

§ 1488.13

7 CFR Ch. XIV (1-1-08 Edition)

must confirm the full amount thereof. CCC will hold the branch bank liable for payment without regard to risks.

(e) If CCC accepts an agency bank confirmation of a foreign bank obligation, it must be for the full amount thereof without regard to risks and will be subject to such terms and conditions as may be contained in the financing agreement. CCC will not accept an agency bank confirmation of an obligation issued by its home office, or by a branch of its home office.

(f) Except as provided in paragraphs (a), (c), and (d) of this section, if a U.S. bank or a branch bank confirms an obligation issued by a foreign bank, it must confirm at least 10 percent pro rata and must advise the remainder of the foreign bank obligation. The percentage of confirmation shall be the same for both the account receivable and the interest portions of the obligation. For the confirmed amount, except as provided in paragraph (a)(2) of this section, CCC will hold the U.S. bank or branch bank liable for commercial risks but not for non-commercial risks. For the advised amount, CCC will not hold the U.S. bank or branch bank liable for commercial or non-commercial risks. CCC will hold the foreign bank liable without regard to risks for all amounts not recovered from the U.S. or branch bank.

(g) Under special circumstances, on application in writing, the Vice President, CCC, may reduce or waive requirements for 10 percent confirmation by a U.S. or branch bank, but a bank will not be relieved of any obligation it undertakes.

(h) Any bank obligation which provides for a bank acceptance of a time draft by CCC (banker's acceptance) shall not be acceptable to CCC.

(i) CCC will consent to cancellation or reduction of a bank obligation to the extent of any payment it receives from other sources or amounts otherwise payable under such bank obligation.

(j) Collection of accounts receivable purchased under GSM-5 will be effected through the issuance by CCC of sight drafts against the bank obligations, but this method of collection shall not

be exclusive of any other collection procedures or rights available to CCC.

[42 FR 10999, Feb. 25, 1977, as amended at 42 FR 27569, May 31, 1977; 42 FR 30833, June 17, 1977; 43 FR 45551, Oct. 3, 1978; 44 FR 51187, Aug. 31, 1979]

§ 1488.13 CCC drafts.

CCC will draw one draft for each payment due under bank obligations. If any portion of a CCC draft is dishonored, the U.S. bank or branch bank shall return the dishonored draft together with its statement of the reason for nonpayment. If a draft which is drawn under a partially confirmed bank obligation is dishonored, CCC will replace the draft with separate drafts for the confirmed and unconfirmed portions at the request of the confirming bank. Such replacement shall not alter the confirming bank's obligation for timely payment to CCC of the confirmed portion of the credit. For confirmed amounts, except as provided in § 1488.12(a), (c) and (d), a U.S. or branch bank may request refund from CCC of the amount paid if it certifies to CCC that it is unable to recover funds from the foreign bank due to a stipulated non-commercial risk which existed on the date payment was made to CCC under the draft. If CCC finds that inability to recover funds was due to such a non-commercial risk, the refund shall be promptly made together with interest at the Federal Reserve Bank of New York discount rate from and including the date payment was originally made to CCC but not include the date of refund by CCC. For unconfirmed amounts, remittance to CCC shall be considered final, and the U.S. bank or branch bank shall not thereafter have recourse to CCC.

[42 FR 10999, Feb. 25, 1977, as amended at 42 FR 27569, May 21, 1977; 42 FR 30833, June 17, 1977]

§ 1488.14 Interest charges.

The account receivable assigned to CCC and the related bank obligation(s) shall bear interest as specified in this section. Rates of interest applicable to financing agreements shall be published in USDA announcement. The interest rate applicable to that portion of an account receivable for which payment is assured by a bank obligation

issued or confirmed for all risks according to §1488.12(a)(ii) or pro rata confirmed by a U.S. bank shall be lower than the interest rate applicable for the remainder of the account receivable. The interest rate applicable to that portion of an account receivable the payment of which is assured by a bank obligation issued or pro rata confirmed by a branch bank shall, when determined by the President or Vice President, CCC after consultation with the Controller, CCC, to be in the interest of CCC, be lower than the interest rate applicable for the remainder of the account receivable. The interest rates applicable to accounts receivable the payment of which is assured by an agency bank confirmation may, when determined by the President or Vice President, CCC, after consultation with the Controller, CCC, to be in the interest of CCC, be lower than the interest rate applicable for the remainder of the account receivable. The interest rate applicable will be the rate in effect on the date CCC receives the sale registration request under §1488.4. Interest shall accrue on the account receivable from the date of delivery or the weighted average delivery date of the agricultural commodities delivered under the financing agreement to the date of payment, or to the date of expiration of the financing period, or to the date of expiration of the bank obligation, whichever occurs first, and shall be payable as specified in the financing agreement. Thereafter, interest shall accrue on any unpaid part of both the principal and interest due as of such expiration date.

[42 FR 10999, Feb. 25, 1977, as amended at 42 FR 27569, May 31, 1977]

§ 1488.15 Advance payment.

If, before expiration of the financing period, the exporter or the U.S. bank or the agency or branch bank accepts payment from or on behalf of the foreign importer of any part of the account receivable, it shall be remitted promptly to CCC. Such prepayment shall be applied first to interest on the unpaid balance of the account receivable to the date CCC receives such prepayment and then to the principal.

§ 1488.16 Liability for payment.

If delivery is made within the coverage of the bank obligation(s) submitted in accordance with §1488.8, CCC will look to the obligating bank or banks and the foreign importer, rather than to the exporter or intervening purchaser, for payment of all amounts due at maturity of the account receivable and of the bank obligation(s), but the exporter and the intervening purchaser shall remain liable for any loss arising from breach of any contractual obligation, certification or warranty made by them pursuant to the financing agreement, and the exporter shall remain liable for any amounts not covered by the bank obligation which are owing to CCC, and any remittance or refund required by §1488.15 and §1488.18, together with interest thereon at the rate specified in the documents evidencing the account receivable, as well as for any liquidated damages provided for in §1488.11. The liability of the bank and the importer under their respective obligations shall be several.

MISCELLANEOUS PROVISIONS

§ 1488.17 Assignment.

The exporter shall not assign any claim or rights or any amounts payable under the financing agreement, in whole or in part, without written approval of the Vice President, CCC, or the Controller, CCC.

§ 1488.18 Covenant against contingent fees.

The exporter warrants that no person or selling agency has been employed or retained to solicit or secure the financing agreement on an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the exporter for the purpose of securing business. For breach or violation of this warranty, CCC shall have the right, without limitation on any other rights it may have, to annul the financing agreement without liability to CCC. Should the financing agreement be annulled, CCC will promptly consent to the reduction or cancellation or related bank obligations except for amounts outstanding