



Policy Title	<b>CUSTOMS BONDS MANAGEMENT POLICY</b>
Responsible Departments	Customs and Excise
Policy Owner	Head: Customs and Excise
Implementation Date	01 January 2026
Approval Date	Date of Signature
Reference/Version Number	1.0
Reason for Latest update/review	First Draft
Previous Review Date	N/A
Next Review Date	Every year from Implementation Date
Benchmarked Documents	SARS Customs and Border Management External Policy: Customs Bonds SC-SE-05 The U.S. Code of Federal Regulations (CFR) Title 19 (Part 113) ICC International Standard Demand Guarantee Practise for Uniform Rules for Demand Guarantees (URDG) 758

## TABLE OF CONTENTS

ACRONYMS, ABBREVIATIONS AND DEFINITIONS .....	3
1. POLICY STATEMENT:.....	6
2. PURPOSE.....	7
3. SCOPE OF POLICY .....	7
4. POLICY OWNER.....	7
5. RESPONSIBILTIES.....	7
6. AUTHORITY TO REQUIRE SECURITY OR EXECUTION OF BOND:.....	9
7. BOND APPLICATIONS AND APPROVAL OF BONDS .....	13
8. REQUIREMENTS AND CONDITIONS FOR GUARANTEE <sup>GUARANTEES</sup> .....	14
9. ATA CARNETS.....	17
10. BOND TYPES AND GUARANTEE AMOUNTS:.....	17
11. CRITERIA TO DEDUCT SECURITY FROM STANDARD GUARANTEE AMOUNT:.....	18
12. AMENDMENT OF GUARANTEE <sup>GUARANTEES</sup> :.....	19
13. TERMINATION OR CANCELLATION OF GUARANTEE <sup>GUARANTEES</sup> .....	21
14. BREACH OF CONDITIONS COVERED BY A GUARANTEE <sup>GUARANTEE</sup> .....	22
16. APPEALS AGAINST DECISIONS .....	23
17. PENALTIES .....	23
18. REVIEW OF POLICY .....	24
19. EFFECTIVE DATE .....	24
20. APPROVAL .....	24

## ACRONYMS, ABBREVIATIONS AND DEFINITIONS

Role	Responsibility
<b>AEO</b>	An Authorised Economic Operator (AEO) accredited by NamRA in terms of section 18B of the Customs and Excise Act, 1998 and the AEO Policy.
<b>ATA CARNET</b>	The Admission Temporaire or Temporary Admission Carnet is an internationally recognised Customs and temporary export-import document which allows duty-free and tax-free temporary imports into participating countries.
<b>Banking Financial Institution</b>	A banking institution defined in section 1 of the Banking Institutions Act, 2023 (Act No. 13 of 2023), which entered into force on 8 August 2023.
<b>Bond Operator</b>	Refers to natural or juristic persons who are registered or licensed with NamRA to use a guarantee.
<b>Clearing Agent Bond</b>	A guarantee for use by clearing agents to ensure compliance with Customs regulations and the payment of duties and taxes.
<b>Clearing Agent</b>	A legal person licensed by the Commissioner, for the purpose of section 40 of the Customs and Excise Act, 1998 (Act No. 20 of 1998), to make an entry or to deliver a bill of entry relating to any goods, for reward, on behalf of any importer or exporter of goods in accordance with section 73, as read with Schedule 8 to that Act.
<b>Deferment Facility Bond</b>	A guarantee for use by importers and exporters to ensure compliance with Customs regulations and the payment of duties and taxes within 30 or 90 days, where applicable, from the date of assessment of a goods declaration.
<b>Customs and Excise Act, 1998</b>	Customs and Excise Act, 1998 (Act No. 24 of 1998) (as amended)
<b>Customs and Excise Warehouse Bond</b>	A guarantee used to ensure compliance with Customs regulations and the payment of duties and taxes on goods which are imported and deposited into or exported from a Customs and Excise bonded warehouse.
<b>Dormant entry</b>	A registered declaration which is not yet assessed or registered declaration which has been accepted and assessed by NamRA but which is not yet paid as defined in the Standard Operating Procedures for the Payment for and Cancellation of Dormant Entries Accrued from 2008 – 2021 that was signed on 07 March 2023.

