

Norwegian Cargo Clauses:

**Conditions relating to Insurance
for the Carriage of Goods of 1995**

Cefor Form No. 252

**Translation of the original Norwegian text.
In case of conflict, the latter shall prevail.**

**Issued by
The Central Union of Marine Underwriters, Oslo, Norway
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Foreword

The Norwegian Insurance Plan for the Carriage of Goods of 1967 was drawn up by a special committee appointed by the council of Det norske Veritas. This plan was in general use until 1985, at which time the Central Union of Marine Underwriters (Cefor) amended and simplified the cargo clauses extensively, primarily to adapt the latter to the English Institute Cargo Clauses (A, B, C Clauses), which had come into effect as from 1 January 1982. Since then, the Norwegian cargo clauses have been further amended, chiefly in 1990 when the clauses were adapted to Act No. 69 of 16 June 1989 relating to Insurance Contracts.

In the spring of 1993 Cefor appointed an ad hoc committee whose mandate was to prepare commentaries on the existing cargo clauses. In the course of its work, the committee concluded that it would be expedient to carry out an overall review with a view to modernizing the clauses, and that this task should be performed by a committee comprising representatives of all the interested parties. Cefor agreed with this, and representatives of transport users were invited to participate in the review. When the ad hoc committee submitted its proposals for new cargo clauses and commentaries, it comprised the following persons:

Professor Hans Jacob Bull, Doctor of Law (chairman)
 Department Manager Sverre Hopstock Dahr, Vesta Forsikring AS
 Assistant Vice President Svein Elfstrand, UNI Storebrand Skadeforsikring AS
 Attorney-at-law Stein Grahm, Federation of Norwegian Commercial and Service Enterprises
 Senior Vice President Peter Jul Hanssen, Aker a.s. (Confederation of Norwegian Business and Industry)
 Assistant Vice President Erling Meland, Gjensidige Skadeforsikring
 Attorney-at-law Jan-Fredrik Rafen, law firm of Bugge, Arentz-Hansen & Rasmussen
 Assistant Vice President Erik Sigurdson, UNI Storebrand Skadeforsikring AS

Lecturer Arne Falkanger Thorsen and attorneys-at-law Per Heiberg and Viggo Kristensen from Cefor acted as secretaries for the committee.

In February 1995, the committee presented proposals for new cargo clauses and special clauses, both accompanied by commentaries. Furthermore, the committee submitted a proposal for new wording for a policy for single shipments, and a contract and policy for open cover and a floating policy, all accompanied by commentaries. These proposals have been circulated by Cefor to the following organisations for consultation (those who have given their opinion are marked with an asterix):

*Cefor's Cargo Committee, as representative of the following companies:
 Gjensidige Skadeforsikring, Industriforsikring AS, Protector Forsikring AS, Samvirke Skadeforsikring AS, UNI Storebrand Skadeforsikring AS, Vesta Forsikring AS

*Norwegian Shipowners' Association

*Norwegian Truckowner Association

*Norwegian State Railways

Federation of Norwegian Commercial and Service Enterprises

Federation of Norwegian Transport Users

Confederation of Norwegian Business and Industry

Port and Terminal Operators Association (HTL)

Association of Cargo Freighters

Norwegian Freight Forwarders Association

Norwegian Air Freight Forwarders Association

The committee studied the comments of the various bodies consulted and presented final proposals. The cargo clauses, etc. and commentaries have been recommended by Cefor on behalf of the insurance companies and by the Confederation of Norwegian Business and Industry, the Federation of Norwegian Commercial and Service Enterprises and the Federation of Norwegian Transport Users on behalf of the transport users as an "agreed document" for use by insurance companies in Norway when effecting insurance for the carriage of goods.

These clauses are to some extent based on the Plan of 1967 and subsequent cargo clauses, but each clause has been carefully reviewed to ensure that it represents the interests of transport users and insurance companies equitably. Reference is made in the commentaries to the specific provisions of the Plan of 1967 to which the various clauses correspond. In many cases, the commentaries have largely been based on the commentaries on the Plan of 1967, but an attempt has been made to word these more concisely than the latter, at the same time defining new problems. However, cargo clause users will still be able to consult the commentaries on the Plan of 1967 for views on more complex issues, or for references to solutions under previous clauses.

Oslo, October 1995

Hans Jacob Bull

Chapter 1. Introductory provisions

§ 1. Definitions

For the purpose of these conditions:

1. **Loss** means pecuniary loss of any kind, including total loss, shortage, damage, loss of earnings, charges and liability, cf., however, the exclusions in § 6, third paragraph.
2. **Damage** means physical damage that does not constitute total loss or shortage.
3. **Transport document** means a Bill of Lading or other document giving title to the goods in transit.
4. **Insurance document** means the document issued as evidence of insurance in connection with an individual transit.

Chapter 2. Scope of the insurance

§ 2. Risks covered by the insurance

Insurance may be contracted for one of the following types of cover:

1. All risks - "A-Clauses", cf. § 3.
2. Extended transport accident - "B-Clauses", cf. § 4.
3. Transport accident - "C-Clauses", cf. § 5.

Unless otherwise stated in the Policy, the insurance shall be deemed to have been effected as A-Clauses insurance.

§ 3. All risks - A-Clauses

Subject to the exclusions specified in §§ 17, 18 and 19, A-Clauses insurance covers all risks of loss or damage to which the insured goods are exposed.

