

QBE Insurance Corporation

TRADE CREDIT INSURANCE POLICY

Excess of Loss Policy

The Americas

This **Policy** is issued by QBE Insurance Corporation. Various provisions in this **Policy** restrict coverage. Read the entire **Policy** carefully to determine rights, duties and what is and is not covered. Throughout this **Policy**, the words “you” and “your” refer to the **Insured** shown in the **Declaration**. The words “we”, “us” and “our” refer to the Company providing this insurance. Other words and phrases that appear in bold have special meaning. Refer to the **Definitions** Section in this **Policy**. This **Policy** only becomes effective when we have accepted your **Application** and **Credit Management Questionnaire** by our issuing our **Declaration** to you.

I. CONDITIONS PRECEDENT TO LIABILITY

1. You must observe each of the terms and conditions of this **Policy** (including payment of all **Premiums** and other charges), which are conditions precedent to any liability of ours under this **Policy**.
 2. You have applied to us for an Excess of Loss Trade Credit Insurance Policy by an **Application** in writing and we have agreed on the basis of the **Application** and **Credit Management Questionnaire** to issue this **Policy**. You accept that the **Application** together with the **Credit Management Questionnaire**, and any additional attachments which may include your own Credit Manual, together with any other statements made in writing by you or anyone acting on your behalf are accurate and complete in all material respect at the time of your **Application**, and are incorporated into the **Policy**. In all cases, information provided by you or your agent to us in support of your **Application** for this **Policy** is held to be provided on your behalf.
 3. In accepting this **Policy**, you warrant that:
 - a. to the best of your knowledge the statements made in the **Application** and the information disclosed to us in your **Credit Management Questionnaire** together with any supporting statements provided to us in our approval of your **Approved Credit Management Procedures** were true at the date on which they were made and that there had been no material change at the time we agreed to issue the **Policy**;
 - b. at the inception of the **Policy** you had no knowledge or information of any matter, fact or circumstance that could give rise to a loss under the **Policy** which had not previously been advised in writing to us by you;
- c. you have an ongoing duty of disclosure throughout the **Policy Period** to disclose to us any material changes in your business operations, including any changes to the **Approved Credit Management Procedures** agreed at the commencement of the **Policy**. You must also disclose any **Notifiable Events** together with any information that may affect the terms offered and risk insured under this **Policy**;
 - d. you shall co-operate fully with us and sign all relevant documents considered necessary by us to protect our interests in relation to this **Policy**.
4. If at any time we become aware that there has been misrepresentation of any material information provided by you or your agent to us, we have the right to terminate this **Policy** by giving you either ten days written notice, or such other notice as required by statute or regulation. Our notice of cancellation will indicate the date on which this **Policy** is terminated.
 5. Further, if you make any claim knowing it to be false or fraudulent in any way, we will refuse payment of the claim and may cancel this **Policy**.

II. INSURING CLAUSE

1. In consideration of the payment of all **Premium** and other charges when due and subject to the terms and conditions of this **Policy**, we agree to cover you in respect of goods sold and **Dispatched** and **Services Provided** within the **Policy Period** up to the **Insured Percentage** of that part of the relevant **Insured Losses** which are in excess of the **Annual Aggregate Deductible** in the event of a **Buyer** failing, due to **Insolvency** or **Protracted Default** or **Contract Repudiation**, to pay you an **Insured Debt** up to a total liability of the **Policy Amount**. Any **Credit Limit**, **Policy Amount** or other limits of liability under this **Policy** and under any preceding or future **Policy** issued by us to you are non-cumulative.
2. A **Credit Limit** will only be reduced or cancelled by us if a **Notifiable Event** occurs in respect of a **Buyer**. Any reduction or cancellation issued by us will not apply to any **Dispatch** of goods that are made or **Services Provided** under contracts which are entered into by you prior to receipt of a cancellation or reduction notice and which contract you are not entitled to cancel or legally terminate, providing the **Dispatch** of goods or **Services Provided** occurs during the **Policy Period** and within a period of three (3) months from the time that the notice was received by you.

III. CONDITIONS

1. Charges Payable and Cancellation

- a. On or before the first day of the **Policy**, you shall pay to us the **Premium** and we shall issue this **Policy** for the **Policy Period**, subject to our specific rights under the **Policy** or at law to cancel the **Policy** or our obligations hereunder.
- b. We may terminate the **Policy** from inception if you fail to pay the **Premium** to us within 60 days of the due date or fail to adhere to the terms and conditions of this **Policy**. In the event you seek to terminate this **Policy** prior to the expiration of the **Policy**, as noted in the **Declaration**, you will not be entitled to any **Premium** refund unless this is overridden by the prevailing laws of the state within which this **Policy** is issued.

