giving rise to a Compensation Basis Amount.

#### **4. ASSIGNMENT**

##### **4.1 Scope of Assignment**

An Assignment by the Assignor to SEK includes, unless and to the extent otherwise is set out in the Assignment Documents:

- (a) all of the Assignor's rights under the Finance Documents relating to the assigned Commitment or Loan, but excluding any part of interest and fees which exceed the SEK Interest and any SEK Fees;
- (b) all of the Assignor's obligations to provide export credit financing under the assigned Commitment or Loan, excluding all and any obligations of the Assignor in any capacity other than as a lender of record (e.g. agent or arranger); and
- (c) all rights to compensation from the ECA under the ECA Guarantee in relation to the assigned Commitment or Loan.

##### **4.2 Effectiveness of Assignment**

An Assignment shall become effective upon:

- (a) each of the Assignment Certificate and the Assignor Guarantee having been duly executed by the Assignor and SEK;
- (b) SEK having confirmed to the Assignor that the conditions precedent in Clause 5.2 (*Conditions precedent to Assignment*) are satisfied or waived by SEK; and
- (c) any further conditions for the effectiveness of the Assignment pursuant to the Assignment Documents having been fulfilled or waived by SEK.

##### **4.3 One Assignor**

In the event the Assignor is the sole Assignor in relation to the relevant Facility the Assignor shall fulfil all of the obligations of both the Assignor and the Agent under the Assignment Documents, unless otherwise agreed in writing by SEK.

#### **4.4 More than one Assignor**

- (a) If more than one Assignor intend to make Assignments with respect to the same Facility, the parties shall agree which of such Assignors shall act as Agent in relation to SEK. The Agent must be the facility agent or similar under the Financing Agreement and must, unless otherwise agreed, be the Guarantee Holder and the ECA Agent (or a branch of the ECA Agent). The identity of the Agent shall be confirmed in the Assignment Documents.
- (b) Each Assignor is responsible for its Pro Rata Share of all monetary obligations or obligations to compensate or indemnify SEK under these General Terms in relation to the relevant Borrower, Finance Documents and ECA Documents.
- (c) Each Assignor will enter into a separate Assignment Certificate and Assignor Guarantee with SEK.

### **5. CONDITIONS PRECEDENT**

#### **5.1 Conditions precedent to Binding Offer**

SEK will not issue a Binding Offer unless SEK has received and found satisfactory (in its sole discretion) the following documents and evidence:

- (a) such financial information (typically covering the last three financial years) and other information with respect to the Borrower and any other Obligor as is necessary for SEK to properly assess the creditworthiness of the Borrower and any other Obligor;
- (b) any and all documents and evidence necessary to fulfil SEK's KYC procedures in relation to the Borrower, any other Obligor, each Assignor and their beneficial owners;
- (c) any and all documents and evidence necessary for SEK in its review of the proposed export and financing transactions;
- (d) to the extent applicable, all documentation, information and consents necessary for SEK to conduct the relevant reviews, screenings and assessments and make the disclosures required pursuant to the Equator Principles and, in relation to CIRR financing, the OECD Common Approaches; and
- (e) any and all documents and evidence required by SEK in order to ensure that the transactions contemplated under the Export Contract, the Finance Documents and the Assignment Documents will not lead to a breach of any Sanctions Laws.

#### **5.2 Conditions precedent to Assignment**

The obligations of SEK under these General Terms, the Binding Offer and the effectiveness of the Assignment are subject to SEK having received and found satisfactory (in its sole discretion) the following documents and evidence:

- (a) a copy of the executed Financing Agreement and each other executed Finance Document;
- (b) a preliminary schedule for all Disbursements under the Financing Agreement;

