

General Conditions of Marine Insurance on Goods

(CGMI 1988)

Translation: The original wording in German or French shall be decisive in the case of dispute

The term assured is hereinafter understood to include: the party contracting the insurance, the holder of title to claim as well as the persons for whose acts the aforementioned are responsible.

A. Scope of Insurance

Art. 1 Forms of cover

The insurance covers the risks to which the goods are exposed in the course of the insured voyage insofar as specific risks are not expressly excluded. The main forms of cover are:

- Art. 2 Restricted insurance
- Art. 3 Extended insurance
- Art. 4 Insurance against all risks.

Unless otherwise agreed, restricted insurance shall apply.

Art. 2 Restricted insurance

The insurance covers loss and damage only when they are the direct consequence of one of the following events (so-called specified accidents):

- shipwreck
- stranding
- springing of leaks necessitating putting into a port of refuge
- jettison and washing overboard of entire packages
- collision, overturning or breakdown of the conveyance
- derailment
- falling aircraft or spacecraft or parts thereof
- collapse of structures
- fire, explosion, lightning, earthquake, volcanic eruption, flooding, avalanche, land and snowslip, falling rock, flash flood, hurricane (windspeed in excess of 100 km per hour)
- falling of goods during loading, transshipment or discharge.

Theft and disappearance of entire packages (goods and packing) or – for goods in bulk – of whole consignments are also covered.

Art. 3 Extended insurance

The insurance covers loss and damage; however, unless otherwise agreed, the following special risks are excluded:

- wetting by fresh water as well as damage caused by condensation of water vapors in ship's holds or containers
- rust and other forms of oxidation
- breakage
- extraordinary leakage
- loss and damage caused by rats and mice or other vermin from an external source
- extraneous odour.

These special risks are nevertheless covered if the loss or damage has been caused by an accident specified in art. 2.

Art. 4 Insurance against all risks

The insurance covers loss and damage.

Art. 5 Inclusions common to all forms of cover

Also insured by all forms of cover are:

- a) General average contributions chargeable to the insured goods in accordance with a legally valid statement, as well as goods sacrificed in general average, the foregoing subject to the exclusions of art. 6.
- b) Insofar as there is an insured loss or damage or this immediately threatens,
 - the costs of the surveyor's intervention
 - the costs incurred for the purpose of averting or minimizing the loss or damage.
- c) Should there be an insured occurrence in accordance with art. 2, the additional costs of transshipment, storage and forwarding, insofar as the assured considers this to be necessary according to the circumstances or the insurer orders it to be carried out.
- d) Only by special agreement and on payment of an additional premium, and provided the requirements stipulated in the last paragraph of regulations of Art. 8 regarding sea journeys are met:
Additional costs for unloading, storage and transport of insured goods as far as the preagreed destination after release of the cargo from a vessel which was confiscated, held up or diverted to a harbour other than that which was originally intended, since the International Safety Management Code requirements are not met.

Art. 6 Exclusions common to all forms of cover

- a) The insurer is not liable for the consequences of:
 - seizure, confiscation or temporary seizure (quarantine) by government authority or power, subject to art. 6 d
 - delay, howsoever caused, in transit or delivery
 - deliberate actions of the assured; in the case of gross negligence of the assured, the insurer is entitled to reduce his payment in corresponding relation to the degree of negligence
 - false declaration
 - infringement of import, export or transit regulations as well as of currency and customs regulations
 - infringement of carrier's regulations with the assured's knowledge
 - insolvency or delay in paying on the part of the owner, charterer or operator of a conveyance or any other financial disputes with the named parties, insofar as the assured chose these parties himself or decisively affected the choice.