2. Credit Management, Consultation And Notification

a. Credit Management

- (1) You must at all times adhere to the **Approved Credit Management Procedures**. We have confirmed to you in writing our approval of your credit management procedures and have undertaken either a credit management inspection at your premises and/or reviewed your credit management manual. In all circumstances you will have agreed to and signed our **Credit Management Questionnaire**. Should you at any time during the **Policy Period** amend your **Approved Credit Management Procedures** in any material way, you must first obtain our prior written consent. Such consent will not be unreasonably withheld.
- (2) It is a condition of the **Policy** that any **Joint Insured** covered under this **Policy** is subject to the same **Approved Credit Management Procedures**.
- (3) You shall at all times:
 - (a) exercise reasonable care and prudence in granting credit to and withholding credit from a **Buyer** and do so as if you were uninsured; and

- (b) take all necessary steps and use your best endeavors, in consultation with us, to avoid or minimize any **Insured Loss**.

b. Consultation

Should a **Buyer** request additional time for payment of an **Insured Debt** before or shortly after the original due date for payment, you may at your discretion extend the due date as long as this period is not beyond the **Maximum Extension Period** as listed in the **Declaration**. You may not agree to any extension while a **Notifiable Event** still exists. Any request by a **Buyer** to extend the due date for payment beyond the **Maximum Extension Period** will first need to be agreed by us in writing.

c. Notification

- (1) When a **Notifiable Event** occurs in respect of a **Buyer**, and the total value of the **Insured Debt** is in excess of the **Non Qualifying Loss**, you shall:
 - (a) with the least possible delay notify us in writing; and
 - (b) continue to notify us in the format required by us on a monthly basis until **Insolvency** has occurred or until a **Notifiable Event** no longer exists in respect of that **Buyer**; and
 - (c) take all prudent and reasonable steps as set out in your **Approved Credit Management Procedures** or as otherwise required by us in respect of any loss which you have incurred or may be likely to incur including the execution of such documents and the performance of such things as may be necessary to enable us to intervene directly in the proceedings or negotiations relating to the **Insured Debt**. Any costs incurred by you including collection and legal action will be at your cost unless we have specifically agreed in advance with you in writing to share the costs of such actions.

- (2) Notification of a **Notifiable Event** by you does not constitute a filing of a claim as required within the **Maximum Claim Filing Period**. Once you have notified us of a **Notifiable Event**, except when that **Buyer** is withholding payment on the basis of a bona fide documented dispute, your **Credit Limit** on that **Buyer** is automatically cancelled. Any subsequent goods **Dispatched** or **Services Provided** following the occurrence of a **Notifiable Event** are not insured until such time as you request and we provide a new **Endorsed Credit Limit** for that **Buyer** even if the previous **Credit Limit** had been established under your **DCL**. In the event that we provide you with a new **Endorsed Credit Limit**, the cover is only effective from the effective date stated on the **Endorsed Credit Limit** unless we agree to a retrospective date by special condition on the **Endorsed Credit Limit**.

3. Claims

a. When submitting a claim

- (1) When a **Claimable Event** occurs you shall submit a claim under the **Policy** by completing a claim form (available from us) within the **Maximum Claim Filing Period** in respect of an **Insured Debt** relating to the **Buyer**. Where documents submitted in support of a claim are in a language other than English you will at your expense provide certified English translations if so required by us.
- (2) When you submit a claim as a result of a **Protracted Default**, we must be satisfied that you have fully complied with all of your obligations under the **Policy** and exhausted all reasonable means in accordance with your **Approved Credit Management Procedures** (including the pursuit of legal action at your cost, unless otherwise agreed by us in writing) to recover the **Insured Debt** without success and also that satisfactory evidence of the **Insured Debt** exists.
- (3) We are entitled at any time to appoint independent assessors to advise us on the course of action to take with respect to any claim that you submit. Once we determine that your claim qualifies, it will be deemed as a provisional claim until and unless the **Annual Aggregate Deductible** is exceeded.

b. When we will pay a claim to you

- (1) When the total amount of the provisional claim or claims filed in respect of the **Policy Period** exceeds the **Annual Aggregate Deductible**, we shall pay, subject to the provisional claims complying with the terms of this **Policy**, the **Insured Percentage** of that part of the relevant **Insured Losses** which are in excess of the **Annual Aggregate Deductible**. Such provisional claims and any subsequent claims lodged with us will be taken in chronological order based on their **Claimable Event Dates**.
- (2) In accordance with the above we will pay to you, upon receipt of an executed release of our liability (available from us) and subject to the terms and conditions of the **Policy**, the **Insured Percentage** of that part of the relevant **Insured Loss** which are in excess of the **Annual Aggregate Deductible**, as follows:
 - (a) in the case of **Insolvency**, within sixty (60) days after we have received satisfactory proof of debt, or the appropriate confirmation that the **Insured Loss** has been admitted to rank for distribution against the insolvent estate of the **Buyer** in your favor;
 - (b) in the case where a **Protracted Default** occurs, within sixty (60) days after we have received satisfactory proof that the debt exists;
 - (c) in the case of **Contract Repudiation**, within sixty (60) days after the goods have been resold or otherwise disposed of by you, provided always that we have given our prior written approval to the resale or disposal of those goods.
- (3) Any claim submitted by a **Joint Insured** will be settled with the **Joint Insured** that has submitted the claim unless we receive written instructions to the contrary.