- (c) if requested by SEK, a copy of those parts of the Export Contract which contain the payment terms or other documentation setting out the payment terms of the Export Contract;
- (d) evidence that each person who has signed any Acceptance, Assignment Certificate or Assignor Guarantee on behalf of any Assignor is duly authorised to do so and a certified copy of his or her passport or other identification document
- (e) duly executed Assignment Certificate(s);
- (f) duly executed Assignor Guarantee(s);
- (g) a copy of the ECA Documents, which shall evidence that the ECA Guarantee covers (i) both Non-Borrower Related Events and Borrower Related Events (each as defined in EKN's General Conditions), (ii) political risk, commercial/insolvency risk and force majeure risk, or (iii) the risks specified in the Binding Offer. The ECA Documents shall evidence, to the satisfaction of SEK that SEK benefits from the ECA Guarantee;
- (h) a copy of the Exporter Declaration(s) (as defined in EKN's General Conditions) or an equivalent anti-corruption declaration;
- (i) any ancillary agreements or documents relating to any of the agreements and documents listed in paragraphs (a) – (g) above as SEK may reasonably request;
- (j) if requested by SEK, the documents constituting conditions precedent to the Financing Agreement and written opinions or statements provided by legal counsel or other experts of the Assignor and addressed to SEK confirming that the Assignment of the Finance Documents has been duly perfected and answering any other legal, regulatory or tax related questions as reasonably requested by SEK; and
- (k) such additional documents as may be specified in any Assignment Document.

Upon satisfaction of the conditions precedent set out in this Clause 5.2 (i) SEK will countersign the Assignment Certificate(s) and return copies of the same to the Assignor(s) and (ii) Disbursement may take place in accordance with the Finance Documents and Clause 6 (*Disbursement*).

## **6. DISBURSEMENT**

- 6.1 Prior to a Disbursement, or a transfer, assignment or novation (as the case may be) of a Loan to SEK, the Agent shall confirm to SEK in writing that (i) all conditions precedent to utilisation under the Financing Agreement have been met or waived and (ii) the ECA Guarantee is, or will upon Disbursement become effective. These confirmations may be given in a Disbursement Request, in any Assignment Document or in any other written form.
- 6.2 The Agent shall, not later than five (5) Business Days prior to the Disbursement Date or any other period agreed by SEK, submit a Disbursement Request to SEK. A Disbursement Request shall specify the necessary account information as well as the final recipient of the Disbursement (e.g. the Exporter, the Borrower (in relation to reimbursements) or the ECA (in relation to the ECA Guarantee premium or fee)). SEK may require that authorised signatories of the Agent confirm in writing the authenticity of a Disbursement Request.

- 6.3 SEK shall on the Disbursement Date make a Disbursement in the currency or currencies set out in the Binding Offer and to the account designated by the Agent in the Disbursement Request.

## **7. REPRESENTATIONS AND WARRANTIES OF THE ASSIGNOR**

By taking Assignment the Assignor represents and warrants to SEK as of the date of the Assignment that:

- (a) the Assignment Certificate constitutes a legal, valid and binding (duly perfected, if applicable) assignment, transfer or novation (as the case may be) of all the rights and obligations of the relevant Obligor and/or Assignor that it purports to assign, transfer or novate and enforceable by SEK;
- (b) the obligations of the Assignor under the Assignor Guarantee are legal, valid and binding on the Assignor and enforceable by SEK;
- (c) it is the legal and beneficial owner of the interests in the Finance Documents to be assigned, transferred or novated (as the case may be) to SEK;
- (d) neither it nor its Affiliates nor any of its or its Affiliates' Related Parties is a Restricted Party and the transactions contemplated under the Finance Documents and, as far as it is aware after having conducted such investigations as are prudent and customary, under the Export Contract, will not be in breach of any Sanctions Laws;
- (e) it has conducted a know your customer review in relation to the Borrower and any other Obligor in accordance with the applicable KYC Requirements and it has found the results of such review to be satisfactory;
- (f) neither it nor its Affiliates nor any of its or its Affiliates' Related Parties has taken any action in relation to the Finance Documents or the Export Contract or the parties thereto that is in breach of any applicable anti-corruption or anti-bribery laws;
- (g) it has not assigned, transferred, novated, charged, pledged or otherwise disposed of any or all of its rights and obligations under the Finance Documents or the ECA Documents to any person on or prior to the Assignment, except for any disposal which has been fully returned to it and disclosed to SEK prior to the Assignment; and
- (h) it has obtained all internal and external (if any) Authorisations for the Assignment and the Assignor Guarantee.

