



# Declaration: Credit Guarantee (participants on the electricity and gas market)

**The Debtor's declaration concerning registration, financial position,  
anti-bribery, payment of distribution, bonuses and variable  
remuneration and use of the Credit Facility**

**Name of Debtor:**

**Address:**

**CVR no.:**

In order for the Guarantee Beneficiary to provide a Credit Facility to be partly guaranteed by EKF, the Debtor must fill in, sign and submit this declaration form ("Declaration") to the Guarantee Beneficiary, who will forward the Declaration to EKF.

Expressions with capital letters in this Declaration shall have the same meaning as in the general terms and conditions for "guarantee to banks and financial institutions for loans, credit facilities and guarantees to participants on the electricity and gas market".

## 1. Declaration concerning the Debtor's registration and financial position

We hereby declare that the Debtor is registered with the Danish Central Business Register (CVR) under the CVR number stated above.

## 2. Non-bribery declaration

### Agents

We hereby declare that all payments of commission/fees to agents concern relevant services and are commensurate with the value of the service provided.

### Non-bribery

Is the Debtor included in a publicly available debarment list of one or more of the following international financial institutions? World Bank Group, African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development or Inter-American Development Bank  Yes  No

Is the Debtor or any person acting on its behalf being prosecuted, or has the Debtor or any person acting on its behalf within the past five years been convicted, by a national court of law for violation of laws against bribery of public officials or private individuals in any country?  Yes  No

Denmark has acceded to the OECD convention on combating bribery of foreign public officials in international business transactions (the OECD Anti-Bribery Convention). Pursuant to the OECD Anti-Bribery Convention, EKF, like any other OECD export credit institution, is under an obligation to



obtain a declaration stating that bribes have not been and will not be offered. The provisions of section 122 of the Danish Criminal Code on bribery of public officials and section 299(2) on bribery of private individuals apply correspondingly.

Section 122 of the Danish Criminal Code reads as follows: “Any person who unduly grants, promises or offers someone performing a public function or office with a Danish, foreign or international public organisation a gift or another privilege to make the relevant person perform or fail to perform such function or office is sentenced to a fine or imprisonment for a term not exceeding six years”.

Section 299(2) of the Danish Criminal Code on bribery of private individuals (secret commission) reads as follows: “A fine or imprisonment for a term not exceeding four years is imposed on any person who receives, demands or agrees to receive a gift or another privilege for himself or others in a manner contrary to his duty of managing the property entrusted to him by another person, and on any person who grants, promises or offers such gift or other privilege”.

EKF encourages all companies to develop, apply and document monitoring systems combating bribery.

With reference to the foregoing, we hereby declare that neither the Debtor nor any person acting on its behalf, on its instructions or with its knowledge has offered or will offer bribes related to the Credit Facility.

### **3. Declaration concerning payment of distribution, bonuses and variable remuneration etc.**

In accordance with section 8(2) of the executive order no. 1442 of 16 November 2022 (as amended or replaced from time to time), we hereby declare that the Debtor will not in the current financial year nor the next financial year:

- distribute dividends or make any other distribution of money or assets to the Debtor's shareholders by way of share-by-back programmes, capital reductions or otherwise; or
- outside its ordinary cause of business pay bonuses or other variable remuneration to the Debtor's management.

### **4. Declaration concerning use of the Credit Facility**

We hereby declare that the Credit Facility will only be used for the purpose of the Debtor's reasonably expected margin call requirements for a period of 12 months in respect of providing collateral under non-speculative Electricity Derivatives and non-speculative Gas Derivatives that are subject to clearing with a CCP or indirectly via a Clearing Broker etc.

We further declare that the Credit Facility will not be used for any other purposes, including, without limitation, any repayment or prepayment of debt, release of guarantees or similar.

We furthermore declare that the Credit Facility will be held separate from the Debtor's other facilities with the Guarantee Beneficiary and will be managed in one or more accounts with the Guarantee Beneficiary.

If EKF has provided one or more credit guarantees for one or more other credit facilities, we hereby declare that the collective amount guaranteed by EKF under such other credit guarantees and the Credit Guarantee does not exceed the Debtor's reasonably expected margin call requirements for a period of 12 months in respect of providing collateral under non-speculative Electricity Derivatives and non-speculative Gas Derivatives that are subject to clearing with a central counterparty (CCP) or indirectly via a Clearing Broker etc., see section 4(5) of the executive order no. 1442 of 16 November 2022 (as amended or replaced from time to time).

## 5. Declaration concerning other aid received

We declare that the Credit Facility is not subject to any COVID-19 aid<sup>1</sup>, including any Covid-19 guarantee provided by EKF and/or Vækstfonden, or any liquidity support introduced as a consequence of the Russia's invasion of Ukraine in the form of subsidised loans under section 2.3 of "Communication from the Commission on the Temporary Crisis Framework for State aid measures to support the economy following aggression against Ukraine by Russia" (OJ C 131 I, 24.3.2022, p. 1) as amended (the "**Temporary Crisis Framework**")<sup>2</sup>.