<b>Dry Port</b>	Inland intermodal terminals at Sea Port which function as transhipment centres for sea cargo to any other neighbouring countries. They are designed to handle, store, and facilitate the movements of goods in and out of Dry Port.
<b>EPZ Enterprise</b>	An Export Processing Zone (EPZ) enterprise established and which holds a registration certificate issued under section 14 Export Processing Zones Act, 1995 (Act No. 9 of 1995).
<b>Expiry date</b>	The date specified in a guarantee by which a presentation for the demand for payment must be made to the guarantor.
<b>Effective date of Guarantee</b>	The date when a guarantee starts to be valid and binding on the guarantor.
<b>Financial Institution</b>	A “banking institution” as defined in the Banking Institutions Act, 2023 (Act No. 13 of 2023) (which entered into force on 8 August 2023) and includes “financial institutions” as defined in the Namibia Financial Institutions Supervisory Authority Act, 2001 (Act No. 3 of 2001) such as a registered central securities depository; a collective investment scheme of a registered manager, a registered exchange; a registered friendly society; a registered insurer; a registered medical aid fund; a registered reinsurer; a registered retirement fund or a registered securities clearing house, who issues guarantees.
<b>Guarantee</b>	A guarantee or promise that assures the payment of duties and taxes through a legally binding contract in which the guarantor (i.e. financial institution) promises to fulfil the financial obligations of a person or debtor (i.e. trader), to a guarantee (i.e. NamRA), in the event where the debtor fails to pay the debt due.
<b>IM5</b>	A Customs Procedure Code (CPC) in the ASYCUDAWorld System used for declaring the temporary importation of goods.
<b>Person</b>	a natural persons or legal persons
<b>Removal of Goods in Bond</b>	The process of moving goods under bond, which means that the movement of goods is subject to certain conditions and restrictions.
<b>SADC</b>	Southern African Development Community
<b>SACU</b>	Southern African Customs Union
<b>SOP</b>	Standard Operating Procedure
<b>Temporary Import Bond</b>	A guarantee used to ensure compliance with Customs regulations and the payment of duties and taxes on goods imported on temporary basis within a specified period.

<b>TEU</b>	Twenty Foot-Equivalent Unit
<b>Transit Shed</b>	A secure premises approved by the Department: Customs and Excise for the temporary storage of cargo in transit which is removed from a ship, aircraft or vehicle until such cargo has been cleared by Customs. These premises are typically located on or near a pier or wharf at harbours, airports or at land border posts.
<b>Transit Bond</b>	A guarantee used to ensure compliance with Customs regulations and the payment of duties and taxes on goods which are imported into Namibia but destined for transit to another country.

## **1. POLICY STATEMENT:**

The Customs bonds management policy (Policy) in line with NDP6 is intended to support Namibia's vision to become a transport and logistics hub connecting the Southern African Development Community (SADC) to international markets by increasing the Walvis Bay Port capacity in Twenty-Foot Equivalent Units (TEU)s from 750,000 to 1,000,000 per annum through reduced security amounts for transit facility operators and Customs bonded warehouses within and around the Walvis Bay Port reasonably necessary to secure against the risk of non-payment of any revenue legally owed and not paid in cash at entry. This bond policy is focused on custodial type activities and operators.

A key function of NamRA in section 3(a) of the Namibia Revenue Agency Act, 2017 (Act No. 12 of 2017) is "to assess and collect taxes and duties on behalf of the State". Generally, the Customs and Excise Act, 1998 (Act No. 20 of 1998) permits goods to be released without payment of all duties and taxes that may be owed for importing or transporting such goods. As a result, Customs and Excise Act, 1998 states that security must be furnished to satisfy the Commissioner that the obligation to pay all applicable duties for those goods will be fulfilled. Wherever security is required by the Customs and Excise Act, 1998, the Commissioner is empowered to determine the form, nature or amount of the security to be furnished. The Commissioner is also empowered to alter, at any time, the form, nature or amount of such security in such manner as he or she may in writing determine.

Security can be furnished in different types such as guarantee or provisional payment under the Customs and Excise Act, 1998, however, in the case of bond operators under this policy, security must be in the form of a guarantee. A guarantee is issued to a bond operator by a financial institution such as a bank or non-bank institution, whereby that institution undertakes the liability to settle any outstanding Customs duty and tax on imported goods, or excise goods which are locally manufactured, or to export goods imported under rebate of Customs duties and taxes, should the bond operator fail to make payment of applicable duties and taxes or fails to comply with prescribed conditions. Essentially, a guarantee in this policy, is a contract between

three parties: the person (i.e. debtor), the financial institution (i.e. guarantor), and NamRA (i.e. guarantee) in favour of whom the obligation is made.