§ 4. Extended transport accident - B-Clauses

Subject to the exclusions ensuing from §§ 17, 18 and 19, B-Clauses insurance covers the following risks to which the insured goods are exposed:

1. The carrying vessel having collided, struck any object, sunk, capsized or suffered a similar serious accident.
2. The land conveyance having collided, struck any object, overturned, been derailed or been driven off the road.
3. The aircraft having collided, struck any object, crashed or been driven off the runway.
4. Fire, lightning or explosion.
5. Earthquake, volcanic eruption, landslide, snowslide or similar natural disasters.
6. The goods being jettisoned or washed overboard.
7. Sea, lake or river water entering into warehouse or place of storage.
8. Loading or unloading of the insured goods, resulting in the total loss of entire packages.
9. Loading, unloading or shifting of the insured goods in a port of distress, and theft or precipitation while the goods are stored in a port of distress.

§ 5. Transport accident - C-Clauses

Subject to the exclusions specified in §§ 17, 18 and 19, C-clauses insurance covers the following risks to which the insured goods are exposed:

1. The carrying vessel having collided, struck any object, sunk, capsized, or suffered a similar serious accident.
2. The land conveyance having collided, struck any object, overturned, derailed or been driven off the road.
3. The aircraft having collided, struck any object, crashed or been driven off the runway.
4. Fire, lightning or explosion.
5. Earthquake, volcanic eruption, landslide, snowslide or similar natural disasters.

§ 6. Losses covered by the insurance

This insurance covers the following losses:

1. Total loss, cf. § 35.
2. Shortage, cf. § 36.
3. Damage, cf. § 37.

This insurance also covers the following charges:

1. Salvage charges, cf. § 39.
2. General average contribution, cf. § 40.
3. Charges related to provision of security, cf. § 41.
4. Litigation charges, cf. § 42.
5. Charges in connection with settlement of claims, cf. § 43.

Unless otherwise specially agreed, the Insurer shall not be liable for:

1. General capital loss, including loss of time, loss due to economic fluctuations, loss of market, operating loss and similar losses.
2. Liability to third parties incurred by the Assured.

In the case of B-Clauses insurance, cf. § 4, or C-Clauses insurance, cf. § 5, the insurance shall also cover general average contributions (cf. § 40) and general average sacrifice which have not been caused by a risk covered by the insurance, unless the said risk is excluded by §§ 17, 18 and 19.

§ 7. Causal connection

This insurance covers loss due to the effect on the insured goods of a risk that is covered by the insurance during the period of insurance.

§ 8. Burden of proof

The burden of proving that he has suffered a loss which is covered by this insurance, as well as the extent of the loss, falls upon the Assured.

The burden of proving that a loss has been caused by a risk that is excluded by the clauses falls upon the Insurer.

Chapter 3. Interests comprised by the insurance - Identification.

§ 9. Interests comprised by the insurance

If nothing has been specified as to whose interest is covered by this insurance, it shall inure to the benefit of the person effecting the insurance and persons to whom he has transferred title to or a security in the goods, provided such security has been established through assignment of a transport document for the goods.

If the person effecting the insurance neither has nor will have any interest in the capital value of the goods, this insurance shall be deemed to be effected, unless otherwise follows from the circumstances, for the benefit of the seller and for persons who obtain title to the goods from him.

If the Assured is both shipper and consignee of the goods, he may, in the event of a casualty, elect to invoke the rules pertaining either to the cover of the seller's interest or to the cover of the buyer's interest. If he chooses the latter, however, he may not claim for losses as specified in § 29, second paragraph, *litra d*.

Except for what is provided in the first paragraph, this insurance shall not inure to the benefit of the holder of a lien or any similar registered security as specified in § 7-1, third paragraph, of the Insurance Contracts Act.

§ 10. Identification

The Insurer may, in respect of the Assured, plead that the right to compensation for loss of or damage to goods has been forfeited wholly or partly as a consequence of an act or an omission by:

- a) Management personnel employed by one of the Assured parties responsible for the transport of the goods.
- b) The person effecting the insurance or former owner of the goods. It is not a condition that the person in question was owner at the time of the omission, provided that the goods were in his charge or in the charge of a person acting on his behalf.

In the event of a breach of the safety regulations in §§ 22, 23 or 24, or of a safety regulation laid down by the Insurer pursuant to § 21 and incorporated in the Policy, the Insurer may also invoke an act or omission by other persons who have been engaged to organize the transport.

§ 11. The Insurer's objections in relation to a bona fide holder of the insurance document

When the insurance document has been issued and delivered to the Assured, the Insurer may not contend that:

1. The insurance contract has subsequently been amended or cancelled.
2. The insurance cover has lapsed owing to non-payment of the insurance premium.
3. The right to compensation has been forfeited wholly or partly as a consequence of an act or omission by a previous owner. This shall not apply, however, when the person effecting the insurance has neglected his duty of disclosure, cf. § 12.
4. A claim for premiums or other claims against the person effecting the insurance may be set off against the compensation.
5. Compensation has already been paid.

The Insurer may, however, raise objections if the Assured, when the insurance document was delivered to him, knew or ought to have known of the matter upon which the objection is based.

Chapter 4. Duty of disclosure

§ 12. Duty of disclosure of the person effecting the insurance

In connection with the conclusion or renewal of the insurance contract, the Insurer may ask for information concerning circumstances which may have a bearing on his assessment of the risk. The person effecting the insurance shall reply fully and correctly to the Insurer's inquiries. The person effecting the insurance shall also on his own initiative inform the Insurer of special circumstances which he must understand have a substantial bearing on the Insurer's assessment of the risk.

Should the person effecting the insurance at any time become aware that he has provided incorrect or incomplete information concerning the risk, he shall without undue delay inform the Insurer of this.

§ 13. Duty of disclosure of a third party

If this insurance comprises the interest of a third party, and if the third party knows that the insurance has been or will be effected, the third party shall have the same duty of disclosure as the person effecting the insurance, cf. § 12.

In the event that the third party infringes his duty of disclosure pursuant to the first paragraph, § 4-2 of the Insurance Contracts Act shall apply correspondingly.