## **8. RESPONSIBILITY FOR DOCUMENTATION**

- 8.1 The Agent is or, if the Assignor Guarantee(s) so specify, the Assignors are responsible for:

- (a) subject as set out in any legal opinions which have been agreed and accepted by the Agent and/or Assignor (as applicable) and made available to SEK, the drafting, negotiation, execution and perfection of the Finance Documents including ensuring that the Finance Documents are duly signed and executed by all relevant parties thereto and that the Finance Documents constitute legal, valid, binding and enforceable obligations upon the parties thereto unless otherwise set out in any legal opinions which have been made

agreed by and addressed to the Agent, the Assignor (as applicable) and SEK;

- (b) subject to paragraph (c) below, ensuring that a Disbursement is not made unless all Finance Documents have been executed and perfected and all Authorisations required for the consummation of the Export Contract and the Finance Documents and the transactions thereunder have been obtained;
- (c) to the extent that the ECA has agreed to any Finance Document being executed or perfected or any Authorisation being obtained after first Disbursement, ensuring that such Finance Document is executed and perfected, or such Authorisation is obtained, within the time period stipulated by the ECA;
- (d) ensuring that the ECA Guarantee is in full force and effect for as long as any Loan may be outstanding;
- (e) ensuring that the ECA Documents specify that SEK will be a lender under the Financing Agreement and the beneficiary (or equivalent) of the ECA Guarantee;
- (f) ensuring that the terms and conditions set forth by SEK in the Binding Offer have been met;
- (g) ensuring that the Finance Documents:
  - (i) contain provisions pursuant to which the Loan may be declared due for repayment and the Commitment may be cancelled or suspended to the extent that:
    - a. the ECA Guarantee has been terminated or reduced or the ECA has instructed the Agent or SEK not to make Disbursements;
    - b. any Loan amount is or will be used for any purpose which is in breach of any Sanctions Laws or any anti-corruption, anti-bribery, anti-money laundering or anti-terrorist financing laws; or
    - c. the Borrower or any other Obligor becomes a Restricted Party,
  - (ii) are in conformity with the Assignment Documents;
  - (iii) are in conformity with all requirements of the ECA in relation to such documents;
  - (iv) if applicable, are in conformity with the OECD Arrangement;
  - (v) can be validly assigned, transferred or novated (as the case may be) to SEK and to the ECA and back to the Assignor without the consent of the Borrower or any other person (except the ECA, as applicable);
  - (vi) require the Borrower and any other Obligor to provide any documents and other evidence necessary for SEK to fulfil its KYC Requirements;
  - (vii) require the Borrower and any other Obligor to make all payments without any deduction or withholding for or on account of any tax, levy, impost, duty or other charge or withholding of a similar nature

except as required by mandatory applicable laws and in each case all payment shall be made to SEK without such deduction or withholding;

- (viii) contains such tax gross-up and related provisions as are customary in export financing transactions;
- (ix) if a CIRR rate or another fixed interest rate applies to the Loan, require the Borrower to pay Interest Loss corresponding to paragraph (b) of the definition of Interest Loss in the event of:
  - a. repayment of any Loan amount prior to scheduled maturity of the relevant amount;
  - b. amendment to the availability period for Disbursement; or
  - c. cancellation of any part of the Commitment, and
- (x) contains provisions pursuant to which Disbursements may be made to the Borrower for reimbursements of amounts previously paid by the Borrower to the Exporter prior to the effectiveness of the Financing Agreement and in all other cases Disbursement to the Borrower shall be subject to SEK's prior consent. If such consent is given, such Disbursement shall be made no later than three months or any other period agreed by SEK from the date of payment of the relevant amount from the Borrower to the Exporter or such other date(s) as may be agreed by SEK.

8.2 Except as expressly confirmed in writing by SEK, the Agent's or the Assignors' responsibility under this Clause 8 (*Responsibility for Documentation*) shall not in any way be reduced or limited by the fact that SEK may have made or has been given the opportunity to conduct its own review of the relevant documents.