## **2. PURPOSE**

The purpose of the Customs bonds management policy is to outline the conditions and amount of guarantees to be furnished as security under the Customs and Excise Act, 1998. In addition, this policy seeks to ensure that such guarantee reflects a reasonable amount that is necessary to secure against any risk of non-compliance and non-payment of any revenue legally owed to NamRA and not paid by a bond operator.

## **3. SCOPE OF POLICY**

The Customs bonds management policy sets forth the general requirements for bond operators and financial institutions. It contains the requirements and regulatory authority in requiring guarantees, bond approvals, bond conditions, and the requirements which must be met by a person or a financial institution, and the requirements for cancelling the guarantee or charges against a guarantee.

## **4. POLICY OWNER**

The Commissioner is the owner of the Customs bonds management policy and shall have the overall oversight of the Policy.

## **5. RESPONSIBILITIES**

The following outlines the roles and responsibilities of key parties for the Customs Bond Management Policy:

<b>Role</b>	<b>Responsibility</b>
<b>Head: Customs and Excise</b>	<p>Head: Customs and Excise shall be responsible for the administration of the Customs Bond Management Policy, and in addition shall be responsible for:</p> <ul style="list-style-type: none"><li>• advising and reporting the efficient implementation of the Policy to the Policy Owner.</li><li>• Oversee the review of the Customs Bond Management Policy.</li></ul>

	<ul style="list-style-type: none"> <li>Actively participating in the management and resolution of Customs bonds management disputes and related incidents as required.</li> </ul>
<b>Division: Trade Facilitation and Customs Procedures</b>	<p>The Division: Trade Facilitation and Customs Procedures shall be responsible for ensuring that the registration and licensing of specified Customs activities under the Customs and Excise Act, 1998 are carried out in terms of Customs Bond Management Policy, and in addition shall be responsible for:</p> <ul style="list-style-type: none"> <li>Administration of Customs Bond Programme, which includes issuing demand letters to persons and guarantors for failure to pay and coordinate with the Department: Legal Services Department to recover debt.</li> <li>Integrating and reviewing policies and procedures to ensure that Customs registration and licensing procedures are aligned to the Policy.</li> <li>Ensuring that all personnel within the Division are complying with the Policy.</li> <li>Regularly oversee the review of banking and non-banking institutions who are no longer eligible to provide guarantees or bank/ insurance guarantees as Customs security.</li> <li>Attending and supporting Customs bonds management training activities.</li> <li>Engaging internal and external stakeholders on Customs bonds management activities to facilitate improved compliance.</li> <li>Uploading, cancellation, amendments and suspensions of guarantees in the AW system</li> </ul>
<b>Division: Border Control and Operational Compliance</b>	<ul style="list-style-type: none"> <li>To conduct inspection on new applicant / relocation / closure of premises.</li> </ul>

	<ul style="list-style-type: none"> <li>• To conduct regular physical examination on customs and excise warehouses.</li> <li>• To manage and control the removal of goods in bond, for example import for home use, for export, for warehousing, for transit, for temporary import and re-exportation</li> </ul>
<b>Division: Technical Services and Excise Management</b>	<ul style="list-style-type: none"> <li>• Creation of login credentials for bonds operators</li> <li>• Provide assessment reports on outstanding liabilities from both systems (AW and A++)</li> </ul>
<b>Department: Legal Services</b>	<ul style="list-style-type: none"> <li>• Review report and evidence of noncompliance and payment default</li> <li>• Takes action to recover nonpayment of demand for duties and taxes owed</li> <li>• Forward further legal action necessary to Attorney-General through Ministry of Finance</li> </ul>

## 6. AUTHORITY TO REQUIRE SECURITY OR EXECUTION OF BOND:

6.1 The following provisions in the Customs and Excise Act, 1998 (Act No. 20 of 1998) specifically require security to be furnished to secure against any risk of non-compliance and non-payment of any revenue legally owed to NamRA and not paid by a trader upon entry:

(a) **Removal of Goods in Bond:** goods may be imported for different reasons and in terms of different Customs procedures, for example import for home consumption, for warehousing, for transit or for a temporary period before re-exportation. When goods are imported for transit, section 17 of the Customs and Excise Act, 1998 deals with the removal of goods in bond and permits the importer or owner of imported goods to remove goods in bond to any place designated as a place of entry, or place of warehousing, or to any place outside the country. Section 17 of the Customs and Excise Act, 1998 however, prohibits the removal of goods in bond in the event where Customs duties and taxes on those goods that have not been paid or without furnishing f security.