Chapter 5. Period of insurance

§ 14. Commencement of the period of insurance

If this insurance has been effected by the seller, the Insurer's liability shall attach from the time the goods are moved for direct loading into the means of transport which shall convey them from the warehouse or place at which the insured transit shall commence.

If the buyer has effected this insurance, or if it has been expressly stated that the insurance only covers the buyer's interest, the Insurer's liability shall attach when the risk passes to the buyer in accordance with the sales contract, or when an insurance effected by the seller in accordance with the sales contract terminates.

If this insurance covers only the buyer's interest, the Insurer shall also be liable for any loss incurred by the buyer because a transport document which he has taken up in good faith does not contain information concerning shortage or damage suffered by the goods after the time specified in the second paragraph.

§ 15. Termination of the period of insurance

The liability of the Insurer shall terminate:

- 1) when the goods have been safely unloaded from the means of transport which carried them to the consignee's warehouse at the named place of destination, or
- 2) if the goods are not to be placed in the consignee's warehouse at the named place of destination, when the goods are delivered to the Assured or otherwise placed at his disposal, or
- 3) when the carrier, in accordance with the terms of the contract of affreightment, has sold the goods for the account of the Assured and the risk has passed to the buyer, or
- 4) at 2400 hours local time on the 30th day following completion of discharge of the goods at the named place of destination,
- 5) at 2400 hours local time on the 60th day following discharge of the goods from the ship which transported them to the agreed port of discharge, whichever shall first occur.

§ 16. Suspension of the insurance

This insurance shall be suspended if the goods are delayed in one place for more than 15 days due to circumstances within the control of the Assured. The insurance shall again become operative from the time physical measures are implemented to start or resume the transit.

If the goods are delayed in transit for more than three months in one place, this insurance shall be suspended during the additional period of delay, unless the delay is caused by:

1. Damage or loss covered by this insurance, theft or piracy.
2. Damage to other goods carried by the means of transport.
3. The means of transport in which the goods are loaded having suffered a casualty, disappeared or been abandoned.
4. Harbours or transit routes having been destroyed or blocked.

Chapter 6. Exclusions - Combination of several risks

§ 17. Deck cargo

If the goods are insured as deck cargo and are carried on deck, the Insurer shall not be liable for:

1. Loss caused by precipitation or seawater.
2. Loss caused by dirt or sparks which do not cause a fire.
3. Loss arising from the shifting of cargo in transit, except when the insured goods fall overboard.
4. Loss caused by confusion with or leakage from other cargo.

Losses as specified in the first paragraph shall nonetheless be covered under this insurance if they are caused by a fire or an explosion, or by the vessel having struck a fixed or floating object.

If goods which are insured as under deck cargo are carried on deck, and the person effecting the insurance knew or should have known this, the first and second paragraphs shall apply correspondingly.

If goods are transported in a sealed container, they shall be regarded as under deck cargo regardless of whether or not the container in question is carried on deck.

§ 18. Risks excluded

This insurance shall not cover loss or damage caused by:

1. The inherent nature of the goods or their condition at the commencement of the period covered by this insurance.
2. Ordinary loss in weight or volume.
3. Protest actions, riots, strikes, lockout, sabotage or similar occurrences, unless a special agreement has been concluded regarding cover pursuant to Special Clause No. 7.
4. The goods being intended for unlawful purposes, or manufactured through unlawful activities or by unlawful methods. The illegality shall be determined in accordance with the rules in force at the commencement of the period covered by this insurance in the exporting country, the importing country or any other country through which the Assured must have expected the goods to pass.
5. Delay, unless such delay causes a further deterioration of damage otherwise covered under this insurance during the further transit, or unless a special agreement has been concluded regarding cover pursuant to Special Clause No. 2.
6. War or warlike conditions.
7. Measures taken against the goods by State authorities.
8. Capture at sea, confiscation, requisition and other similar measures against the means of transport, implemented by State authorities.
9. Measures hindering the transport operations, implemented by State authorities.
10. Release of nuclear energy.

§19. Condensation and other effects of changes in temperature

The Insurer shall not be liable for loss or damage caused by condensation or the effects of changes in temperature, unless the loss or damage is caused by:

- 1) the means of transport or the cargo having suffered a casualty after the goods were loaded into the means of transport,
- 2) the goods having been sent by a means of transport or in a container which were unfit for the carriage of the insured goods, cf., however, § 22,
- 3) insufficient or inadequate protective measures having been taken by the carrier,
- 4) fire, lightning or explosion.

If the goods were carried or should have been carried in a thermoregulated means of transport or container, the Insurer shall nonetheless only be liable for loss or damage caused by condensation or effects of changes in temperature, if the loss or damage is caused by:

- 1) the means of transport having suffered a casualty as specified in § 4, nos. 1 - 3, after the goods were loaded into the means of transport or container,
- 2) fire, lightning or explosion,
- 3) the machinery which regulates the temperature having suffered a casualty after the goods were loaded into the means of transport or container, and consequently been inoperative for a continuous period of at least six hours.

§ 20. Combination of risks

If the loss has been caused by a combination of several different risks, and one or more of these risks are not covered by this insurance, the loss shall be apportioned proportionally among the various risks according to the influence which each of them must be assumed to have had on the occurrence and extent of the loss, and the Insurer shall only be liable for that part of the loss which is attributable to the risks covered by this insurance.

If a risk as specified in § 18, no. 10, has contributed to the loss, however, the entire loss shall be regarded as having been caused by such risk.

Chapter 7. Safety regulations

§ 21. General rules

The safety regulations set out in §§ 22 to 24 and the regulations otherwise laid down by the Insurer and which are set out in the Policy shall apply to this insurance. In the case of international transits, moreover, all regulations and injunctions concerning measures for the prevention of loss, issued by public authorities, shall be regarded as safety regulations.