We further declare that we are aware of the European Union's *de minimis* rules (see the guidelines in the appendix) and that we (including any "single undertaking" as defined in the appendix) have previously received the following *de minimis* aid and COVID-19 aid, including any Covid-19 guarantee provided by EKF and/or Vækstfonden:

Provider of aid	Name of the aid measure	File no.	Amount of aid received	Date of granting of aid

Instructions:

- Please provide information on any *de minimis* aid received (excl. the Credit Guarantee) in accordance with the European Union's *de minimis* rules (see the appendix) during the latest three fiscal years as of today i.e. the current fiscal year and the previous two fiscal years.
- If no aid has been received, please write "0" or "N/A".

## 6. Disclosure and acceptance for sharing of information

We accept that EKF may disclose information on the use of the Credit Guarantee scheme, including, but not limited to, information about the amounts of individual guarantees, use of the facility, use in various sectors, etc. EKF will not disclose identifiable information on individual Guarantee Beneficiaries or Debtors without the prior consent of the relevant parties.

We furthermore accept that the Guarantee Beneficiary and EKF, including their respective advisors and auditors, may exchange and process all relevant information and data regarding the Debtor and the Credit Facility for the purposes of assessing, processing, issuing and handling the Credit Guarantee and assessing to which extent the requirements for maintaining and complying with the Credit Guarantee are fulfilled.

## 7. Documentation and auditing

Throughout the term of the Credit Guarantee, we accept that the Debtor must be able to provide documentation proving that the requirements set out under items 1 - 5 above were met, and that the information provided pursuant to items 1 - 5 was correct at the date of signing this Declaration. Failure to satisfy the requirements under items 1 - 5 or failure to document such satisfaction may

<sup>1</sup> Measures adopted pursuant to Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended

<sup>2</sup> Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.CI.2022.131.01.0001.01.ENG>  
Lautrupsgade 11, 2100 DK-KBH Ø | T: +45 35 46 26 00 | [ekf@ekf.dk](mailto:ekf@ekf.dk) | [ekf.dk](http://ekf.dk)



affect any future assessments by EKF of the Debtor's eligibility for EKF's guarantees and may result in liability for damages and other remedies available under applicable law.

## 8. Representations and declarations

In keeping with what is stated above, the undersigned Debtor hereby represents and declares

- that the information contained in this Declaration is true and correct;
- that we will indemnify EKF for any loss or expense, including legal fees, incurred as a result of our participation or the participation of any person acting on our behalf in acts or omissions in connection with any conduct or circumstances mentioned under item 4 or in case this Declaration contains any substantially wrong or misleading information, and that we acknowledge that EKF towards the Debtor may demand that the Credit Facility be terminated if this Declaration contains any significant misrepresentation;
- that EKF may publish our name and industry as stated under item 6 above; and
- that EKF is under no obligation to repay any already paid fee, commission or any other payment;

## 9. Governing law and jurisdiction

This Declaration is subject to Danish law and jurisdiction.

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Place/date

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Name and CVR number

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Name, Titel (both in block capital) and Signature as per signing powers/authority

## Appendix – The European Union's *de minimis* rules

EKF's Credit Guarantees are provided in accordance with the European Union's state aid rules. This implies that a single undertaking may receive state aid, hereunder aid from the European Union administered by an EU member state, on up to EUR 200,000 within the latest three fiscal years without notifying the EU Commission hereof<sup>3</sup>.

A "single undertaking" includes enterprises having at least one of the following relationships with each other<sup>4</sup>:

- a) one enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
- b) one enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
- c) one enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
- d) one enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

Enterprises having any of the relationships referred to in points a) to d) through one or more other enterprises shall also be considered to be a single undertaking.

Any *de minimis* aid received by any of the enterprises mentioned above shall be included in the table in section 5 of the declaration.

If more than one undertaking is Debtor under the Credit Agreement, each Debtor shall disclose information on *de minimis* aid.

Further information on the rules for state aid, including especially the state aid handbook, is available on the website of the Danish Ministry of Industry, Business and Financial Affairs, here (in Danish only):

<https://em.dk/ministeriet/arbejdsomraader/erhvervsregulering-og-internationale-forhold/statsstoette/>

and on the website of the European Commission, here:

[https://competition-policy.ec.europa.eu/state-aid/legislation\\_en](https://competition-policy.ec.europa.eu/state-aid/legislation_en)

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<sup>3</sup> Commission regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p. 1)

<sup>4</sup> See art. 2(2) of the said Commission regulation