## **9. OBLIGATIONS OF THE AGENT**

### **9.1 Administration**

The Agent shall:

- (a) act on the instructions of SEK, administer the Facility and the ECA Guarantee in each case in accordance with the Finance Documents and the ECA Documents and represent SEK towards the Borrower and any other Obligor as facility agent or similar and towards the ECA as ECA Agent and, unless otherwise agreed with SEK, Guarantee Holder, as applicable;
- (b) duly pay (or procure that payment is made of) all and any premiums or fees in respect of the ECA Guarantee and observe all other conditions and do everything else that is necessary during the entire term of the Facility in order to maintain in full force and effect the ECA Guarantee;
- (c) act in accordance with the ECA Documents and the ECA's instructions and consult with SEK, as well as advise and suggest a proposed course of action in relation to all questions that arise in connection with the Finance Documents and the ECA Documents;
- (d) represent SEK in connection with the enforcement of its rights under the Finance Documents;



- (e) keep all originals of the Finance Documents and the ECA Documents on behalf of SEK and upon request give SEK or its auditors the opportunity to review such original documents;
- (f) on behalf of or as representative of SEK, collect all payments to be made to SEK under the Finance Documents and the ECA Guarantee or from any Assignor and remit all such amounts to SEK with same date value; and
- (g) not make any binding agreements or commitments on behalf of SEK without SEK's approval, unless instructed to do so by SEK.

## **9.2 No resignation**

The Agent shall not resign as Agent, Guarantee Holder or ECA Agent or resign as facility agent or similar under the Financing Agreement, without SEK's prior written consent, which consent shall not be unreasonably withheld or delayed.

## **9.3 Replacement of the Agent**

Should the Agent resign or if SEK requests that the Agent be replaced, each other Assignor and SEK shall appoint a successor Agent subject, where applicable, to the consent of the ECA. Unless otherwise agreed, the replacement Agent must be the Guarantee Holder and the ECA Agent (or a branch of the ECA Agent).

## **9.4 Information undertakings**

The Agent shall:

- (a) without delay, notify the ECA and the Borrower of the Assignment;
- (b) timely fulfil all information requirements of the Guarantee Holder and the ECA Agent pursuant to the ECA Documents, including notifying the ECA following a non-payment or other default (howsoever described) under the Finance Documents;
- (c) as soon as the same is available but no later than in connection with the final Disbursement Request, submit to SEK the final repayment schedule for the Facility;
- (d) upon becoming aware of the same, promptly notify SEK of any proposed or actual cancellation of Commitment, prepayment of Loan or amendment to the Disbursement schedule;
- (e) upon receipt, and subject to the terms of the Finance Documents, promptly provide SEK with copies of notices, documents and other communications relating to the Facility;
- (f) upon receipt, promptly provide SEK with copies of all instructions, demands, and documents received from the ECA;
- (g) upon SEK's request, promptly provide SEK with copies of all communications received from or sent to the ECA;
- (h) in accordance with the terms of the Finance Documents notify the Borrower of:
  - (i) amounts disbursed under the Financing Agreement;
  - (ii) due dates for payment of principal and interest on the Loan and, prior to each due date, the amounts of principal and interest then falling due; and

- (iii) due dates for payment of fees, costs and expenses;
- (i) upon becoming aware of the same, promptly notify SEK of any event or circumstance which constitutes a default (howsoever described) by the Borrower or any Obligor under the Finance Documents;
- (j) promptly notify any party which provides a guarantee or security with respect to the Borrower's obligations under the Financing Agreement of any event or circumstance which constitutes a default (howsoever described) by the Borrower or any Obligor under the Finance Documents in accordance with the requirements of such guarantee or ECA Documents or security and provided always subject to being prevented from doing so under any law or regulation;
- (k) upon becoming aware of the same, promptly notify SEK of any actual or alleged breach by the Borrower or any Obligor of any Sanctions Laws, Environmental and Social Obligations, or any anti-corruption, anti-bribery, anti-money laundering or anti-terrorist financing laws; and
- (l) upon SEK's request, promptly provide SEK with all information in the Agent's possession which relates to its KYC review of the Borrower, any other Obligors and their beneficial owners, unless and to the extent the Agent is prevented by law from providing such information.