If a safety regulation is infringed, the Insurer shall only be liable to the extent that it is proved that the loss is not a consequence of the infringement or that the infringement cannot be imputed to the Assured.

§ 22. Unsuitable means of transport

The Assured shall ensure that the goods are carried by a means of transport or in a container that is suitable for the transit.

§ 23. Marking and packing of goods

The following information shall be clearly indicated on each package:

1. The name and address of the shipper and the consignee.
2. Which side of the package is "up" or "down".
3. The degree of danger of hazardous goods, indicated by international symbols.
4. The centre of gravity of the package.
5. Lifting instructions.

If the nature of the goods so requires, each package shall also be marked with special instructions for handling the goods, e.g. that they shall be handled with special care, or that they shall not be subjected to specific types of influence, such as damp, heat, blows, jolts, and the like.

The goods shall be marked in Norwegian. In the case of international transits, the goods shall also be marked in English.

The goods shall be packed, packaged and protected to enable them to withstand ordinary, foreseeable stresses during transport.

§ 24. Goods carried in thermoregulated means of transport

In addition to § 23, the following safety regulations shall apply to goods which are carried in thermoregulated means of transport:

1. The thermoregulated means of transport shall have attained the temperature required for the transit before the goods are loaded into it, and the shipper shall as far as possible order the carrier to monitor the temperature every third hour during the transit.
2. The temperature of the goods at the time of loading shall be the same as the transit temperature, and the loading and transit temperature shall be stated in the waybill.
3. Prior to commencement of the transit, the shipper shall if possible ensure that the cargo hold or

container has no holes and does not leak, that the cargo hold or container has been cleaned and is odourless, and that doors and packing are sealed.

4. Goods shall be stowed so compactly that they are prevented from slipping, but not such as to block the circulation of air, especially under the ceiling, down along the doors and back along the floor.

Chapter 8. Salvage measures, abandonment and completion of the transit

§ 25. Duty of the Assured to minimise losses

If there is imminent danger that loss or damage will occur, or has occurred, the Assured shall do what may reasonably be expected of him to avert or minimise the loss. If the Insurer issues specific instructions, he shall comply with them, unless he must understand that they have been issued on the basis of incorrect or incomplete information about the actual situation.

If loss or damage has occurred, the Assured shall without undue delay notify the Insurer. He shall keep the Insurer informed of further developments, and notify him of any maritime inquiry or surveys at which it might be important for the Insurer to be represented.

If the transit is interrupted, the Assured shall without undue delay notify the Insurer and take measures within his ability to bring about a resumption of the transit.

§ 26. The Insurer's liability if the Assured neglects his duties

If the Assured has wilfully or through gross negligence failed to fulfil his duties pursuant to § 25, the Insurer shall not be liable for a greater loss than that for which it may be assumed he would have been liable if the duty had been fulfilled.

§ 27. Abandonment of the transit on the Insurer's demand

The Insurer may demand that the transit to the named place of destination shall be abandoned if further transit:

1. Cannot take place without extraordinary risk of loss of the goods or considerable damage to them, such loss or damage being recoverable under this insurance.
2. Will entail unreasonable additional charges for the Insurer.
3. Cannot be expected to be completed after having been delayed for at least 30 days.

§ 28. Completion of the transit on the Insurer's demand

The Insurer may demand that the transit to the named place of destination shall be completed unless, due to damage recoverable under this insurance which the goods have sustained, or which it must be feared they will sustain during further transit, it is deemed unsafe to forward them to the destination.

Chapter 9. Insurable value

§ 29. Insurable value

Unless otherwise agreed, the insurable value shall be deemed to be the market value of the goods at the place of loading at the inception of this insurance. If the goods are sold, the market price shall be calculated on the basis of the invoice value.

If compensation for the goods is payable to the buyer, the insurable value shall, if applicable, also include:

- (a) charges incurred by him in connection with the shipment,
- (b) the insurance premium which he is to pay,

(c) freight which he has paid or will have to pay,
(d) his anticipated profit. Unless otherwise agreed, the insurable value of such anticipated profit shall be 10 per cent of the insurable value of the goods as such.

§ 30. Underinsurance

When the sum insured is lower than the insurable value, the Insurer shall only be liable for such proportion of the loss as the sum insured bears to the insurable value.

§ 31. Overinsurance

When the sum insured exceeds the insurable value, the Insurer shall only be liable for compensation up to the insurable value.

Chapter 10. Liability of the Insurer

§ 32. Principal rule

The Insurer shall be liable for loss caused by any one casualty up to the sum insured.

§ 33. Liability in excess of the sum insured

Even when the sum insured is exceeded, the Insurer shall be liable for:

1. Losses as specified in §§ 39 to 43.
2. Interest on the claim pursuant to § 49.

§ 34. The Insurer's right to avoid further liability by payment of the sum insured

When a casualty has occurred, the Insurer may avoid further liability for losses as specified in §§ 39 to 44 by notifying the Assured that he will pay the sum insured, or such proportion of the sum insured as applies to the goods involved in the casualty. In such case, the Insurer shall not be entitled to take over the goods pursuant to § 52.

Loss as specified shall nonetheless be recoverable in excess of the sum insured, provided it is attributable to measures implemented before the Assured was notified of the Insurer's decision.

§ 35. Total loss

There is a total loss when:

1. The entire consignment of goods has been destroyed.
2. The Assured is deprived of the entire consignment of goods with no possibility of retrieving it.
3. The transit to the named place of destination has been abandoned in accordance with § 27 or § 28.
4. The entire consignment of goods has been so severely damaged that at least 90 per cent of the value must be deemed to be lost.

In the event of a total loss, the Insurer shall be liable for the sum insured of the insured goods, but not in excess of their insurable value. No deduction shall be made in the compensation for any damage sustained during the period of insurance, whether or not this is covered by the insurance.