Furthermore, the insurer is not liable for loss or damage attributable to:

- humidity of the air
- influence of temperature
- the nature of the goods such as self-deterioration, heating, spontaneous combustion, shrinkage, wastage and ordinary leakage
- vermin originating in the goods insured

- the unsuitable condition of the goods for the insured voyage
 - inadequate or insufficient packing
 - inappropriate stacking in the conveyance or container by the assured
 - normal wear and tear
- b) The following are also excluded:
- damage to the packing unless specifically insured
 - liability to third parties for loss or damage caused by the insured goods
 - damage caused by nuclear energy
 - indirect damage, such as
 - losses not directly sustained by the insured goods (e.g. loss of interest, difference of exchange, loss of market, loss of use or consequential loss)
 - compensation for trouble taken in connection with loss or damage
 - demurrage and supplements of freight of whatever nature as well as costs other than those covered in accordance with art. 5 b and c.
- c) The insurer is released from all liability if, with the assured's knowledge,
- the voyage or conveyance (cf. art. 8) do not correspond to the agreement
 - the goods are carried by inappropriate vehicles or containers
 - routes are used which are unsuitable or officially closed to traffic.
- d) Unless otherwise agreed, the insurer is not liable for the following political or social risks:
- war
 - warlike occurrences (e. g. occupation of foreign territory, border incidents)
 - civil war, revolution, rebellion
 - preparations for war or war measures
 - explosion or other effects of mines, torpedoes, bombs or other engines of war
 - confiscation, requisition, sequestration or detainment by a government, authority or power
 - strike, lockout and disturbances of whatever kind
 - violent or malicious acts.
- Moreover, the insurer is not liable whenever the loss or damage, the cause of which cannot be ascertained, is likely to be the consequence of one of the foregoing events.

Art. 7 Special cases

Unless otherwise agreed, the following are insured only in accordance with art. 2:

- unpacked goods
- returned goods
- reforwarded goods
- used goods
- goods dispatched in damaged condition
- goods stored on deck with the knowledge of the assured, unless in a seaworthy container in a specially equipped ship.

Art. 8 Accepted modes of transportation

Unless otherwise agreed, the insurer is only liable if the conveyances with which the goods are transported fulfil the following requirements:

For sea voyages:

Ships listed in the Lloyd's Register or in another internationally recognised shipping register and classified in the 1st class and which are not more than 20 years old.

and
Ships as well as the shipping companies (shipowners) are certified in accordance with the International Safety Management Code (ISM Code).

In addition, the insured must be able to prove that he gave written instructions to the haulier or shipper to use ISM certified ships. This requirement also applies when the goods at the time the risk was accepted by the insurer were already loaded on board a ship.

For inland voyages:

Ships licenced for the particular journey and classified as seaworthy. For Rhine vessels this proof is furnished if they are classified by the International Association of Rhine Ships Register.

For air transportation:

Aircraft of officially licenced air carriers.

For other modes

Modes of transportation which are approved by the authorities.

If the above requirements are not met without the knowledge of the insured, insurance cover is nonetheless granted. As soon as the insured becomes aware of deviations he is required to report these to the insurer. An additional premium is to be paid for the increased risk. The ISM certification requirement is not rendered inapplicable by the payment of an additional premium.

These regulations do not apply to consignments sent by mail.

Art. 9 Franchises / Deductibles

The following rules apply should a franchise/deductible be stipulated:

Franchise (if amounting to ...%): The insurer is liable for the whole loss or damage if this attains the stipulated percentage.
Deductible (in excess of ...%): The insurer is liable for that part of the loss or damage which exceeds the stipulated percentage.

Unless otherwise agreed, the percentage of the franchise/ deductible is to be applied to the replacement value of each package. Should this method of application not be possible in the event of loss or damage, the franchise/ deductible shall be calculated at half the rate on the replacement value of the whole consignment.

B. Duration of Insurance

Art. 10 Commencement and termination

The insurance is operative from warehouse to warehouse. The insurance attaches as soon as the goods are loaded onto the means of transportation or into the container with which they undertake the journey. It terminates when, at the end of the insured voyage, the goods are unloaded from the means of transportation or out of the container.

If no vehicle or means of transportation are used at departure point or for delivery, the insured journey begins as soon as the goods to be dispatched leave the storage place at point of departure and ends as soon as they reach the consignee.

Art. 11 Delay

In the event of delay in the execution of the insured voyage, cover is limited to 30 days any one delay. Nevertheless, should the delay be due to circumstances beyond the assured's control, cover remains in force for a further period of 30 days.

At intermediate places delay is understood to be the period of time between the arrival of the conveyance and the departure of the on-carrying conveyance; the day of arrival and the day of departure are taken into account in assessing the delay. Cover during delay may be extended by special agreement.