#### **9.5 The Equator Principles and the OECD Common Approaches**

- (a) If the goods and/or services financed under the Financing Agreement relates to a project which in SEK's opinion the Equator Principles or the OECD Common Approaches (as applicable, and each as from time to time supplemented, amended or restated) applies, the Agent shall ensure that the project is screened, categorised/classified, assessed and processed and handled in accordance with such applicable framework.
- (b) Duties and responsibilities of the Agent shall include duties and responsibilities of an agent as set out in the OECD Good Practice Note for Environmental and Social Agents (as from time to time supplemented, amended or restated).
- (c) If a project is categorised/classified as high risk project in accordance with the Equator Principles or the OECD Common Approaches (as applicable), the Agent shall , among others:
  - (i) ensure that all relevant environmental and social impact assessments (ESIA) are made;
  - (ii) ensure that an independent environmental and social consultant is appointed to conduct any relevant independent reviews of the project (as applicable); and
  - (iii) ensure that the Financing Agreement contain appropriate environmental and social provisions including covenants and undertakings which require the Borrower develop and maintain relevant environmental and social management systems and environmental and social management plans for the project (as applicable), to provide relevant and updated environmental and social information or reports for the project.

#### **9.6 Further assurance**

SEK shall, at the request and cost of the Agent, take all actions and duly execute and deliver such documents as is necessary to ensure that the Agent is lawfully able to represent SEK in accordance with these terms and conditions

## **10. BORROWER DEFAULT**

### **10.1 Default Interest**

In the event that any amount of principal, interest, fees or reimbursement for costs or expenses is not paid to SEK on its due date, the Assignor shall, subject to Clause 10.2 (*Conditional Payments*), from such due date and for as long as the delay continues, pay to SEK Default Interest on its Pro Rata Share of the overdue amount, unless and to the extent that the Borrower or any other Obligor pays such Default Interest to SEK prior to receipt by SEK of the Default Interest from the Assignor.

### **10.2 Conditional Payments**

- (a) In the event of a non-payment by the Borrower the Assignor may avoid paying Default Interest to SEK by making a conditional payment to SEK equal to the amount due but unpaid by the Borrower. In connection with such conditional payment the Assignor or the Agent shall inform SEK that the corresponding payment has not been received from the Borrower and that the payment therefore is to be considered conditional.
- (b) Subject to paragraph (d) below, SEK shall upon the Assignor's or the Agent's request promptly repay a conditional payment amount to the account designated by the Assignor or the Agent. Following such repayment Default Interest shall be payable to SEK from the date of repayment in accordance with Clause 10.1 (*Default Interest*) unless and until SEK has received the corresponding amount due from the Borrower or the Assignor.
- (c) Upon confirmation from the Assignor or the Agent that the Borrower or any Obligor has paid an amount corresponding to the conditional payment made to SEK to the Assignor, such payment shall no longer be deemed conditional.
- (d) The Assignor or the Agent must no less frequently than once every twenty (20) Business Days confirm to SEK whether the conditional payment shall continue to be deemed conditional. A new period of twenty (20) Business Days shall begin each time SEK is notified that the payment is still conditional. If the Assignor does not, before the end of any twenty (20) Business Day period, confirm to SEK that a payment is conditional such payment will automatically be deemed unconditional following which the Assignor will no longer have the right to recover the payment from SEK.
- (e) If, after a conditional payment has been deemed unconditional pursuant to paragraph (d) above, the Borrower or any other Obligor makes the corresponding payment such payment shall be for the account of the Assignor.

### **10.3 Actions against the Borrower and the Obligors**

- (a) In the event of non-compliance or default (howsoever described) under the Finance Documents, the Agent, SEK and the Assignors shall discuss in good

faith what measures are to be taken. The Agent shall propose a course of action and co-ordinate discussions between ECA, SEK, the Agent and the Assignors as well as with any intercreditor or security agent or similar and any other lenders. The Agent shall obtain the opinion or consent of the ECA before any acceleration, enforcement, termination, cancellation, restructuring, waiver or consent is initiated against or agreed with the Borrower or any other Obligor. If SEK, the Assignors and the Agent disagree on a course of action, the matter shall be decided in accordance with the decision making procedures and voting rights under the Finance Documents whereby the Assignors shall be deemed to be “lenders” in respect of their Pro Rata Share. However, no decision may be taken which is inconsistent with the opinion of the ECA. If the opinion of the ECA has not been obtained with respect to a particular issue, any decision thereon by SEK, the Agent and the Assignors shall be subject to the ECA’s approval.