(b) **Exporting goods from a Customs and Excise Warehouse:** when goods are imported for warehousing or manufacturing, section 18 of the Customs and Excise Act, 1998 states that such goods cannot be re-exported from a Customs and Excise warehouse to any place outside or within the Common Customs Area (i.e. the combined areas of Botswana, Eswatini, Lesotho, South Africa, and in terms of the SACU Agreement) without the payment of Customs duties or taxes. However this policy makes provision for the payment to be furnished in the form of a guarantee.

(c) **Licensing of a Customs and Excise Warehouse:** goods imported for warehousing or manufacturing must be stored or manufactured in a Customs and Excise warehouse licensed by the Commissioner. The Customs and Excise Act, 1998 empowers the Commissioner to license the following types of Customs and Excise warehouses:

Type of Warehouse:	Description:
<b>Ordinary Storage (OS)Warehouse</b>	An OS warehouse is used to store dutiable goods where the payment of duty and tax is postponed for a specified period after which the goods must finally be cleared either for home consumption or export. Section 68 of the Customs and Excise Act, 1998 states that security to cover the Customs duties for goods stored or manufactured in a Customs and Excise storage or manufacturing warehouse or special Customs and Excise warehouse must be furnished before a warehouse can be licensed as a Customs and Excise warehouse.
<b>Manufacturing (VM) Warehouse</b>	A VM warehouse is a facility used for bottling of beer or packaging of tobacco, and tobacco products.
<b>Special Ordinary Storage (SOS) Warehouse</b>	An SOS warehouse includes duty free stores and warehouses which provide bonded stores and supplies to vessels and aircrafts as provided for in section 21 of the Customs and Excise Act, 1998.

<b>Special Manufacturing (SVM) Warehouse</b>	A SVM warehouse is a facility designed for storage of temporary imported raw materials used in the manufacturing of wine & vermouth, other fermented beverages, e.g. ciders, and plastics.
<b>Primary Manufacturing (VMP) Warehouse</b>	A VMP warehouse is a facility used for manufacturing of spirits, redistillation, maturation, and maceration.
<b>Secondary Manufacturing (VMS) Warehouse</b>	A VMS warehouse is a facility used for blending of Spirits, stabilizing of spirits, bottling of spirits e.g. brandy, whisky, gin, etc.
<b>Container Depot</b>	A container depot is a facility where imported goods may be stored, detained, unpacked, examined and packaged for delivery to importers or packaged for export. Container depots can only be operated by persons to whom a license is issued by the Commissioner under section 72 of the Customs and Excise Act, 1998, provided that security is furnished.
<b>Transit Shed</b>	A secure premise approved by Customs for the temporary storage of cargo in transit removed from a ship, aircraft or vehicle until the cargo has been Customs cleared. These premises are located on or near a pier or wharf at harbours, airports or at land border posts. Transit shed can only be operated by persons to whom a license is issued by the Commissioner under section 72 of the Customs and Excise Act, 1998, provided that security is furnished.
<b>Dry Port</b>	“For the purpose of the Intergovernmental agreement” on Dry Ports, a dry port “refers to an inland location as a logistics centre connected to one or more modes of transport for the handling, storage and regulatory authority inspections of goods moving in international trade in execution of applicable Customs & Excise control and formalities.” Dry ports can only be operated by persons to whom a license is issued by the Commissioner under section 72 of the Customs and Excise Act, 1998, provided that security is furnished.

(d) **Licenses to Search Wreck or to Search for Wreck:** section 74 of the Customs and Excise Act, 1998 states that licenses to search, or search

for, any wreck in section 122(1) must be issued by the Commissioner provided that security is furnished.