C. Definition of Values

Art. 12 Insurable value

The insurable value corresponds to the value of the goods at the place and time of commencement of the insured voyage, plus freight, insurance and other charges incurred up to the place of destination. Customs and excise duties may also be insured by special agreement. In respect of trade goods the value thus determined may be increased by the buyer's expected profit not exceeding 10% unless otherwise agreed

Art. 13 Replacement value

The replacement value is that which the goods would have had at destination at the time of the occurrence of the loss or damage. In the absence of proof to the contrary the replacement value is assumed to correspond to the insurable value.

Art. 14 Sum insured

The sum insured constitutes the limit of all indemnities for loss or damage whether arising from one or more events. The insurer shall nevertheless reimburse the general average contributions, in accordance with art. 5 a), as well as the costs in accordance with art. 5 b) even if, together with the aforementioned indemnities, they exceed the sum insured.

Art. 15 Under insurance

Whenever the sum insured is less than the replacement value, the insurer is liable only for such proportion of loss or damage, general average contributions or expenses as the sum insured bears to the replacement value.

Art. 16 Double insurance

The assured is bound, as soon as he becomes aware of the existence of double insurance, to notify the insurer in writing. In case of double insurance the liability of the insurer is subsidiary only.

D. Assured's Duty of Disclosure

Art. 17 Duty of disclosure

The assured is bound to disclose voluntarily to the insurer all circumstances likely to influence the assessment of the risk. This obligation exists even if it is presumed that such circumstances are already known to the insurer or his representative.

Whenever the insurance is contracted for the account of third party or by an agent of the assured, circumstances known to the assured or to his agent or which ought to be known to them shall also be disclosed to the insurer.

Any reticence, fraud, false statement or misrepresentation renders the insurance null and void; the premium is nevertheless forfeited to the insurer.

Art. 18 Alterations in the course of the insured voyage

The goods are held covered in the event of calling at an intermediate port or of deviation or transshipment not agreed upon at the time of the conclusion of the contract as well as in the event of variations resulting from the exercise of any liberty granted to the carrier under the contract of affreightment. The assured is nevertheless bound to notify the insurer of any such alterations as soon as he is aware of them and to pay an additional premium in respect of the increased risk.

Art. 19 Increase of risk

Should the assured cause the risk to be materially increased – the alterations mentioned in art. 18 excepted – the insurer is thenceforth no longer bound by the contract. However, should the risk be materially increased due to circumstances beyond the control of the assured, the latter must notify the insurer immediately he is aware of it; otherwise cover ceases from the time the risk is increased. An additional premium is payable in respect of the increased risk.

E. Obligations in Case of Loss or Damage

Art. 20 Notification of loss or damage and salvage

The assured must notify the insurer forthwith of any loss or damage which comes to his knowledge. Furthermore, in the event of loss or damage, it is the duty of the assured to take forthwith all measures for the preservation and salvage of the goods and for minimizing the loss or damage. The insurer also may take such measures. In the event of non-compliance with these obligations, the indemnification can be reduced commensurate with the assured's degree of fault.

Art. 21 Preservation of rights of recovery

All rights of recovery against third parties who may be held responsible for the loss or damage shall be preserved. In particular the following steps shall be taken:

- Outwardly apparent loss or damage must be notified to the carrier in writing before delivery of the goods is taken.
- Whenever loss or damage is presumed, valid reserves must be lodged within the period prescribed by law or contract.
- The carrier must be summoned to a joint survey of the loss or damage.

The assured is responsible for all acts or omissions which prejudice the rights of recovery

Art. 22 Survey

In case of loss or damage in Switzerland the insurer, and abroad his surveyor, must be called in forthwith for survey purposes and to take whatever steps may be necessary. Should the loss or damage not be outwardly apparent, survey must be requested within one week of the delivery of the goods to the consignee.

If the insurer has not appointed any surveyor, application shall be made to the «Lloyds Agent» or if there is no such agent to another competent surveyor.

If the loss or damage occurred during carriage by mail, rail or air, the transport administration shall be required to issue an official report.

The surveyor's fees and expenses are to be paid by the applicant and are refundable by the insurer if, and to the extent that, the claim is recoverable under the policy.

The insurer is released from all liability to pay the claim if the loss or damage has not been ascertained in the prescribed manner.