4. Loss Calculation

- a. For the purposes of calculating a loss, all monies received shall be applied in chronological order of due date of invoices regardless of any designation as to the application requested by the **Buyer** or other entity from whom such monies are received.

- b. Where the indebtedness of a **Buyer** arises over two **Policy Periods**, the resultant **Insured Debt** attributable to each **Policy Period** shall not be considered as two separate **Insured Debts** but shall be treated as one **Insured Debt** and under the **Policy Period** in which the major part of the **Insured Debt** occurs, except that if the **Insured Debt** occurs equally across the two **Policy Periods** it shall be accounted for wholly under the earlier **Policy Period**.

5. Salvage

- a. Any **Salvage** received by you or us will be held in trust for you and us for your and our respective interests and subject to paragraph e below, **Salvage** shall be divided between you and us as follows:

(1) We will be entitled to:

- (a) such proportion thereof as the **Insured Percentage** of the **Insured Debt** bears to the total indebtedness of the **Buyer** to you at the date that a **Notifiable Event** first occurs; plus
- (b) any other monies owing to us for arrears of **Premiums** or monies due under this **Policy**; and

(2) you shall be entitled to the balance.

- b. You will notify us in writing immediately when you receive any **Salvage**. Our proportion of any **Salvage** received by you and due to us (as calculated in accordance with paragraph a above), shall be remitted to us within ten (10) days of receipt.
- c. If you receive **Salvage** prior to the submission or determination of a claim and/or provisional claim by us, you are not required to pay to us our proportion of **Salvage**; however, any claim must reflect due deduction of such **Salvage**. After the submission or determination of a claim, you must notify us in writing of your receipt of **Salvage** and in the event of an admitted claim and/or provisional claim our proportion of the **Salvage** will be deducted by us from our calculation of liability under the **Policy**.
- d. We will at any time be entitled to make any claim or take any legal action in your name against: (1) a **Buyer**; or (2) any third party that you are entitled to take action against, in respect of any **Salvage**.

- e. In the event we elect to take legal action against a **Buyer** or any third party that you are entitled to take action against, we will be entitled to deduct from any **Salvage** recovered all of the costs, disbursements and expenses incurred by us in such action, prior to dividing the **Salvage** as otherwise set out in paragraph a above.

6. Co-Insurance

- a. You shall retain for your own account:

- (1) the amount of the **Insured Loss** that exceeds the **Insured Percentage**; and
- (2) any indebtedness of a **Buyer** to you that exceeds the **Credit Limit**; and
- (3) any amount equal to or below the **Non Qualifying Loss**; and
- (4) the **Annual Aggregate Deductible** amount; and
- (5) any losses that exceed the **Policy Amount**.

- b. You must not, without our written consent:

- (1) enter into any trade credit insurance policy that indemnifies you in relation to any of the above items in paragraph a, which includes any top up insurance policies; or
- (2) obtain a charge, mortgage, security, indemnity or guarantee of any type that secures any of the above items in paragraph a above, but does not secure the **Insured Percentage** of the **Insured Loss**.

7. Assignment

You shall not assign any rights or benefits under this **Policy** unless our prior written consent to the assignee and the form of assignment has been obtained. All claims that become payable under or by virtue of the **Policy** will be paid to the assignee (unless otherwise advised in writing by the assignee) whose receipt of such payment shall be a valid discharge of us by you.

8. Guarantors

Where we have issued an **Endorsed Credit Limit** subject to a guarantee, we shall have no liability under this **Policy** if the guarantee is found to be unenforceable. It is your responsibility to ensure that the guarantee is a legally enforceable, unconditional and continuing guarantee. Where the guarantee is provided by more than one party (whether natural or not) it shall be obtained in the form of a joint and several guarantee. No liability will attach to this **Policy** until we are satisfied that you have exhausted all available action (including legal proceedings and insolvency proceedings) for the recovery of the debt from the guarantor(s).

9. Interpretation

In this **Policy**:

- a. Reference to clauses, declarations, annexures and endorsements includes any replacement of them;
- b. The singular includes the plural and vice versa;
- c. Headings are inserted for convenience and do not affect the interpretation of this **Policy**; and
- d. A reference to any statute or regulation shall include a reference to any amendment, replacement or substitution of that statute or regulation.

