

ATTACHMENT GUARANTEE (NVB 1999)
(home market)

The undersigned,
....., established in, also having an office in,
hereinafter called the 'Bank'

WHEREAS:

- A , hereinafter called:
The "Beneficiary", alleges to have a claim against , hereinafter called the
'Debtor', on account of, currently calculated at EUR , hereinafter
called: the 'Claim';
- B the Beneficiary has caused or intends to cause (a) conservatory attachment(s)
(*conservatoir beslag*) to be made against the Debtor in respect of the Claim;
- C the Debtor has requested the Bank to issue a bank guarantee for the benefit of
the Beneficiary for the purpose of the withdrawal or prevention of such
attachment(s) and to prevent any further conservatory attachment in respect of
the Claim;

STATES THE FOLLOWING:

- 1. The Bank hereby irrevocably guarantees vis-a-vis the Beneficiary the payment
of all that will be due to the Beneficiary by the Debtor in respect of the Claim as
shown by the pieces of documentary evidence specified under Article 2,
paragraphs a to c inclusive, or in the preamble of Article 3 or in paragraphs a
and b, subject to the provisions set out below.
- 2. The Bank undertakes to pay to the Beneficiary, at the Beneficiary's first written
demand and on the simultaneous production of:
 - a. a copy of a decision of a Dutch court given in proceedings between the
Beneficiary and the Debtor in respect of the Claim, accompanied by a
statement of a solicitor, registered to practice in the Netherlands, to the
effect that no notice of appeal, cassation or opposition was received
within the legal term laid down for this and that, to his knowledge, no
notice of appeal or cassation was given against the decision within this
term, or that objection to a default judgment was made within six weeks
after service of the judgment to the Bank, or
 - b. an original copy of an arbitration award rendered in proceedings between
the Beneficiary and the Debtor in respect of the Claim, or
 - c. a copy, certified by the parties, of a deed containing an amicable
settlement between the Beneficiary and the Debtor in respect of the
Claim,the sum which the Beneficiary declares in writing to be due and payable by the
Debtor in respect of the Claim, it being understood that the Bank shall not be
bound to pay more than the sum which the Beneficiary can claim from the

Debtor, as shown by one or more of the above-mentioned pieces of documentary evidence.

3. If the Debtor is declared bankrupt (*failliet verklaard*) or if the Debtor falls under the scope of a statutory debt rescheduling regulation (*wettelijke schuldsanering*), the Bank, after the expiry of a period of four (4) months after the day on which the Beneficiary informed the Bank by registered mail that the Debtor has been declared bankrupt or falls under the scope of a statutory debt rescheduling regulation, accompanied by written confirmation of the receiver in the bankruptcy: hereinafter (*curator*) respectively the administrator (*bewindvoerder*) that the Debtor has been declared bankrupt or that he falls under the scope of a statutory debt rescheduling regulation, shall pay the Beneficiary the sum which the Beneficiary declares in writing to be due and payable by the Debtor in respect of the Claim unless
 - a. the Bank served a writ of summons on the Beneficiary within the aforementioned four (4) months period with a view to causing the validity and the amount of the claim to be determined in legal proceedings or to cause the Beneficiary to be barred from invoking this guarantee, in which case the Bank will effect payment to the Beneficiary against surrender of a copy of a decision of a Dutch court, which is not or no longer subject to appeal (*in kracht van gewijsde gegaan*), rendered in proceedings between the Beneficiary and the Bank; or
 - b. the receiver in the bankruptcy or the administrator served a writ on the Beneficiary within the aforementioned four (4) months period to appear in court with a view to causing the validity and amount of the Claim to be determined or to bar the Beneficiary from invoking this guarantee and the receiver in the bankruptcy or the administrator notified the Bank of this by registered mail within the aforementioned period, in which case the Bank will effect payment to the Beneficiary against surrender of a copy of a decision of a Dutch court, which is not or no longer subject to appeal, rendered in proceedings between the Beneficiary and the receiver in the bankruptcy or the administrator, and furthermore against surrender of a statement in accordance with article 2, paragraph a, or a deed as referred to in article 2, paragraph c,it being understood that the Bank shall not be bound to pay more than the sum which the Beneficiary can claim from the Debtor as shown by any of the aforementioned pieces of documentary evidence.

The provisions laid down in this article do not prejudice the Beneficiary's rights to demand payment pursuant to article 2.