- (b) Subject to compliance with paragraph (a), the Agent and the Assignors shall procure that all actions taken against the Borrower or any Obligor are carried out in accordance with the terms of the Finance Documents, the ECA Guarantee and applicable law.

#### **10.4 ECA Guarantee claims procedure**

Following the occurrence of an event of default (howsoever described) which is continuing under the Finance Documents, the Agent shall fulfil all requirements pursuant to the ECA Documents and promptly take all actions necessary to ensure that all conditions required by the ECA to pay out compensation under the ECA Guarantee in accordance with the ECA Documents are fulfilled.

### **11. RE-ASSIGNMENT**

- 11.1 The Assignor shall at all times have the right upon ten (10) Business Day’s written notice to require SEK to re-assign (by way of assignment, transfer or novation) to the Assignor such Assignor’s Pro Rata Share of the Facility (“**Re-Assignment**”).
- 11.2 In the event that the ECA Guarantee is repudiated, withdrawn, limited, suspended, terminated or cancelled or otherwise ceases to be in full force and effect or binding or enforceable against the ECA, other than due to the act or omission of SEK, SEK shall be entitled, but not obliged, to require a Re-Assignment to the Assignor, following which a transfer, assignment or novation (as the case may be) of the Assignor’s Pro Rata Share of the Facility shall be made from SEK to the Assignor upon ten (10) Business Day’s written notice.
- 11.3 The price to be paid (in immediately available funds and free and clear of any set-off, deduction or withholding) by the Assignor for a Re-Assignment pursuant to Clauses 11.1 or 11.2 shall equal the Assignor’s Pro Rata Share of all (but not part of) outstanding Loans and other amounts accrued under the Finance Documents and the Binding Offer. The Assignor shall also compensate SEK for any Interest Loss and reimburse SEK for all costs and expenses incurred in connection with the Re-Assignment.

### **12. THE ASSIGNOR’S INDEMNITIES**

- 12.1 **Prepayment, cancellation and change to the availability period for Disbursement**

The Assignor shall within ten (10) Business Days of receipt of SEK's demand or, if SEK so requests the Agent's, invoice compensate SEK for its Pro Rata Share of SEK's costs, expenses and Interest Loss in connection with the prepayment of a Loan, cancellation of a Commitment (voluntary or involuntary) or change to the availability period for Disbursement.

## **12.2 Costs and expenses**

The Assignor shall upon demand compensate SEK, based on the Assignor's Pro Rata Share, for any external costs or expenses incurred by SEK under item (a) and (c) below, and for any external and internal costs or expenses incurred by SEK under item (b) and (d) to (f) below, in relation to the Binding Offer, the Assignment or SEK's participation in the Facility. Costs and expenses to be compensated under this Clause 12.2 (*Costs and expenses*) shall be direct out-of-pocket costs and expenses, which may include:

- (a) costs and expenses incurred by SEK when reviewing and analysing the proposed export and financing transactions;
- (b) costs and expenses incurred by SEK when conducting its environmental and social assessments and reviews with respect to a project;
- (c) costs and expenses incurred by SEK in connection with the negotiation, preparation and entering into of any Finance Document, Assignment Document or ECA Document;
- (d) costs and expenses incurred by SEK in connection with the investigation into and actions taken due to any actual or potential default (howsoever described) by the Borrower or any other Obligor;
- (e) costs and expenses incurred by SEK in connection with the enforcement of any of any of its rights under any Finance Document, Assignment Document or ECA Document; and
- (f) currency exchange losses incurred by SEK in connection with payment of compensation by the ECA.

## **12.3 SEK Fees**

The Assignor shall on each due date pay to SEK its Pro Rata Share of any SEK Fees or any amendment or waiver fee charged by SEK in connection with any request to amend or waive any provision in the Financing Agreement or in the Assignment Documents.

## **13 NON-INDEMNIFICATION BY THE ECA**

13.1 In the event that SEK does not receive amounts due to it under the Financing Agreement, and the ECA based on the ECA Documents, decides not to pay full compensation under the ECA Guarantee, the Agent or, if the Assignor Guarantee so specify, the Assignors shall upon demand indemnify SEK against any , cost. loss or liability, including credit loss and Interest Loss, incurred by SEK as a result thereof, unless the ECA's decision was entirely caused by SEK's gross negligence. The amount of the cost, loss or liability shall be equal to the amount which SEK would otherwise have been entitled to recover.