10. Disclosure

- a. You must disclose in writing to us all material facts and information concerning or relating to the **Policy**, any **Buyer** and your dealings with these **Buyers** and any third party, and any likely claim under the **Policy**.
- b. We may request that you provide us, and any third party representative that we may appoint at any time, access to examine or make copies of any letters, accounts or other documents in your possession or control relating to or connected with this **Policy** or your obligations or any transactions between you and any **Buyer**. We may also request that the third party undertakes an audit of your compliance with the **Policy** terms and conditions at your premises. Such undertaking for audit purposes shall be at our cost.
- c. You will, at our request, supply us with any information in your possession or take any reasonable steps to obtain for us any information or access to any documents in the possession of any third party relating to or connected with this **Policy** or any transaction between you and a **Buyer**.

11. Currency – Claims and Salvage

- a. The **Policy** is issued in the **Policy Currency**.
- b. The **Credit Limits** under the **Policy**, any other limits or **Non Qualifying Losses** or **Annual Aggregate Deductibles** or **Premium**, and any other charges are expressed in the **Policy Currency**, and such amounts shall not vary according to changes in the exchange rate between the **Policy Currency** and any other currency, unless specifically agreed by us in writing.
- c. If you invoice a **Buyer** in any currency (including any **Approved Claim Currency**) other than the **Policy Currency**, the value of each invoice must be converted into the **Policy Currency** at the relevant **Conversion Exchange Rate** (all such **Conversion Exchange Rates** must be recorded in writing by you at or about the time of **Dispatch** of the goods or the provision of **Services Provided** relating to every invoice, and such records must be provided to us in the event of a claim).
- d. For the purpose of calculating our liability in the event of a claim arising:
 - (1) any part of a **Buyer's** indebtedness invoiced in a **Non-Approved Claim Currency** will be converted into the **Policy Currency** in accordance with the **Conversion Exchange Rate** and the resultant liability shall be paid in the **Policy Currency**;
 - (2) any part of a **Buyer's** indebtedness invoiced in an **Approved Claim Currency** will be converted into the **Policy Currency** in accordance with the **Conversion Exchange Rate** and the resultant liability as determined in the **Policy Currency** will be reconverted into and paid in the **Approved Claim Currency**, such reversion being made in accordance with the **Conversion Exchange Rate**.
- e. For the purpose of calculating **Salvage** in the event **Salvage** is received in a currency other than the **Policy Currency**:
 - (1) **Salvage** accruing in a **Non-Approved Claim Currency** shall be converted into the **Policy Currency** at the Telegraphic Transfer Buying Rate of Exchange (between such currency and the **Policy Currency**) of your bank at close of business on the day of receipt, whether or not such currency is actually converted into the **Policy Currency** on receipt. Our share of any such **Salvage** accruing after payment of a claim shall be paid to us in the **Policy Currency**;

- (2) **Salvage** accruing in the **Approved Claim Currency** shall be converted into the **Policy Currency** at the **Conversion Exchange Rate** of the relevant invoice or invoices to which such **Salvage** payments relate. Our share of any such **Salvage** accruing after payment of a claim shall be paid to us in the relevant **Approved Claim Currency**.

12. Your Insolvency

- a. In the event of your **Insolvency**, cessation of your business, or your seeking a general extension of time for payment from your creditors or dissolution of your partnership (if you are a partnership), then this **Policy** shall immediately terminate and there will be no liability under this **Policy** for any further goods **Dispatched** or **Services Provided** unless otherwise agreed to in writing by us.
- b. We will be entitled to retain all **Premium, Salvage** and other monies paid and to receive and retain all **Premium, Salvage** and other monies due and payable to us.
- c. For the purpose of this Condition the definition of “**Insolvency**” shall be the same as that applying to a **Buyer** under this **Policy**.
- d. If our right to cancel is prohibited or made void by any law, the right to cancel shall be deemed to be amended so far as to be consistent with such laws.

13. Governing Law

The law of the State of New York shall govern this **Policy**, its construction, performance and validity. Terms of this **Policy**, which are in conflict with the statutes of the jurisdiction wherein this **Policy** is issued, are otherwise hereby amended to conform to such statutes.

14. Our Discharge of Liability

Our Liability under this **Policy** (as arising within the **Policy Period**) shall cease 6 months after the end of the **Policy Period** except for those **Buyers** where you have reported a **Notifiable Event** to us within the 6 months period after the end of the **Policy Period**. You will remain obliged to pursue and remit to us when recovered any **Salvage** recovered in respect of an **Insured Loss**.

15. Action against us

No legal action may be brought against us unless there has been full compliance with this **Policy**, and not before 90 days have elapsed from the date you submitted a complete and accurate claim and 30 days have elapsed from the date you notify us, in writing, of your intention to bring such action.

16. Notices

All notices, submissions and filings provided for in this **Policy** shall be in writing and directed to the individual identified as the contact person for you at the Named Insured’s address stated in the **Declaration**, and when to us, at the Insurer’s address stated in the **Declaration**.

Any notice required under this **Policy** may be delivered by hand, mail, facsimile machine or electronic mail. The date of receipt of any notice will be the earlier of the date postmarked or the date the notice is otherwise received.