§ 36. Shortage

There is a shortage when a part of the insured consignment of goods has been lost as stated in § 35, first paragraph.

In the event of shortage, the Insurer shall be liable for such proportion of the sum insured of the entire consignment as corresponds to the goods that have been lost.

§ 35, second paragraph, shall apply correspondingly.

§ 37. Damage

When insured goods have been damaged, the Insurer may require that the damage be repaired in return for reimbursement of the costs of repair as they are incurred. Repairs may not be required if this results in unreasonable loss or inconvenience for the Assured.

If the Insurer does not or cannot require that the damage be repaired, or if complete repairs cannot be carried out, the Insurer shall be liable for a percentage of the insurable value of the damaged goods which corresponds to the final depreciation in their value (the damage percentage).

When the damage percentage for goods intended for resale is assessed at 50 per cent or more in a survey pursuant to § 47, the Insurer may demand that they be sold and he may decide the sale procedure. In such case, compensation shall be fixed at the difference between the insurable value, or the sum insured if this is lower, and the price obtained from sale of the goods. The sale must be requested without undue delay after the final survey report has been made available. If the goods are perishable, the Insurer may demand that they be sold without waiting for the final survey report, even if the damage percentage does not exceed 50. The Insurer's right to demand the sale of the goods pursuant to this paragraph is subject to the same limitations as the right of disposal pursuant to § 52.

Where the damaged goods are a total loss before the insurance period expires, the Assured may not claim compensation if:

1. An Insurer pays compensation for the total loss without deducting the partial damage, or
2. The total loss is not recoverable under any insurance.

§ 38. Damage to or loss of part of a complete unit

In the event of damage to or loss of a part of a machine or another similar object consisting of several parts, the Insurer shall only be liable for the repair charges or replacement of the part that has been damaged or lost. This applies even if it is essential that the object is complete.

§ 39. Salvage charges

The Insurer shall be liable for the Assured's salvage charges in accordance with § 6-4 of the Insurance Contracts Act, unless the provisions of § 40 are applied. In the case of an international transit, including transit to and from the Norwegian Continental Shelf, the Insurer shall not be liable for the Assured's liability for loss caused to a third party.

§ 40. General average

The Insurer shall be liable for general average contribution apportioned on the basis of the interest insured, if the general average act was undertaken on account of the risks covered by this insurance or ensuing from § 6, fourth paragraph. The contribution is recoverable on the basis of a general average adjustment, properly drawn up according to the rules of law applicable or to such terms and conditions as may be considered customary in the trade in question.

§ 41. Charges for providing security

The Insurer will reimburse the Assured for reasonable charges incurred in connection with providing security on account of a casualty.

§ 42. Litigation charges

When proceedings are instituted against the Assured in respect of a liability covered by this insurance, and when the Assured sues a third party for compensation in respect of a loss covered by this insurance, the Insurer shall be liable for the charges arising, provided that the steps taken have been approved by the Insurer or must be deemed justifiable.

§ 43. Charges in connection with settlement of claims

When the Insurer is liable for a loss, he shall also be liable for reasonable charges arising from the assessment of the loss and calculation of compensation. The Insurer shall always pay the expenses of his own insurance surveyor.

§ 44. Charges arising from measures relating to several interests

When charges as specified in §§ 39 to 43 have been incurred in connection with measures relating to several interests, the Insurer shall only be liable for such proportion of the charges as may fall upon the interest insured.

Chapter 11. Settlement of claims**§ 45. The Assured's duty of disclosure**

In connection with the settlement of a claim, the Assured shall provide the Insurer with such information and documents as are available to him and which the Insurer requires for the purpose of assessing his liability and paying the claim.

The Assured shall also help to ensure that information and documents which are in the keeping of a third party, and which the Insurer requires for the purpose of assessing his liability, are delivered to the Insurer.

§ 46. Fraud

If the Assured during the settlement of a claim deliberately provides incorrect or incomplete information which he knows or must be aware may lead to his receiving compensation to which he is not entitled, he shall forfeit the claim and any other claims against the Insurer under this and other insurance contracts if the claim arises from the same casualty, cf. § 8-1, second paragraph, of the Insurance Contracts Act.

§ 47. Survey of damage

If the Assured claims for damage or for total loss in accordance with § 35, first paragraph, no. 4, the goods shall be surveyed jointly by a representative of the Assured and a representative of the Insurer, if so requested by the Insurer or the Assured.

Prior to the survey, the goods shall as far as possible be grouped according to the nature and the extent of the damage. The representatives shall as far as possible state their opinions concerning the probable cause of each instance of damage and the time of its occurrence, and indicate how the damage should be repaired or to what extent the damage reduces the value of the goods (the damage percentage).

Should the representatives of the Assured and of the Insurer disagree as to the extent and cause of the damage, the parties may agree to summon an arbitrator. In such case the arbitrator shall be appointed jointly by the parties' representatives. The arbitrator shall give a reasoned opinion concerning the questions which the parties' representatives agree to submit to him.

§ 48. Rates of exchange

If the Assured has had expenses in a currency other than that in which the sum insured is stipulated, conversion shall be based on the rate of exchange applicable on the day the expenses were incurred. If the expenses are payable at a specific time, and the Assured without valid reason fails to pay them when they fall due, he may not claim compensation at a higher rate of exchange than the rate on the day on which payment was due. If the Assured in consultation with the Insurer has purchased foreign currency in advance, the rate of exchange applicable on the day of such purchase shall apply.

If the Insurer is liable for charges which have not been paid when the claims settlement takes place, conversion shall be based on the rate of exchange applicable on the day on which the claims statement is issued.