- (e) **Clearing Agent Licenses:** clearing agents are required to furnish security before a license can be issued under section 73 of the Customs and Excise Act, 1998. The policy subject clearing agent(s) to furnish security in a form of guarantee from a recognised banking and non-banking financial institution.
- (f) **Importation of Goods subject to Rebate of Duty:** apart from transhipment and warehousing, goods may also be imported for a temporary period. When goods are imported for a temporary period section 84(12) of the Customs and Excise Act, 1998 states that security must be furnished to cover the Customs duties and taxes which would otherwise be due on temporary importations made under rebate of Customs duties and taxes under rebate items 470.00, 480.00 and 490.00 in Part 3 of Schedule 4 to the Customs and Excise Act, 1998. The policy subject person temporarily importing goods to furnish security in a form of guarantee from a recognised banking and non-banking financial institution.
- (g) **Conveyance of Goods by carriers and Forwarding Agents:** section 110(3) of the Customs and Excise Act, 1998 requires the carrier of goods regulated by the Customs and Excise Act, 1998 to furnish security before conveying such goods for the due observance of the provisions of the Customs and Excise Act, 1998. The policy subject carriers or forwarding agents to furnish security in a form of guarantee from a recognised banking and non-banking financial institution.

6.2 The security to be furnished for the activities in paragraph 6.1 of this policy must be in the form of a guarantee.

6.3 A guarantee is not required for goods imported for specified activities under rebate of Customs duties for use in an Economic Processing Zone (EPZ) under rebate items 498.01 and 498.02 of Schedule 4 to the Customs and Excise Act, 1998. Similarly, EPZ enterprises registered before 31 December 2020 are exempt from the payment of Customs duties and Value-Added Tax (VAT) in terms of the Export Processing Zones Act, 1995 (Act 9 of 1995). Therefore, no security is required for duties or taxes and this exemption ends on 31 December 2025.

## **7. BOND APPLICATIONS AND APPROVAL OF BONDS**

7.1 Any person carrying out the activities specified under paragraph 6.1 of this policy are required to furnish security in the form of a guarantee. These include the following operators that registered or licensed in accordance with various provisions of the Customs and Excise Act, 1998; namely 73, 2(5), 17, 18, 21 etc.:

- (a) Clearing agents
- (b) Customs and Excise Warehouse operators
- (c) Transit operators
- (d) Temporary import operators
- (e) Deferment facility operators
- (f) Dry-Port operators

7.2 Application for guarantee must be made on the Bond Application form. The Bond Application form must first be submitted by courier, email, or hand delivered to Trade Facilitation and Customs Procedures, Registration and Licensing Section, for endorsement prior to submission to the financial institution for issuance of the Customs General Bond - NamRA-CE-FR-005.

7.3 The endorsement provided by the Division: Trade Facilitation and Customs Procedures, Section: Registration and Licensing, of the Bond Application will be valid for 90 days from the date of such endorsement. This means that the

required Customs General Bond must be submitted to the same section within 90 days of such endorsement subject to the conditions in paragraph 8 in this Policy below.

7.4 Upon approval, all guarantees must be capped/limited in the ASYCUDAWorld system in exception of clearing agent guarantee.

## **8. REQUIREMENTS AND CONDITIONS FOR GUARANTEES**

### **8.1 Identification of Person and Sureties:**

- (a) To qualify as a guarantee, guarantees must be issued by financial institutions defined in section 1(1) the Banking Institutions Act, 2023 (Act No. 13 of 2023) to conduct banking business in Namibia and by financial institutions defined in section 1 of the Namibia Financial Institutions Supervisory Authority Act, 2001 (Act No. 3 of 2001) and who are approved in terms of this Policy.
- (b) The names of the person and financial institutions or the names of the representatives and designations of the persons and financial institutions who are authorised to sign the guarantee must be provided on an original resolution passed at a meeting of the board of directors or the express consent of the person or financial institution in order to sign the guarantee.
- (c) The person may list the trade names of any divisions of the person which do not have a separate and distinct legal status and who are authorized to use the guarantee in their own name.

### **8.2 Signature and Seal of Person and Financial Institution:**

The representatives of the persons and financial institutions who are authorised to sign the guarantee must sign the guarantee in his/her own capacity and not on behalf of someone else. The corporate seal (or stamp) of the financial institution must be impressed on the guarantee. The person must affix an appropriate Namibia Revenue Stamp in accordance with the Stamp Duty Act, 1993 (Act No. 15 of 1993) to be placed on the guarantee and accepted by the financial institution.

