

GENERAL CONDITIONS OF OVERLAND TRANSPORTATION INSURANCE IN VIETNAM

Chapter I

GENERAL PROVISIONS

Article 1

The present conditions shall apply to insurance issued by Tokio Marine Insurance Vietnam Co., Ltd (hereafter called the “**Company**”) on goods transported by land, by railways and by waterways within the territory of Vietnam.

Article 2

By specific agreement in the insurance contract these conditions shall also be used to apply to insurance on goods transported from Vietnam to neighboring countries and goods transported from overseas countries to neighboring countries with permission for their transit through Vietnam by the above modes of transport.

Chapter II

SCOPE OF INSURANCE

Article 3

The Company shall be liable for the loss of or damage to the goods insured proximately caused by one of the following occurrences, except as provided in Chapter III below,

1. fire or explosion
2. earthquake typhoon inundation cyclone catastrophic earth wave and lightning
3. means of conveyance being sunk overturned capsized fallen down or stranded, collision or contact of conveyance with any other external object or derailment
4. blowing down of tree collapse of bridge or tunnel and other structures
5. means of transportation of goods being missing

Article 4

In case the goods are insured under the Article 3 mentioned above, the Company may, upon the request of the Insured and subject to an additional premium to be agreed, extend to cover one or more of the following extraneous risks:

1. Shortage of any bag or package
2. Breakage (excluding breakage due to wet)

Article 5

In the event of loss or damage within the scope of cover under the contract of insurance as stated above, the Company shall also be liable for the following expenses:

- a) Reasonable expenses and costs incurred by the Insured and his servants or Agents in averting or minimizing loss of or damage to the insured goods.
- b) Charges for unloading storing and forwarding the insured goods that were properly and reasonably incurred at an intermediate place of call as a result of the operation of a risk covered by the contract of insurance.
- c) Reasonable expenses incurred for surveying and ascertaining loss or damage for which the Company is to be liable.
- d) General average and salvage charges

Chapter III

EXCLUSIONS

Article 6

Unless otherwise agreed, the Company shall not be liable for loss damage or expense caused by:

1. war, strikes, civil war, revolution, rebellion, insurrection, or civil strike, piracy, mines, torpedoes, bombs or other weapon of war,
2. direct or indirect consequence of radiation or radioactive contamination arising from the use of atomic energy or nuclear fission and/or fusion or like reaction or radioactive matter.
3. willful misconduct or unlawful act of the Insured or his servants.
4. inherent vice, or nature of the goods insured
5. overloading (for full-one cargo-shipment) or inadequate stowage not ensuring safety for the carriage of the goods insured.
6. inadequate packing, unsuitability of packing or loading of goods in damaged condition.

7. ordinary leakage, ordinary loss in weight or volume of the goods insured in the course of transit
8. unfitness of conveyance for the safe carriage or traffic, and
9. loss damage or expense proximately caused by delay, even though the delay is caused by a risk insured against.
10. the goods being damaged prior to the issuance of insurance policy.
11. the goods being forwarded over to a destination other than named in the policy.

Chapter IV

COMMENCEMENT AND TERMINATION OF INSURANCE

Article 7

Except the exclusions as provided in the Article 6 above, provided that the insurance premium has been paid by the Insured, the liability of insurance attaches from the time the goods are loaded onto the means of transportation at the place of departure named in the policy for the commencement of transit, continues during the ordinary course of transit and terminates at the time the goods are discharged from such means of transportation at the destination named in the policy.

Article 8

In the above course of transit where there occurs any event stated in the article 3 that leads to an extraordinary transshipment or change of voyage, this insurance shall remain in force, subject to prompt notice given to the Company in connection with such occurrence or change and to an additional premium if required by the Company.

Chapter V

PROCEDURES FOR EFFECTING INSURANCE, INSURABLE VALUE AND INSURED AMOUNT

Article 9

1. When applying for insurance, the applicant shall fill in an Application Form specifying the following items:
 - a) Name and address of Insured
 - b) Name of the goods, nature and type of packing, marks of the goods to be insured
 - c) Weight, quantity and value of the goods to be insured
 - d) Course of transit (place of dispatch-destination and transshipment, if any)
 - e) Name of the carrier, kinds of conveyances and their Registration numbers
 - f) Date of departure of the conveyances and estimated time of arrival.
 - g) The Company shall issue a "Certificate of Insurance" on the basis of the Application Form.
2. The Insured shall pay the insurance premium to the Company at the time of receipt of the Certificate of Insurance. The Company shall only be liable for any loss or damage incurred after the insurance premium was paid (unless otherwise agreed).
3. If after the conclusion of the contract of insurance there occurs any change in the representations made by the Insured in connection with the goods insured, the Insured shall be bound to give immediate notice to the Company of such change or occurrence upon being aware thereof.