4. This guarantee covers a maximum sum of EUR (in words: (amount written out in full).
If the Beneficiary, in the event of a written demand for payment in respect of this guarantee, states that such demand concerns a partial payment, the guarantee will continue to remain in force for the remaining amount.
5. Unless
 - (i) legal proceedings have been instituted before the competent court in respect

of the Claim between the Beneficiary and the Debtor, or
(ii) notice is given of the appointment of one or more arbitrators pursuant to an arbitration clause, or
(iii) such appointment is requested or proposed, or
(iv) an amicable settlement is effected before or within .. months after the date of signing this guarantee,
and
(v) the Bank has received written notification of one of these from or on behalf of the Beneficiary,
this guarantee shall expire within a month following the period specified in this article and in any event within ten (10) years after the date on which this guarantee was signed, unless the Bank has received a written statement from a solicitor, registered to practice in the Netherlands and acting on behalf of the Beneficiary, to the effect that proceedings between the Beneficiary and the Debtor in respect of the Claim are still pending or that, pursuant to article 3, proceedings between the Beneficiary and the receiver in the bankruptcy respectively the administrator or the Bank are pending, in which case the guarantee will be valid for an additional ten (10) years period.

6. After expiry of this guarantee the Beneficiary will no longer be entitled to lodge any claim in respect of this guarantee <<optional: 'and, at the Bank's request, the Beneficiary will be obliged to return this guarantee to the Bank' or 'release the Bank from its obligations'>>.
7. This guarantee shall be governed exclusively by Dutch law.
The words used in this guarantee to express legal concepts, although in English, refer to Dutch legal concepts only and the consequences of the use of these words in English law or any other foreign law shall be disregarded.
8. Any disputes between the Bank and the Beneficiary concerning this guarantee, as well as the proceedings as meant in article 3, paragraph a, shall, in first instance be submitted exclusively to the competent Court in

Thus made and signed in on

The Bank:

NOTES TO THE 1999 NVB ATTACHMENT GUARANTEE (HOME MARKET)

In day-to-day practice, if a conservatory attachment has been made on assets, withdrawal of this attachment will often be demanded. The reason for this is that such an attachment impedes the management of the judgment debtor, or even makes such management impossible.

By virtue of section 705, paragraph 2 of the Code of Civil Procedure, a conservatory attachment made in respect of a monetary claim will be withdrawn if adequate security is provided in respect of such claim. This security is often provided through a bank guarantee. In day-to-day practice, different bank guarantee models are used, including the NVB model (the model of the Netherlands Bankers' Association) and the Rotterdam guarantee form.

Consultations have taken place between NVB and the Rotterdam Guarantee Committee, which have resulted in a new attachment guarantee model. This guarantee is a documentary model tailored to the domestic market, which will be applicable in over 95% of the cases in which withdrawal of an attachment is demanded.

Major changes in this model, as compared to the previous NVB model and the Rotterdam guarantee form, are:

1. As well as a decision of a Dutch court, the beneficiary must submit a statement from a solicitor, registered in the Netherlands, to the effect that the legal term (where applicable) for sending a notice of opposition, appeal or cassation has expired and that, to his knowledge, no notice of opposition, appeal or cassation to fight the decision was sent within that term. This is to prevent that the bank itself has to investigate whether or not a decision is final and conclusive.
2. A rule has been included in case a default judgment has been given.
3. A rule has been included for the situation in which the debtor has been declared bankrupt. This rule serves to prevent that a beneficiary is unable to demand payment under the guarantee because no (first) creditors' meeting has taken place. Under this rule, the bank pays after the expiry of a period of four months after the date on which the beneficiary informed the bank by registered post that the debtor has been declared bankrupt. This should be accompanied by a confirmation of receiver in the bankruptcy that the debtor has been declared bankrupt. The bank will not be obliged to pay after the expiry of this period in case the bank or the receiver in the bankruptcy has taken legal action against the beneficiary.
4. A rule has been included for the situation in which the debtor falls under the scope of a statutory debt rescheduling regulation.
5. At the beneficiary's request, the term of the guarantee may be extended by another ten-year term if the beneficiary submits a written statement from a solicitor, registered in the Netherlands, that another lawsuit between the beneficiary and the debtor is pending in connection with the claim in respect of which an attachment has been made.

6. The bank guarantee shall expire if, within a certain term, no proceedings are instituted in respect of the claim for which an attachment has been made or if no amicable settlement is effected, as the case may be, and the bank has not been notified of this within a month after the expiry of the aforementioned term.