§ 49. Interest on the claim

The Assured shall be entitled to interest on the claim as from the expiry of two months from the day that notification of the casualty was sent to the Insurer. If the Insurer is liable for expenses incurred by the Assured, interest on reimbursement of expenses shall accrue as from two months at the earliest after the day the expenses were incurred.

Should the Assured neglect to provide information or documents as specified in § 45, he shall not be entitled to interest for any period of time lost thereby. The same applies if the Assured unwarrantedly declines full or partial settlement of his claim.

In all other matters regarding interest, Act No. 100 of 17 December 1976 relating to interest on delayed payment, etc., § 2, second paragraph, and § 3 shall apply.

If the sum insured is stipulated in a currency other than Norwegian krone, the interest pursuant to the first paragraph shall be calculated on the basis of a rate of interest equivalent to three months' LIBOR for the agreed currency plus 1.5 per cent, determined on the basis of the rate of interest applicable on the day the Insurer's liability to pay interest begins to run pursuant to the first paragraph. The interest rate shall subsequently be regulated according to the same rules every third month.

§ 50. The insurance document as prima facie evidence of ownership

When the Insurer has in good faith settled the claim or made other arrangements affecting this insurance after having had the insurance document presented to him and having endorsed the same to this effect, it may not later be contended that the person who presented the insurance document was not entitled to dispose of this insurance.

§ 51. The Insurer's right to demand return or presentation of insurance document upon payment of claim

The Insurer may demand that the insurance document be returned to him before paying the claim. Where an advance payment is made on the claim, the Insurer may demand that the insurance document be presented for endorsement.

§ 52. The Insurer's subrogation to the right to the goods on payment of claim

On payment of a claim for total loss or shortage, the Insurer shall be subrogated to the Assured's right to the goods for which the claim has been paid, unless the Insurer has waived his right not later than the time when payment is made. § 30 shall apply correspondingly.

In disposing of the goods to which the Insurer has taken over the right pursuant to the first paragraph, the Insurer is obliged to take due account of the interests of the Assured.

The Assured must provide the Insurer with all documents of importance to him as owner of the goods. Any charges incurred in this connection shall be borne by the Insurer.

Chapter 12. Claims against third party (recourse)

§ 53. The Insurer's right of subrogation to the Assured's claim against a third party

If the Assured has a claim against a third party, the Insurer shall on payment of the claim be subrogated to the Assured's right against the third party. This shall also apply in the case of freight forwarders, carriers, etc. where they are the persons effecting the insurance.

If the Insurer is only partly liable for the loss, the claim shall be divided proportionately between the Insurer and the Assured. The same applies when the compensation from the third party for the full loss would exceed what is payable by the Insurer, but the third party is liable only for a proportion of the loss or the entire amount of the loss cannot be recovered.

If the Insurer's claim produces a net amount in excess of that paid by him to the Assured with addition of interest, the Assured shall be entitled to the excess.

§ 54. The Assured's duty to maintain and secure the claim

The Assured must take any steps necessary to maintain and secure the claim until the Insurer himself can attend to his interests. If necessary, the Assured shall avail himself of expert technical and legal assistance.

If the Assured wilfully or through gross negligence fails to fulfil his duties pursuant to the preceding paragraph, he shall be liable for any loss suffered by the Insurer on account of such failure. In the case of national transits, however, the limitations of § 4-10 of the Insurance Contracts Act shall apply.

The Insurer's liability shall be reduced by an amount equal to that which he is precluded from collecting as a result of the Assured having waived the right to claim compensation from a third party, if such waiver cannot be deemed customary.

§ 55. The Assured's duty to assist the Insurer with information and documents

The Insurer is entitled to acquaint himself with all documents and other evidence, even before he takes over the claim. In the event of litigation between the Assured and a third party, the Insurer is entitled to have his own legal representative.

Chapter 13. Cancellation

§ 56. Cancellation in the event of fraud

When the duty of disclosure pursuant to § 12 has been fraudulently neglected, the Insurer may immediately cancel this insurance and other insurances with the person effecting the insurance. The same shall apply in respect of the Assured, if the duty of disclosure pursuant to § 13 has been fraudulently neglected.

If fraud has been committed pursuant to § 46, the Insurer may cancel this insurance and other insurances with the Assured by giving one week's notice.

§ 57. Cancellation in the event of incorrect information

If the Insurer learns that the information he has been given concerning the risk is incorrect or incomplete on any material point, he may cancel the insurance by giving 14 days' notice.

§ 58. Cancellation as a result of the Assured's action or omission

The Insurer may cancel the insurance contract by giving two months' notice if:

1. the Assured has wilfully brought about or attempted to bring about a casualty or caused a casualty through gross negligence, or

2. a safety regulation has been breached by the Assured or by a person with whom he may be identified pursuant to § 10, and cancellation is reasonable.

In the case of international transits, the period of notice of cancellation pursuant to the first paragraph shall be one week.

Chapter 14. Choice of law and jurisdiction

§ 59. Choice of law and jurisdiction

This insurance shall be subject to Norwegian law, including Act No. 69 of 16 June 1989 relating to Insurance Contracts, §§ 1-1 to 8-6 and §§ 20-1 and 20-2, unless otherwise prescribed by the Policy or these Clauses.

Disputes concerning this insurance shall be decided by the ordinary courts of law in the judicial district in which the Insurer has his headquarters.

Special Clauses

Special Clause No. 1: Thermoclause

This insurance also covers losses caused by the effects of changes in temperature or condensation resulting from:

- a) the means of transport or cargo having suffered a casualty after the goods have been loaded onboard,
- b) the machinery which regulates the temperature of the means of transport or container having been totally or partially inoperative or having been incorrectly set, but not in consequence of protest actions, riots, strikes, lockout, sabotage or similar occurrences, cf. § 18, no. 3,
- c) the goods having been discharged at a port of distress.