The Company shall, upon receipt of such notice, issue an Endorsement and may demand for an additional premium to be paid by the Insured.

Article 10

If there is any misrepresentation or concealment by the Insured of the items as specified in the Application Form or of the change or occurrence as notified to the Company, the Company shall be discharged from the liability as provided for in the contract of insurance and has the right to receive the insurance premium.

Article 11

A Certificate of Insurance may be assigned to another person upon endorsed on the back hereof by the Insured or his competent representative.

Article 12

The insured amount of the insured goods shall be the value declared by the Insured suitable with its market value and agreed to by the Company.

If the Insured fails to declare the insured amount, the insurable value shall be applicable and computed as follows:

The insurable value of the insured goods shall be the aggregate of the invoice value of the goods hereby insured (or actual value at the place of departure if there is no invoice), freight and insurance premium.

Unless otherwise agreed, an anticipated profit may be incorporated in the insured amount declared by the Insured. It shall, however, not exceed 10% (ten per cent) of the insurable value.

Chapter VI

OBLIGATIONS OF THE INSURED IN CASE OF LOSS

Article 13

In case of loss damage within the scope of cover as mentioned in Article 3 of these conditions, the Insured, his servants or representatives, shall

- a) inform immediately the local authorities of the occurrence in order to dispose of the case and set up a report in accordance with the rule in force
- b) notify the Company or his nearest representative immediately for survey without any delay
- c) take all necessary measures to rescue and preserve the goods for the purpose of minimizing the loss or damage
- d) execute necessary procedures to ensure that all rights against responsible carriers or other third parties are properly preserved and exercised.

If the Insured fails to fulfill the aforesaid obligations, the Company shall have the right to repudiate the claim entirely or partly.

Article 14

In order to recover under this insurance, the claimant must have an insurable interest in the subject matter at the time of the loss and actually suffered such loss.

The Insured shall, when filing a claim with the Company in respect of loss or damage under the contract of insurance, submit a complete set of following documents:

1. Original Certificate of Insurance.
2. Original of Contract of carriage, Bill of Lading issued by the carrier.
3. Invoice together with specifications, weight/quantities notes.
4. Survey Report showing the extent of damage issued by the Company or by whom appointed by the Company.
5. Investigating report on casualty issued by local authority in case the means of transportation are stranded grounded overturned sunk...
6. Correspondence exchanged between the Insured and the carriers or other third parties regarding their liability for the loss or damage.
7. Claims statement.

Chapter VII

ASCERTAINMENT OF LOSS

Article 15

1. Total loss referred to in the present condition shall be deemed to include an actual total loss and a constructive total loss.
2. If, after having sustained loss or damage within the scope of cover under the contract of insurance, the insured goods are totally destroyed or so seriously damaged as to cease to be a thing of the original species or the Insured is irretrievably deprived of possession thereof, it shall be deemed to be an actual total loss.
3. Where the loss or damage is incurred to the insured goods within the scope of cover under the contract of insurance, and an actual total loss appears to be unavoidable or because the costs of recovering, reconditioning and forwarding the goods to the destination to which they are insured would exceed their value on arrival, it shall be deemed to be a constructive total loss.
4. Any loss or damage not falling under the categories as provided for in the preceding two paragraphs shall be deemed to be a partial loss.

Article 16

Where the means of conveyance is missing, the insured goods shall be deemed to be an actual total loss.

The means of conveyance shall be deemed to be missing where it fails to reach the destination named in the contract of insurance, and no news of it is received. The period of time required to constitute the missing of conveyance shall not be less than three months counting from its estimated time of arrival at such destination.