17. Expiration

This **Policy** is not a perpetual policy and expires on the date and time set forth in the **Declaration**.

IV. EXCLUSIONS

1. This **Policy** does not cover and we will not be liable in respect of any loss:
 - a. resulting from any avoidance by a **Buyer** of a contract concerning goods because such contract is void, illegal or unenforceable or because of a repudiation of such contract by a **Buyer** in your country;
 - b. relating to any taxes, retention monies, interest charges, penalties, government charges and taxes and any consequential damages or costs, unless otherwise agreed by us in writing;
 - c. relating to or arising from any transaction involving goods to be held or held on a consignment stock basis by a **Buyer** or a **Buyer’s** Agent, unless we have beforehand agreed in writing, subject to specified conditions, to cover goods drawn out of consignment and you have complied with such specified conditions;

- d. relating to or arising from any “pay when paid” contracts or any other agreements to sell to a person or entity who is not unconditionally and irrevocably bound to pay a purchase price as agreed beforehand (eg. goods dispatched, sold or contracted on a “sale or return basis” or goods dispatched, sold or contracted on a “commission basis” to a commission agent);
- e. relating to goods **Dispatched** or **Services Provided** to a **Buyer** at a time when a **Notifiable Event** (other than a **Notifiable Event** arising solely as a result of the **Buyer** withholding payment on the basis of a bona fide documented dispute) exists;
- f. which is subject to any form of dispute between you and a **Buyer**, unless and until each dispute shall have been finally adjudicated in your favor;
- g. directly or indirectly caused by political risks such as war, invasion of, or acts by foreign enemies, hostilities, rebellion, revolution, confiscation, nationalization, insurrection or military or usurped power, or due to the order of any government, public or local authority or by restrictions on trade transfers;
- h. directly or indirectly caused by risks from atomic energy, employing the process of nuclear fission or fusion or handling radioactive material including, but not limited to: the use of nuclear reactors; the use or handling or transportation of radioactive materials; or the use or handling or transportation of any weapon of war or explosive device employing nuclear fission or fusion;
- i. which arises from or due to any Currency Exchange Rate fluctuations when goods **Dispatched** or **Services Provided** are invoiced and paid in a currency other than the **Policy Currency**;
- j. arising from goods **Dispatched** or **Services Provided** after any of the following events occur:
 - (1) you become **Insolvent**, go into liquidation or are dissolved;
 - (2) you consolidate or merge with another company, or sell all or substantially all of your assets in one or more transactions.

If either of these occurs, you must notify us immediately in writing.
- k. due to performance or lack thereof by you or a **Buyer** including but not limited to:
 - (1) failure by either you or a **Buyer** to obtain any reasonably known license, approval or authority required to either export or import goods either from your country or to a **Buyer’s** country prior to **Dispatch**; or
 - (2) any acts, errors, omissions or failure by you or any person acting on your behalf to fulfill any of the material terms and conditions of the **Dispatch** or to comply with the provision of any law, including any order, decree or regulation having the force of law.
- l. for amounts owed by **Buyers** where you factor or sell your invoices (whether factor risk or client risk), credit guaranteed or credit insured, other than under this **Policy**, either full or in part;
- m. where the contract specifies or you are otherwise aware that:
 - (1) goods are to be **Dispatched** or **Services** are to be **Provided** from or to or via a third country; or
 - (2) payment of the indebtedness is to be made from a third country.
- n. which has been caused either directly or indirectly by the termination of any franchise, distribution or similar arrangement between you and a **Buyer** unless we have agreed to such termination beforehand in writing;
- o. as a result of your material failure to comply with the **Approved Credit Management Procedures**;
- p. arising from dishonest or illegal acts, or omissions by any of your Officers, Employees or Agents;
- q. in respect of any indebtedness which remains unpaid in whole or in part by reason of the expropriation, confiscation or destruction of the whole or any part of a **Buyer’s** assets (or the goods which are subject to any **Insured Debt**) under any law or regulation having the force of law in any country or any part of the country by any person or persons exercising powers of government in such country or any part of the country;
- r. arising from or related to any Preference claims or demands from insolvency administrators under laws and regulations of the country of the **Buyer** to recover monies paid by the **Buyer** to you and which monies are defined within a Preference;

- s. which is not filed within the **Maximum Claim Filing Period**;
- t. arising from any entity on whom we have issued a nil **Endorsed Credit Limit**.

- b. any entity in which a relative of a director, officer or partner of yours, or a person who has a **controlling interest** in you, has a **controlling interest**; and
- c. a government, government department, public or statutory authority, or nationalized undertaking; and
- d. any person or entity where the **Endorsed Credit Limit** is “nil”.

V. DEFINITIONS

“**Annual Aggregate Deductible**” means the total of the **Insured Losses** to be retained by you during the **Policy Period** for your own account. The amount is shown in the **Declaration**. Our liability shall be limited to the **Insured Percentage** of that part of the relevant **Insured Losses** which are in excess of the **Annual Aggregate Deductible** subject to the **Policy Amount**.