### **8.3 Foreign Guarantees:**

The Namibia Revenue Agency will not accept guarantees from foreign registered institutions for purposes of furnishing a guarantee required in terms of this Policy, except for the goods under SADC Regional Customs Transit Guarantee Scheme (RCTG).

**8.4 Witness:**

The signatures of two (2) witnesses who are present for each signature of the representatives authorised to sign the guarantee on behalf of the person or financial institution must be on the guarantee.

**8.5 Multiple Guarantees:**

Multiple financial institutions can issue guarantees to one person to satisfy needed bond liability coverage.

**8.6 Multiple Activities Covered by a Single Bond:**

Applicants are permitted to secure multiple activities for which security in the form of a guarantee is required with a guarantee from one approved financial institution provided the guaranteed amount is sufficient to cover the security required for each activity.

**8.7 Date of Effect and Expiration:**

Each guarantee must indicate the effective date and expiry date.

**8.8 Statement of guaranteed amount:**

The amount of the bond shall be stated in Namibian dollars.

**8.9 Notification of Expiration of Guarantees**

Subject to paragraph 13 of this policy, financial institutions must notify the person and the Trade Facilitation and Customs Procedures, Registration and Licensing Section, at least sixty (60) days before a guarantee is set to expire.

**8.10 Guarantee Renewal**

Subject to paragraph 13 of this policy, if person needs to renew guarantee for another term, the Bond Renewal Application (*to be developed*) must be submitted to the Registration and Licensing Section at least thirty (30) days before the guarantee is set to expire.

#### **8.11 Agreement to Pay Duties and Taxes**

The guarantee must indicate that the person and financial institution, agree, jointly and severally, to pay all duties and taxes imposed on any activity secured by a guarantee upon demand by NamRA and adherence to Customs and Excise Act, 1998 and regulations thereto.

#### **8.12 Obligation to Pay Duties and Taxes:**

The guarantee must indicate that duties and taxes owed to NamRA for any activity secured by a guarantee are payable by the person and financial institution, jointly and severally, even when the guarantee is withdrawn by the person or financial institution, without regard to the cancellation provisions outlined in this Policy.

#### **8.13 Custody of Accepted Guarantees:**

All original guarantees accepted as valid by the Head of Customs and Excise will remain on file under the custody of the Division: Trade Facilitation and Customs Procedures in the Head Office, unless directed in writing by the Head of Customs and Excise to release the original guarantee to the person upon completion of the cancellation provisions outlined in this policy.

#### **8.14 Keeping records**

Person and financial institution are required to keep proper records for a period of five (5) years under the Customs and Excise Act, 1998. These records include, books, accounts and documents and records of all transactions relating to goods received covered by guarantee or any data related to such books, accounts, documents or records created by means of a computer and to produce such records upon demand by an authorized NamRA officer for the purpose of acquitting the guarantee.

## **9. ATA CARNET (ADMISSION TEMPORAIRE / TEMPORARY ADMISSION) AND CARNET DE PASSAGE EN DOUANE (CPD).**

Namibia recognises and accepts the use of ATA and Carnet de Passage en Douane to secure goods temporarily imported by international carriers into Namibia. Once an ATA or Carnet De Passage en Douane is furnished and accepted, NamRA shall not require the trader to be in possession of a guarantee issued in terms of this Policy. However, if the goods imported under ATA or Carnet De Passage en Douane are not accounted for, then duties and taxes must be paid to the State.

## **10. BOND TYPES AND GUARANTEE AMOUNTS:**

10.1 The table below outlines standard guarantee amounts:

<b>Bond Description:</b>	<b>Standard Amount of Guarantee:</b>
Warehouse/Manufacturer Bond	The guarantee amount must secure 50% of the total potential duties and taxes on goods that will be transported from the point of entry to a Customs and Excise warehouse or to Customs exit point or from a Customs and Excise warehouse to a Customs exit point, unless the guarantee amount is subject to the permissible deductions outlined in this Policy.
Transit Bond	The guarantee amount must secure 50% of the total potential duties and taxes on goods that will be transported from the point of entry to a Customs exit point, unless the guarantee amount is subject to the permissible deductions outlined in this Policy.
Clearing Agent Bond	A guarantee of N\$20,000.00 is required when an application for licensing as a clearing agent is approved. There are no permissible deductions from this guarantee amount.