Chapter VIII

ASSESSMENT AND PAYMENT OF CLAIM

Article 17

Where there is a partial loss, the measure of indemnity is worked out by multiplying the insured amount by the amount of the Company's liability. The Company's liability is ascertained by comparing the difference between the gross sound and damaged values at the place of arrival bears to the gross sound value.

Article 18

The liability of the Company shall be limited to the insured amount.

Where the insured amount of the goods is lower than the insurable value, the indemnity to be paid by the Company for loss or damage and for the expenses as specified in the Article 3 and 4 of Chapter II shall be of such proportion as the insured amount bears to insurable value.

Where the insured amount of the goods is in excess of the insurable value, the part by which the insured amount exceeds

the insurable value shall be void.

Article 19

The Company shall have the right to be discharged from all liabilities under the contract of insurance by waiving the interest in the insured goods and the right of recovery from the third party and paying the insured amount in full.

Article 20

In the case of observance of the Company's instructions by the Insured for the purpose of averting or minimizing loss or damage, the Company shall be liable to reimburse the Insured for necessary and reasonable expenses incurred by him for that purpose even though the aggregate amount of amount of expenses together with the indemnity for the loss may exceed the insured amount.

Article 21

1. After examination of the claim documents submitted by the Insured and confirmation of loss or damage, The Company shall effect payment of the claim within thirty (30) days of receipt of such proper documents.

Where the claim documents are found unsuitable or required further verification or the loss or damage if proved to be out of the scope of cover, the Company shall notify the Insured in writing of such cases within fifteen (15) days of receipt of his claim documents.

Where no comment is given in writing by the Insured within thirty (30) days of receipt of notice relating to the payment or non-compliance with a payment of loss, the claim in question shall be deemed to be terminated.

2. Upon payment of the claim, the Company may deduct from the amount there of such credit items as the proceeds realized from a sale of the salvaged goods and the amount recovered from the third party by the Insured.

3. Where the conveyance was missing and the insured goods were deemed to be an actual total loss, or the goods were lost, and after the payment of the insurance indemnity those goods are found out not to have perished, such finding goods shall be the property of the Company and be disposed of in accordance with regulations in force of the State.

Chapter IX

SUBROGATION AND ABANDONMENT

Article 22

1. Upon payment of the insurance indemnity all the claims and rights which the Insured has against third party are subrogate to the Company to the extent of the amount paid.

The Insured is obliged on receipt of the insurance indemnity to transfer to the Company all his rights against third party together with the whole set of necessary documents relating to such rights.

2. If Insured renounces such rights or if realize the recourse would become impossible through his fault (lapse of term for presenting the claim against person liable for the loss etc...), the Company is released to the appropriate extent from, the obligation to pay the insurance indemnity and should the payment have already been made, the Insured is obliged to refund to the Company a part or full amount of indemnity received according to the circumstances.

Article 23

Where the Company pays for a total loss (either of the whole or of any apportionable part of the goods insured) , he thereupon becomes entitled to take over the interest of the Insured in whatever remain of goods so paid for in accordance with the regulation in force of the State.

Article 24

1. Where the Insured elects to claim for a constructive total loss of the insured goods he must give notice of abandonment to the Company. If he fails to do so, the loss can only be treated as partial loss.

2. Notice of abandonment must be given in writing and in any terms which must indicate the intention of the Insured to abandon his interest in the insured goods unconditionally to the Company.

3. Where the notice of abandonment is properly given, the rights of claim of the Insured are not prejudiced by the fact that the Company refuses to accept the abandonment. Where the notice of abandonment is accepted the abandonment is irrevocable.

Chapter X

PRESCRIPTION

Article 25

The Insured's right of claim shall cease to operate after the lapse of one year from the date on which such right arises.

Chapter XI

GOVERNING LAW AND JURISDICTION

Article 26

The contract of insurance shall be interpreted and governed in accordance with the law of England unless the law of Vietnam is mandatory as the governing law of the contract of insurance.

Any dispute arising under or in connection with the contract of insurance shall be resolved by the Company and Insured through amicable settlement. If both parties fail to resolve amicably within thirty (30) days from the date of notice on dispute, the dispute shall be referred to the Vietnam International Arbitration Center in accordance with its rules, or another arbitration body and rules at the option of the Company for final settlement. The dispute shall be referred to the competent court for settlement if the choice of arbitration shall not be available between the parties under the applicable law.