F. Assessment of Loss or Damage and Claims

Art. 23 Expert appraisal

If the parties cannot agree as to the cause, nature and extent of the loss or damage, an expert shall be called in. Failing agreement as to the choice of expert, one shall be appointed by each party. Failing agreement between the experts they shall appoint an umpire or have one appointed by the competent authority.

The expert's report shall contain all the information necessary to determine the extent of the insurer's liability and to assess the amount of the loss or damage.

Art. 24 Adjustment of claims

In case of damage the depreciation shall be expressed as a percentage of the sound value. This percentage, applied to the replacement value, gives the amount of the claim. If a damaged object can be repaired, the claim calculation is based on repair costs. The insurer or the surveyor can request that the value of the damaged goods be ascertained by public auction. Should the goods, as a result of damage, be sold before reaching their destination, the net sale proceeds belong to the person holding title to claim; the difference between the replacement value and the net proceeds constitutes the amount of the claim. The insurer is not obliged to accept damaged goods.

In case of loss the amount of the claim is such proportion of the replacement value as the lost part bears to the whole. The insurer does not indemnify any freight, customs and excise duties and other charges which may be saved as a result of an insured event. Moreover, any compensation received by the assured from third parties shall be deducted from the amount of the insurer's settlement.

Art. 25 Abandonment

In the following cases the assured is entitled to claim from the insurer payment of the replacement value, against surrender of all property rights to the goods and all rights of recovery against third parties:

- a) In the event of disappearance of the conveyance. Disappearance is understood to be when no news of the conveyance is received within six months.
- b) In case of unseaworthiness of the ship as a result of an insured event in accordance with art. 2, provided that the goods could not be reforwarded within six months.

The insurer may nevertheless – even after payment of the replacement value – decline to accept any property rights of the goods.

Art. 26 Claims

The claimant must justify his title to claim by means of the policy or insurance certificate. He must, moreover, prove that in the course of the insured voyage the goods sustained loss or damage for which the insurer is liable. To this end he shall submit the claim statement together with all necessary documents (invoices, waybills, survey reports, official reports, experts' reports, etc.).

G. Legal Questions

Art. 27 Obligation of payment

The right to collect is given four weeks after submission of all documents enabling the insurer to satisfy himself that the claim is genuine. In case of doubt as to the title of the claimant the insurer may discharge his liability by depositing the indemnity as required by law.

In case of general average the insurer refunds the amount of the provisional contribution against surrender of the original receipt endorsed in blank.

Art. 28 Enforcement of rights of recovery

Should third parties be freed of liability without the insurer's consent, all claims for compensation are cancelled. The assured cedes to the insurer all rights against third parties. Subrogation becomes effective as soon as the insurer has fulfilled his obligation to pay. A letter of subrogation is not necessary; the insurer may however insist on one being issued.

The insurer may request the assured to enforce the rights of recovery in his own name. The insurer assumes the costs thereof and is entitled to choose and to instruct the assured's lawyer.

The assured may not accept any compensation offered by third parties without the insurer's consent.

Art. 29 Forfeiture

Legal claims against the insurer are forfeited unless suit is brought within two years of the event giving rise to the claim. Claims in respect of general average contributions become void unless suit is brought within one year of the completion of the statement.

Art. 30 Effect of measures taken by the insurer and the surveyor

The measures ordered by the insurer or the surveyor for the purpose of surveying, minimizing or averting loss or damage or of preserving or enforcing any rights of recovery do not constitute an admission of liability.

Art. 31 Jurisdiction

For all disputes arising out of this insurance contract, the assured may choose between jurisdiction at the registered location of the insurer or at his Swiss domicile. In the case of foreign companies, the location of the insurer is considered the registered office for the entire Swiss business.

Art. 32 Relationship to the law on the contract of insurance

The following sections of the Swiss Federal Law of 2nd April, 1908 on the contract of insurance are not applicable: Sections 2, 3, 8 sub-sections 3 and 4, 14 paragraphs 2 to 4, 20, 21, 26 to 32, 38, 42, 46, 47, 49, 50, 64 paragraphs 1 to 4, 72 paragraph 3.

The remaining provisions of the aforesaid law are applicable only insofar as they are not modified by the policy conditions.

Art. 33 Insurer's address

All communications to the insurer must be addressed to his head office in Switzerland or to the agency which issued the policy.

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