Temporary Import Bond	The guarantee amount must secure 50% of the total potential duties and taxes on goods that have been temporarily imported into Namibia, unless the guarantee amount is subject to the permissible deductions outlined in this Policy.
Dry Port Bond	The guarantee amount must secure 25% of the total potential duties and taxes on goods that will be entered into a Dry Port.
Deferment Facility Bond	The guarantee amount must secure 100% of applicable duties, levies and taxes on goods imported for home consumption or goods exported from Namibia.

10.2 If the guarantee amount calculated results in an amount lower than five thousand Namibian dollars, the minimum guarantee amount issued by the financial institution shall not be in an amount lower than five thousand Namibian dollars (N\$5,000.00).

## 11. SPECIAL GUARANTEE CATEGORIES:

11.1 The following categories are based on a low-risk status and shall provide the amount of security outlined:

Criteria	Amount of Guarantee
Accreditation as an Authorised Economic Operator (AEO)	The guarantee amount must secure 10% of the total potential duties and taxes of the previous 12-month period.
Bond operator moving minerals (e.g., copper, manganese, sulphur) in transit through Namibia for a minimum of one year	The guarantee amount must secure 20% of the total potential duties and taxes of the previous 12-month period.

11.2 No deductions are permitted for Clearing Agent Bonds and Deferment Facility Bonds.

11.3 The following categories are based on a high-risk status and shall provide the amount of security outlined:

Criteria	Amount of Guarantee
Luxury goods (refers to motor vehicles, electronic equipment, cosmetics, perfumeries, etc.).	The guarantee amount must secure 75% of the total potential duties and taxes on goods that will be transported from the point of entry to a Customs and Excise warehouse or to a Customs exit point or from a Customs and Excise warehouse to a Customs exit point.
Excisable goods (such as petroleum and alcohol and tobacco products under HS Chapters 22 & 24).	The guarantee amount must secure 75% of the total potential duties and taxes on goods that will be transported from the point of entry to a Customs and Excise warehouse or to a Customs exit point or from a Customs and Excise warehouse to a Customs exit point.

## 12. AMENDMENT OF GUARANTEES:

### 12.1 Amendment of Guarantees

A guarantee registered by NamRA must be amended under following circumstances:

- (a) any changes to the legal status of the person or financial institution; or
- (b) upon approval for the increase or decrease of the guarantee amount secured by the guarantee during guarantee term.

## **12.2 Overview of Process for Amendment of Guarantee**

- (a) any Department of Customs & Excise office may motivate the request for the increase or decrease of the standard guarantee amount furnished by any person.
- (b) ) A person may inform the Department of Customs and Excise through submission of a bond renewal form, indicating amendment based on his/her recalculation of the standard guarantee amount.

## **12.3 Conditions for Reduction of Guarantee**

The guarantee amount must only be reduced under the following conditions:

- (a) there must be no outstanding duty or tax liabilities owed to NamRA;
- (b) dormant entries or unacquitted transit documents (T1s) for the following persons must not exceed the period specified below –

<b>Bond Operator:</b>	<b>Period:</b>
Transit Bond Operator	Pending transit documents (T1s) must not exceed thirty (30) days
Private Bonded Customs and Excise Warehouse Operator	Stored goods must not exceed more than five (5) years.
Public Bonded Customs and Excise Warehouse Operator	Stored goods must not exceed more than ninety (90) days.
Manufacturing Warehouse Operator	Stored goods must not exceed more than five (5) years.
Temporary Import Operator	Goods imported for a temporary period under IM5 must not exceed the permissible period of six (6) or twelve (12) months granted, unless such period is extended by the Commissioner.

Deferment Facility Operator	Deferment facility operators must not have unsettled or unpaid statement for the deferment facility account.
Dry Port Operator	Stored goods must not exceed more than ninety (90) days.

### **13. CANCELLATION OR TERMINATION OF GUARANTEES**

- 13.1 Subject to the payment of all duties and taxes imposed on any activity secured by a guarantee upon demand by NamRA (in paragraph 8.8 of this Policy), any financial institution who has issued a guarantee may request the Commissioner to withdraw such guarantee upon thirty (30) day's notice to the Commissioner of withdrawal of guarantee to enable the assessment of any duties or taxes due.
- 13.2 The Head of Customs and Excise may authorize the cancellation of any guarantee under the following circumstances –
  - (a) upon payment of any charges that may have been made against the guarantee; or
  - (b) in the event of a breach of any condition of the guarantee, upon payment of the requisite damages for such breach.
- 13.3 Guarantees with an expiry date must be terminated in accordance with this Policy.
- 13.4 Whenever a guarantee expires and no notification of such expiration or indication by the person or financial institution has been made about whether the guarantee will be renewed or terminated, as required by paragraph 8.9 of this Policy, then such a bond operator must be suspended upon expiration of such guarantee.