13.2 If the ECA's decision not to pay full compensation under the ECA Guarantee has become subject to arbitration or court proceedings, as the case may be, the obligation to pay compensation to SEK pursuant to Clause 13.1 shall be subject to and not be payable to SEK until and to the extent a final arbitration award or

judgment, as the case may be, has upheld or confirmed the ECA's decision not to pay full compensation.

- 13.3 Following an Assignor's payment of compensation to SEK, that Assignor shall be subrogated to SEK and SEK shall upon request and subject to necessary approvals from any relevant party assign, transfer or novate to that Assignor without recourse its corresponding claim (if any) on the Borrower, any other Obligor and the ECA.

#### **14. SEVERAL LIABILITY OF ASSIGNORS**

- 14.1 If there is more than one Assignor the liability and obligations of the Assignors under the Assignment Documents shall be several and be equal to each respective Assignor's Pro Rata Share.
- 14.2 A failure by the Agent or any Assignor to perform its obligations under the Assignment Documents shall not relieve any other Assignor of its obligations and liability under the Assignment Documents to which it is a party.

#### **15. RANKING OF DOCUMENTS**

- 15.1 In the event of any inconsistency between the provisions of the Assignment Documents such documents shall rank in the following order of priority:
1. the Assignor Guarantee,
  2. the Binding Offer,
  3. these General Terms; and
  4. the Assignment Certificate.
- 15.2 In the event of any inconsistency between the provisions of any Assignment Document and any Finance Document the provisions of the Assignment Document shall prevail as between the Assignor, the Agent (provided it is party to such Assignment Document) and SEK.

#### **16. MISCELLANEOUS**

##### **16.1 Calculations**

Unless otherwise agreed in writing, SEK Interest, Default Interest, and SEK Fees (to the extent payable on an annual basis), shall be calculated on the actual number of days elapsed and on the basis of a 360-day year.

##### **16.2 No limit of liability**

The fact that SEK may, pursuant to the ECA Documents, be jointly and severally liable towards the ECA for the Guarantee Holder's obligations under the ECA Guarantee shall not reduce or otherwise affect the Assignor's obligations or liability towards SEK under these General Terms or the Assignor Guarantee.

#### **17. NOTICES**

- 17.1 Any communication to be made under an Assignment shall (unless expressly agreed otherwise) be made in writing by e-mail or letter.
- 17.2 Any such notice will be deemed to have been given as follows:
- (a) if by letter, when delivered personally or on actual receipt; or
  - (b) if by e-mail, when received in legible form.

- 17.3 A notice given in accordance with the above but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.
- 17.4 Any communication and document made or delivered hereunder shall be in English or, if the Agent and Assignors so agree, Swedish or if not in English or Swedish, accompanied by an accurate translation to English or Swedish and, in this case, the English or Swedish translation (as the case may be) will prevail.
- 17.5 Notices to be made to:
- (a) the Assignor or the Agent, shall be made to the address or email provided by the Assignor or the Agent in any Assignment Document; and
  - (b) SEK, shall be made to the following address or e-mail:

AB Svensk Exportkredit  
Attention: Credit Administration  
P.O Box 194  
SE – 101 23 Stockholm  
Sweden  
[creditadministration@sek.se](mailto:creditadministration@sek.se)

or to such address or e-mail as subsequently notified by a party to the other parties by not less than five (5) Business Days' notice.

## **18. APPLICABLE LAW AND DISPUTE RESOLUTION**

- 18.1 The Assignment, the Assignment Documents (save for the Assignment Certificate which may be governed by another law as set out therein or in the Financing Agreement) and any non-contractual obligations arising out of or in connection therewith are governed by Swedish law.
- 18.2 Any dispute, controversy or claim arising out of or in connection with the Assignment or the Assignment Documents (save for the Assignment Certificate which may be governed by another law as set out therein or in the Financing Agreement) or the breach, termination or invalidity thereof, shall be finally settled by arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. The arbitral tribunal shall be composed of three arbitrators. The seat of arbitration shall be Stockholm. The language to be used in the arbitral proceedings shall be English.