As a safety regulation, § 24 of the Cargo Clauses: "Goods carried in thermoregulated means of transport" shall apply.

Special Clause No. 2: Total loss as a result of delay (not resulting in the physical loss of or damage to the goods)

The Assured is entitled to claim for a total loss pursuant to §§ 35 and 36 of the Cargo Clauses when:

- a) a domestic transit has been delayed for at least 30 days, or
- b) an international transit has been delayed for at least 30 days as a consequence of theft, piracy, damage to other goods carried by the means of transport, or the means of transport onto which the goods are loaded having suffered a casualty, disappeared or been abandoned, or harbours or transit routes having been destroyed or blocked, but not as a result of protest actions, riots, strikes, or similar occurrences, cf. § 18, no. 3 of the Cargo Clauses.

Special Clause No. 3: Additional insurance in the event of price increases, etc. (Open insurable value)

This insurance covers the increased value, above the ordinary insurable value, that the goods have acquired upon arrival at their destination as a result of price increases or for other reasons.

When stating the increased value, the person effecting the insurance shall at the same time inform the Insurer of any insurances which have previously been effected in respect of the goods.

Special Clause No. 4: Additional insurance for customs duty and other ordinary charges relating to the transit

This insurance covers customs duty and other ordinary charges relating to the transit payable by the Assured for insured goods which have been damaged or lost.

This insurance shall not cover charges included in the ordinary insurable value of the goods.

Special Clause No. 5: Extraordinary charges for unloading, etc. following damage

This insurance covers extraordinary charges incurred by the Assured in connection with unloading and other handling of goods which have sustained loss or damage for which the Insurer is liable, or in connection with damage to packing or other packaging designed to unitize the goods for transport and handling.

However, the Insurer shall not be liable for charges recoverable in general average.

In any case, the Insurer's liability pursuant to this provision shall be limited to 20 per cent of the sum insured.

Special Clause No. 6: Charges in connection with removal of goods following loss

Even if the sum insured should be exceeded, the Insurer shall also be liable for reasonable expenses incurred by the Assured in connection with the removal of the remains of the insured goods where there has been a total loss or shortage for which the Insurer is liable, limited to 20 per cent of the sum insured.

Special Clause No. 7: Strikes, sabotage, etc.

This insurance covers loss of or damage to goods when the loss or damage is caused by persons participating in protest actions, riots, strikes, lockout, sabotage or similar occurrences.

When loss or damage has occurred or there is an imminent danger of it occurring, the Insurer may, in respect of transits which have not commenced, demand that the transit route be altered and/or that the means of transport be changed, or that the transit to the named place of destination be abandoned. § 35, third paragraph, no. 3 shall not apply to such demands from the Insurer.

The Insurer shall not be liable for loss caused by delay. Nor shall the Insurer be liable for charges in connection with discharge, storage, supervision and reforwarding, unless such charges have been incurred to avert an imminent danger of loss for which the Insurer is liable pursuant to the first paragraph.

The Insurer shall be entitled to an additional premium if liability does not attach within seven days after this insurance was effected.

In the case of international transits, the Insurer shall be entitled to cancel the Special Clause by giving seven days' notice. In the case of transits to or from the USA, the Special Clause is subject to cancellation at 48 hours' notice.

Special Clause No. 8: Wholly or partly chartered ships 16 years of age or older

This insurance covers loss of or damage to goods carried onboard wholly or partly chartered ships 16 years of age or older and of which the Insurer has given written approval prior to the voyage. In connection with such transits, agreement shall be reached concerning an additional premium or an additional deductible pursuant to the third paragraph.

Agreements concerning the amount of the additional premium shall be made in writing. In the absence of such an agreement, the deductibles specified in the third paragraph shall apply.

The deductible for each casualty as a percentage of the loss shall be:

From and including 16 years up to and including 20 years of age:

10%, minimum NOK 10,000

From and including 21 years up to and including 25 years of age:

15%, minimum NOK 25,000

From and including 26 years up to and including 30 years of age:

20%, minimum NOK 50,000

Over 30 years of age: 35%, minimum NOK 100,000.

Appendix:

Contractual terms relating to open cover and floating policies for the carriage of goods

§ 1. Commencement and Termination of the Insurance Contract

The insurance covers all shipments commencing after the Insurance Contract takes effect. When a shipment falls within the scope of the insurance, the Insurer shall be liable for the commenced shipment until the period of insurance for the said shipment has terminated, cf. § 15 of the Cargo Clauses.

§ 2. Scope of the Insurance Contract

The Insurance Contract covers shipments within the scope of business activities of the person effecting the insurance as indicated in the Policy when the latter holds the title to or bears the risk for the goods in transit or is obliged under the sales contract to effect an insurance for the party bearing the risk.

Shipments covered by the Insurance Contract may not be withheld from the Insurer even if the goods are also insured elsewhere.

Unless otherwise specifically agreed, the Insurance Contract shall not cover:

- a. Transits to the CIF-port or the CIP-place of destination of goods which the person effecting the insurance has purchased CIF or CIP.
- b. Entirely local transits.
- c. Local transits prior and subsequent to the principal transit, where the latter is not covered by the Contract.
- d. Unregistered postal sending or other consignments which are sent without any bill of lading or waybill being issued.
- e. Transits on wholly or partly chartered ships if the ship is 16 years of age or older. The term wholly or partly chartered ships denotes any seagoing vessel for which the seller or the buyer or any party acting on their behalf has entered into a charter party or special agreement with the party chartering out the ship concerning the chartering (lease) of all or parts of the vessel. The age of the ship shall be calculated from the end of the month in which the ship was originally delivered.

When the original month of delivery cannot be documented, the age shall be calculated as from 1 January of the original year of delivery.