“**Application**” means the following: The Application Form, the **Credit Management Questionnaire** and any supporting documents or representations that you or your agent make to us in writing in order to enable us to insure you under this **Policy**.

“**Approved Claim Currencies**” are the currencies noted in the **Declaration**. You may decide to have your claims paid in the currency in which you have invoiced a **Buyer** rather than in the currency in which you pay your **Premium**. You can do this by specifying in your **Application** which of the list of **Approved Claims Currencies** you wish to have any one or more of your claims paid in. (You may not change your decision after your **Application** has been accepted by us.) The list of **Approved Claims Currencies** is available from us.

“**Approved Countries**” are the countries in which we allow you to **Dispatch** your goods to or provide your **Services** in and are the countries noted in the **Declaration** or the **Approved Country Risk Schedule**.

“**Approved Credit Management Procedures**” are your credit management procedures that have been approved by us to allow you to use your **DCL** under this **Policy**, and which must be abided by you in granting credit to and withholding credit from all **Buyers**.

“**Buyer**” is any entity (or for Letters of Credit transactions, the Issuing Bank) carrying on business with you in any of the **Approved Countries** and with whom you have either obtained an **Endorsed Credit Limit** from us or have established a **Credit Limit** under your **Discretionary Credit Limit** in this **Policy** but always excludes:

- a. any entity which is a parent, affiliate, or other similarly **related company** of yours; and

In this definition, the following terms have the following meaning:

“**related company**” means a corporation or entity that has a director, or officer, or shareholder with a **controlling interest** who is also a director, or officer or shareholder with a **controlling interest** in you, or a corporation in the same **group**.

“**group**” means where you and a **Buyer** are ultimately under common ownership.

“**controlling interest**” means an interest in an entity where the relevant individual or entity owns twenty percent (20%) or more of the first mentioned entity.

“**Claimable Event**” is the occurrence of **Insolvency**, **Protracted Default** or **Contract Repudiation** as defined elsewhere in the **Policy**.

“**Claimable Event Date**” means the date on which the **Insolvency** or **Protracted Default** or **Contract Repudiation** of a **Buyer** occurs as defined by the **Policy**. The **Claimable Event Date** will dictate the chronological order in which our liability will accrue under any claim aggregation and has the potential to affect any claim liability when the **Annual Aggregate Deductible** has been exceeded.

“**Contract Repudiation**” occurs when a **Buyer** situated in a country other than your country, fails to accept goods already **Dispatched** by you provided that this failure is not caused or excused by any breach of condition or warranty by you or does not result from any other cause within your control and provided also we are satisfied that no good purpose would be served by the institution of legal proceedings against the **Buyer** in respect of that failure.

“**Conversion Exchange Rate**” in respect of an invoice is the rate of exchange between the currency in which that invoice is issued (which includes the **Approved Claim Currencies**) and the **Policy Currency**, as determined:

- a. by reference to the rates of exchange applicable at your bank as at the close of business on the day the relevant goods were **Dispatched** or the relevant **Services Provided**; or

- b. by the forward exchange rate contract, if one has been entered into with your bank in relation to determining in advance the amount you are to receive in terms of the **Policy Currency**, if payment is made in the **Approved Claim Currency** as contracted by a **Buyer**; or
- c. by reference to your internal treasury rate as agreed in writing by us at the inception of the **Policy**.

“**Credit Limit**” is the maximum amount of credit that you are covered for under this **Policy** where you have entered into a contract of sale with a **Buyer**, and shall not include any sales tax, value added tax, or any other taxes. You must have either established a **Discretionary Credit Limit** in accordance with your **Approved Credit Management Procedures**, or if the amount is above your **Discretionary Credit Limit**, applied for and obtained an **Endorsed Credit Limit** prior to **Dispatch**. Should a **Claimable Event** occur where your outstanding balance with a **Buyer** is greater than the **Credit Limit** we will only be liable up to the value of the **Credit Limit**.

“**Credit Management Questionnaire**” is the form completed by you and returned to us prior to us issuing a **Policy** to you. The completed **Credit Management Questionnaire** and any additional attachments once returned to us constitutes part of the **Policy**.

“**Declaration**” means that part of the **Policy** which is signed on our behalf and which provides your individual particulars and the conditions specifically applying in addition to or in amendment of the standard terms and conditions of the **Policy**.

“**Discretionary Credit Limit**” (“**DCL**”) is the maximum amount of credit in accordance with your **Approved Credit Management Procedures** that you can agree for a **Buyer** without applying to us for an **Endorsed Credit Limit**. The amount and conditions of the **DCL** are set out in the **Declaration**.