#### **14. BREACH OF CONDITIONS COVERED BY A GUARANTEE**

- 14.1 Whenever the conditions for which a guarantee has been furnished are not met by the person, the Department: Customs and Excise must issue a demand for the payment of any duty and/or tax liabilities owed due to breach of the guaranteed terms. A financial institution should receive a courtesy notification of demand made to person.
- 14.2 If, after a period of sixty (60) days and after reasonable attempts have been made to collect the outstanding liabilities from the person, relevant documentation to substantiate the claim and a request for payment of the actual amount to be paid will be demanded from the financial institution for NamRA to withhold a sufficient portion of the guarantee amount to cover the outstanding duties and taxes payable.
- 14.3 If a financial institution refuses or neglects to pay a valid demand made on the guarantee issued by such financial institution within thirty days (30) from the date of such demand, or otherwise fails to honour an obligation on that guarantee, then the matter must be reported to the Department of Legal Services for prosecution unless measures have been taken by the person to satisfactorily settle the outstanding duties and taxes payable.
- 14.4 Similarly, if the guarantee is unable to cover the outstanding duty and tax liability incurred by the person of that guarantee, the matter must be reported to the Department of Legal Services for prosecution unless measures have been taken by the person to satisfactorily settle the outstanding duties and taxes payable.
- 14.5 The following evidence must be submitted to Department of Legal Services when a breach of the guarantee is reported above:
  - (a) A copy of the guarantee in issue;
  - (b) A copy of the customs declaration (SAD500) or other evidence which shows that there was a liability incurred by the person;

- (c) A copy of all notices, demands or correspondence sent to the person and/or financial institution requesting the honouring of the bond obligation;
- (d) A copy of all correspondence from the person and/or financial institution; and
- (e) A written report of the facts known to Department: Customs and Excise showing the unsatisfactory performance by the person and/or financial institution of the bond obligation(s).

14.6 The Department of Legal Services must review the report and evidence submitted and determine whether further action against the person and/or financial institution is warranted. If it is determined that further action is warranted, instructions to pursue legal action must be submitted to the Attorney-General.

## **15. APPEALS AGAINST DECISIONS**

- 16.1 Persons have the right to appeal against any decision taken in terms of this Policy.
- 16.2 Such an appeal must be made in writing and addressed to the Objections and Control Unit within thirty (30) days of notification of such decision or demand for payment.
- 16.3 If the person remains unsatisfied with the decision of the Objections and Control Unit, then an appeal may be lodged with the Minister responsible for finance or with a court of competent jurisdiction.

## **16. DAMAGES AND PENALTIES**

- 16.1 The Customs and Excise Act, 1998 outlines various penalties that may be imposed whenever a condition of a guarantee is breached or when an activity for which security is required is carried out in a manner that is inconsistent with the Act. Refer to Customs and Excise Enforcement Penalty Guidelines.
- 16.2 Whenever an admission of guilt is completed by the bond holder, penalties for non-compliance will follow penalties stipulated in the Penalty Guidelines.

16.3 If an admission of guilt is not completed by a bond operator for any breach of a guarantee or breach of a specified provision in the Customs and Excise Act, 1998 then the process for the demand of the payment of any duty or tax liabilities must be followed in terms of paragraph 14 of this policy.

## **17. APPLICATION OF POLICY**

This Policy shall apply to existing bond operators and new application upon effective date.

## **18. REVIEW OF POLICY**

This Policy shall be reviewed annually from the Effective Date.

## **19. EFFECTIVE DATE**

This Policy will be effective as from the date of the Commissioner approval.

## **20. APPROVAL**

The Customs Bonds Management Policy is hereby approved:

---

\_\_\_\_\_ of \_\_\_\_\_ 20\_\_\_\_\_

---

**Sam SHIVUTE**

---

**Date**

**COMMISSIONER**

---

**Anna Kawana**

---

**Date**

**BOARD CHAIRPERSON**

Confidential Draft