§ 3. Certificate of Insurance

The Insurer shall on demand issue a certificate of insurance for each individual shipment covered by the Insurance Contract. The Insurer is not obliged to hand over any such certificate until all due premiums have been paid.

§ 4. Especially for Open Cover

The duty of the person effecting the insurance to declare shipments:

The person effecting the insurance shall submit to the Insurer a statement showing shipments covered by the Insurance Contract, and indicating the full insurable value of the goods and whether the goods are to be shipped as deck cargo.

The Insurer shall not be liable for undeclared shipments.

§ 5. Especially for Floating Policies - Premium

The premium shall be calculated on the basis of the estimated total sum insured for the shipments covered by the Insurance Contract. Unless otherwise agreed, the sum insured shall be calculated as follows:

1. Ingoing shipments:

The invoice amount plus charges, insurance premium, freight insofar as these charges are not included in the invoice amount and 10 per cent anticipated profit.

2. Outgoing shipments:

The invoice amount plus 10 per cent anticipated profit in cases where any compensation is payable to the buyer (e.g. CIF or CIP sales).

After each insurance year the person effecting the insurance shall render to the Insurer a statement of the sum insured. The statement shall be examined and certified by the financial comptroller or a similar officer employed by the person effecting the insurance. The premium shall be adjusted in accordance with this statement.

Specimen:

POLICY FOR SINGLE SHIPMENTS

..... and have entered into the following

CONTRACT OF INSURANCE RELATING TO GOODS IN TRANSIT

- | | |
|---|---------------------------------------|
| 1. Person effecting the insurance: | 2. Assured: |
| 3. Goods insured: | 4. Means of transport: |
| 5. Date of shipment: | 6. The goods are to be shipped |
| | from: to: |
| 7. Sum insured: | 8. Rate of premium: |

9. Conditions of insurance:

The attached insurance conditions shall apply to this insurance.

10. Average agent:

11. Commencement of transit

If the transit has not commenced byat the latest after the date specified under item no. 5, this Contract shall cease to apply, and a new contract must be concluded. Should this Contract cease to apply, the person effecting the insurance shall be obliged to pay the Insurer NOK to cover the expenses incurred by the Insurer in establishing the Contract.

12. Payment of premium

12.1 The premium shall be paid not later than the due date stipulated by the Insurer. If the premium is not paid by the date specified in the notice of payment due, interest on delayed payment shall accrue pursuant to § 3 of Act No. 100 of 17 December 1976 until payment is made. If the Insurer has to send another notice of payment due, the Insurer may demand that the expenses he thereby incurred as well as all other expenses relating to recovery shall be covered.

12.2. If the Insurer has sent out a notice of payment due with a time limit for payment before his liability attaches, the Insurer's liability pursuant to this Contract shall be dependent on the premium being paid by the date specified in the notice of payment due.

13. The Insurer shall not be liable if:

1. The goods transported do not tally with the description under item no. 3.
2. The means of transport do not tally with the information under item no. 4.
3. The place from which the goods are shipped and the place at which the goods are received do not tally with the information under item no. 6.

14. Time limit for notification of a casualty

Should a casualty occur, the Assured shall forfeit all right to compensation if a claim has not been submitted to the Insurer within one year after the Assured was apprised of the circumstances on which the claim is based.

15. Safety regulations

The provisions relating to safety regulations are set out in Chapter 7 of the Cargo Clauses. In other respects, the following safety regulations shall apply:

16. Advisory Boards

The person effecting the insurance may demand that the Insurer shall submit any disputes that may arise concerning this insurance to the Insurance Agreements Board or, if the Insurer wishes to reduce compensation, to the Board for Reduced Compensation.

Specimen:**POLICY FOR A STANDING INSURANCE CONTRACT**

..... (hereinafter called "the Insurer") and (hereinafter called "the Assured") have entered into the following

STANDING CONTRACT OF INSURANCE FOR THE CARRIAGE OF GOODS:

(open cover or floating policy)

- | | |
|---|------------------------------------|
| 1. Person effecting the insurance: | 2. Assured: |
| 3. Commencement of contract: | 4. Termination of contract: |
| 5. Goods insured: | 6. Means of transport: |
| 7. Area of transit: | 8. Premium: |

9. Insurance conditions:

This insurance shall be subject to the appended contractual terms of (date) and insurance conditions of/no.:

10. Financial limitation of the Insurer's liability

The highest sum insured that shall be covered by the Insurer for each individual transit is:

- (a) NOK
- (b) etc.....

11. Payment of premium in the event of termination of the contract

Should this contract be terminated during the period of insurance, premiums shall be paid according to the following principles:

- (1) Open cover: A premium shall be calculated on all transits commenced while the contract was in effect.
 - (2) Floating policies: As under (1).
 - (3) Time policies: The premium period shall be divided into whole months, and a premium shall be calculated on the basis of the number of commenced, whole months during which the contract was in effect.
- Furthermore, NOK shall be paid to cover the costs incurred by the Insurer in connection with the establishment and administration of the insurance.

12. The Insurer shall not be liable if:

- 1. The goods carried do not tally with the description under item n°. 5.
- 2. The means of transport do not tally with the information under item n° 6.
- 3. The area of transit for the goods does not tally with the information under item n°.7.

13. Time limit for notification of a casualty

Should a casualty occur, the Assured shall forfeit all right to compensation if the claim is not reported to the Insurer within one year after the Assured was apprised of the circumstances on which the claim is based.

14. Safety regulations

The provisions concerning safety regulations are laid down in Chapter 7 of the Cargo Clauses. In other respects, the following safety regulations shall apply:

15. Advisory boards

The person effecting the insurance may demand that the Insurer shall submit any disputes that may arise concerning this insurance to the Insurance Agreements Board or, should the Insurer wish to reduce compensation, to the Board for Reduced Compensation.

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