“**Dispatch**” and “**Dispatched**” in respect of this **Policy** shall mean when such goods:

- a. in the case where a **Buyer** is located in the same country as your country, physically pass from you into the exclusive physical control of the **Buyer** or the **Buyer’s** agent (which transaction must be completed within the **Policy Period**); or
- b. in the case where a **Buyer** is located in a different country to your country, the time at which the goods have been passed to the first carrier (which must be within the **Policy Period**) in the process of being carried to the place where the **Buyer** is required to accept them.

Notwithstanding subparagraph **b** above, goods will not have been **Dispatched** in circumstances where you retain the legal right to stop carriage of the goods before they leave your country or the country from which you are exporting.

“**Endorsed Credit Limit**” is an endorsement we provide to you which states the **Credit Limit** that we approve in respect of a **Buyer** and which may be a Nil amount. It may also contain special conditions adding to or amending the existing terms and conditions of this **Policy** in relation to a **Buyer**.

“**Insolvency**” occurs in respect of a **Buyer** when any of the following steps (or any step which, under the law of a foreign country or territory having jurisdiction, is equivalent to any of the following steps under United States law) has been taken:

- a. a voluntary or involuntary petition for relief under title 11 (including chapters 7, 11 and 13) of the United States Bankruptcy Code has been filed by or against the **Buyer**, or a receiver, trustee, liquidator, custodian or similar representative has been appointed over the **Buyer**, or a court having jurisdiction has taken an equivalent action against the **Buyer**; or
- b. the **Buyer** has made a valid assignment, composition or similar arrangement for the benefit of creditors generally; or
- c. a judicial order has been made against the **Buyer** for the winding-up or dissolution of the **Buyer**; or
- d. the Board of Directors (or comparable body) of the **Buyer** has passed a resolution authorizing the voluntary winding-up or dissolution of the **Buyer**; or
- e. a compromise or arrangement of the **Buyer’s** debts has been made binding on all, or substantially all, of the **Buyer’s** trade creditors; or
- f. the **Buyer** files for an Assignment and/or makes a proposal to creditors, under the Canadian Bankruptcy and Insolvency Act; or
- g. a voluntary or involuntary petition for relief under the Companies Creditors Arrangement Act in Canada is filed by or against the **Buyer**; or
- h. a Receiving Order is made against the **Buyer** under the Canadian Bankruptcy and Insolvency Act; or

- i. the **Buyer's** assets are sold under the Canadian Bank Act or a judgment ordering Liquidation, or reposition of the **Buyer's** assets due to a trust deed, commercial pledge or movable hypothec under the laws of each province or territory in Canada.

“**Insured**” is the entity specified in the **Declaration** and includes any **Joint Insureds**.

“**Insured Debt**” means the invoice value of such goods sold and **Dispatched** or **Services Provided** by you arising out of the trade specified in the **Declaration** that:

- a. is owed to you by a **Buyer**; and
- b. does not exceed the **Credit Limit** for that **Buyer**; and
- c. is in respect of the invoice value of goods (or the face value of the original bill of exchange where a bill of exchange is accepted by the **Buyer** in respect of the invoice value of goods) both sold by you to the **Buyer** and **Dispatched** to the **Buyer** within the **Policy Period** pursuant to a contract of sale providing for repayment of the debt within the terms of payment specified in the **Declaration**; or
- d. in respect of **Services**, the value of all work that has been **Provided** to the **Buyer** within the **Policy Period** pursuant to a contract of sale providing for repayment of the debt within the terms of payment specified in the **Declaration**.

“**Insured Loss**” is so much of an **Insured Debt** that is;

- a. admitted to rank against the insolvent estate of the **Buyer**; or
- b. in the case of a **Protracted Default** only, so much of the **Insured Debt** as is confirmed to us by evidence of a judgment debt or other proof of debt that is satisfactory to us and is not in dispute between you and the **Buyer**; or
- c. in the case of **Contract Repudiation** by the **Buyer**, so much of an **Insured Debt** as is confirmed to us by evidence of debt less the proceeds (after deducting reasonable resale expenses agreed by us prior to incurring such expenses) of the resale of the goods;

each after taking into account the whole of any **Salvage** relating thereto. In all cases the amount of the **Insured Loss** must be in excess of the **Non Qualifying Loss**.

“**Insured Percentage**” is specified in the **Declaration** and may be varied by specific endorsement.

“**Joint Insured**” means an entity that you control or are controlled by you and you have requested us to add such entity to the **Policy** during the **Policy Period**. The **Joint Insured** must complete an **Application** together with a letter of subscription on their own letterhead (a template of a letter of subscription can be obtained from us). All **Joint Insureds** must have common credit control, and must adhere to all the terms and conditions of the **Policy**. All **Joint Insureds** are jointly and severally liable and the addition of a **Joint Insured** does not make this a composite policy in any way whatsoever.

“**Maximum Claim Filing Period**” is the period immediately following a **Claimable Event Date** within which you must submit a claim to us for us to have any liability whatsoever. This period is six months or as varied by endorsement. If you otherwise notify us of a claim we may request that you submit a claim to us within the six-month period. Should we make such a request to you we will ask you to submit a claim within 60 days of the date of the request.

“**Maximum Extension Period**” is the maximum number of days that we allow you to extend the original due date of an **Insured Debt** subject to the conditions contained in the “Credit Management, Consultation and Notification” Section of the **Policy**.

“**Maximum Terms of Payment**” is specified in the **Declaration** and are the maximum terms allowable under this **Policy** unless varied by specific endorsements.

“**Non-Approved Claim Currency**” is a currency that is not any one of the **Approved Claim Currencies**.

“**Non Qualifying Loss**” (“**NQL**”) in respect of the indebtedness of a **Buyer** means any debt in respect of goods **Dispatched** or **Services Provided** on and after inception of the **Policy** and which is equal to or less than the amount specified in the **Declaration**. Such **Non Qualifying Loss** is not insured under this **Policy** and does not count towards the **Annual Aggregate Deductible**. Any loss that is equal to or less than the **NQL** is entirely for your own account.

“**Notifiable Event**” is any one or more of the events specified below:

- a. at any time to your knowledge any circumstance arises which could in the reasonable opinion of a prudent uninsured company give grounds for the belief that a **Buyer** may not (or may be unable to) perform or comply with its obligations under a contract of sale with you; or

- b. a **Buyer** is at any time to your knowledge unable to pay its debts as they fall due for payment; or
- c. a check, bill of exchange, sight draft, promissory note or other similar payment instrument in respect of any indebtedness of a **Buyer** to you is at any time dishonored by the entity on which it is drawn whether or not subsequently re-presented and met; or
- d. an event of **Insolvency** occurs in respect of a **Buyer**, or an external administrator is appointed to the **Buyer**; or
- e. any part of an **Insured Debt** is not paid in cash or by check or bill of exchange available for immediate presentation by the last day of the **Maximum Extension Period**; or
- f. there is any dishonored, unpaid or returned direct debit; or
- g. there is any request by a **Buyer** to extend the due date for payment beyond the **Maximum Extension Period**; or
- h. there is the acknowledgement by a **Buyer** of cash flow difficulties; or
- i. events that occur in a **Buyer's** country which prevent, restrict or delay payment of the debt (or part of it) to you outside that country; or
- j. an event occurs that is written into your **Approved Credit Management Procedures** and causes you concern.

“Policy” means the contract of insurance that we issue to you pursuant to the **Application** that you made to us and includes this document, the **Declaration** and any **Buyer** or **Policy** endorsement, the **Credit Management Questionnaire**, and attachments that we may issue to you from time to time.

“Policy Amount” is the maximum aggregate liability that we have under the **Policy** and is the amount specified in the **Declaration**. Once the aggregate value of claims paid to you reaches this figure you are not entitled to any further claims under the **Policy**.

“Policy Currency” is the currency specified in the **Declaration** and is the currency you have requested the **Policy** to be issued in and to which we have agreed.

“Policy Period” is the period specified in the **Declaration**.

“Premium” is the amount payable by you to us stated in the **Declaration**.

“Protracted Default” occurs in respect of a **Buyer** when the **Buyer** fails to pay an **Insured Debt** by the end of the **Protracted Default Period**.

“Protracted Default Period” is the period of four (4) months commencing on the original due date for payment of an **Insured Debt** under the relevant contract for the sale of goods or, if that original due date is postponed in accordance with the **Maximum Extension Period**, such postponed due date.

The **Protracted Default Period** shall not commence or continue to run while an **Insolvency** of a **Buyer** exists or while the **Buyer**:

- a. is entitled or obliged to refuse payment of an **Insured Debt** under any law or regulation or is obliged to refuse payment, by a person exercising powers of government; or
- b. claims that it is entitled to withhold payment of any part of an **Insured Debt** and we are satisfied that a dispute exists between you and the **Buyer** which has not been resolved by the parties to the relevant contract or by arbitration, or by legal proceedings.

“Provided” in relation to **Services** occurs when such **Services** have been performed by you or on your behalf in accordance with the relevant contract and you are entitled to invoice for such **Services**.

“Salvage” is the value of all goods recovered (whether under retention of title or otherwise), all monies (including dividends paid or payable out of an insolvent estate), securities, indemnities, guarantees, rights of action, counter claims, set-offs or other advantages held, received by or due to you or otherwise available for the purpose of reducing the amount of any indebtedness of a **Buyer** to you (whether in respect of the payment for goods or services, or otherwise) which has not been paid at the time that a **Notifiable Event** first occurs.

“Services” means services that are performed by you for a **Buyer** under a written contract and which must be **Provided** within the **Policy Period**. In the event of **Insolvency** or **Protracted Default** of the **Buyer** the value of any such services which have not been invoiced, must be invoiced immediately so as not to prejudice you or us.