

CARGO INSURANCE, INTERNATIONAL SPECIAL CLAUSES

Tavaravakuutus, kansainväliset erityisehdot
Varuförsäkring, internationella special villkor

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KU 08

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CARGO INSURANCE, INTERNATIONAL SPECIAL CLAUSES KU 08

APPLICATION OF SPECIAL CLAUSES

The International Special Clauses of Cargo Insurance KU 08 (800–869) shall be applied in connection with the International Clauses of Cargo Insurance KU 07 if the validity of the special clause has been agreed upon separately and an entry thereof has been made in the insurance policy or contract.

In other respects, the International Clauses of Cargo Insurance KU 07 shall apply.

These cargo insurance terms and conditions shall apply to companies' and entrepreneurs' deliveries within Finland, from a foreign country to Finland or from Finland to a foreign country, within and between foreign countries.

SPECIAL CLAUSES AND EXTENSIONS OF COVER

800 Accumulation Clause

Should there be an accumulation of interests beyond the limits expressed in this insurance by reason of any interruption of transit and/or occurrence beyond the control of the Insured, or by reason of any casualty and/or at a transshipping point and/or on a connecting steamer or conveyance, Insurer(s) shall hold covered such excess interest and shall be liable for the full amount at risk but in no event to exceed twice the insurance limit, provided notice be given to Insurer(s) as soon as known to the Insured.

801 Appraisal/Arbitration

If the Insured and the Insurers fail to agree on the amount of loss, each shall upon the written demand of either made within sixty (60) days after receipt of evidence of loss by the Insurers, select a competent and disinterested appraiser. The appraisers shall then select a competent and disinterested umpire. If they should fail for fifteen (15) days to agree upon such umpire, then upon request of the Insured or the Insurers such umpire shall be selected by a judge of a court of record in the country and jurisdiction in which such appraisal is pending. Then, in a reasonable time and place, the appraisers shall appraise the loss, stating separately the value at the time of loss and the amount of loss. If the appraisers fail to agree, they shall submit their differences to the umpire. An award in writing of any two shall determine the amount of loss. The Insured and the Insurer shall each pay his or its chosen appraiser and shall bear equally the other expenses of the appraisal and of the umpire.

802 Assistance and Co-operation of the Insured

The Insured shall co operate with the Insurers and upon the Insurer's request, shall attend hearings and trials and shall assist in effecting settlements, in securing and giving evidence, in obtaining the attendance of witnesses, and conducting suits.

803 Brands or Trademark

In case of damage to property bearing a brand or trademark or which in any way carries or implies the guarantee or the responsibility of the manufacturer or of the Insured, the salvage value of such damaged property shall be determined after removal in the customary manner (at the Insurer's expense) of all such brands or trademarks or other identifying characteristics. The Insured shall have full right

to the possession of all goods involved in any loss under this insurance and shall retain control of all damaged goods. The Insured, exercising reasonable discretion, shall be the sole judge as to whether the goods involved in any loss under this insurance are fit for consumption, and no goods so deemed by the Insured to be unfit for consumption shall be sold or otherwise disposed of except by the Insured or with Insured's consent, but the Insured shall allow the Insurers any salvage obtained by the Insured on any sale or other disposition of such goods.

804 Buyer's Extension

Extent of cover

This insurance covers damage to or loss of the goods and also expenses incurred in so far such damage, loss or expense is recoverable according to the cargo insurance conditions agreed by the Insured and the Insurer, resulting from,

that the seller has omitted to acquire cargo insurance, contrary to his obligations in this respect according to the terms of delivery of the contract of sale;

that the insurer of the insurance acquired by the seller according to the terms of delivery, does not adjust or rejects a claim for damage, loss or expense, payable under the cargo insurance;

that the insurance acquired by the seller either provides a less extensive cover than the insurance cover agreed between the Insured and the Insurer (Difference in Conditions) or that the insured amount is too low.

To the extent that damage, loss or expense is recoverable under the insurance acquired by the seller, this insurance is subsidiary to such insurance.

Compensation

When a claim is made under this insurance, the Insured must prove that damage, loss or expense has been incurred and, where appropriate, prove that reasonable measures have been taken to obtain compensation from the seller and/or other parties concerned.

If compensation is paid by the Insurer in accordance with this insurance, he shall, where appropriate, be subrogated to the Insured's rights against the seller and/or other parties concerned. The Insured shall upon request by the Insurer, in his own name but on behalf of the Insurer and at his expense, pursue the Insurer's claim against the seller and/or other parties concerned.

Other conditions

The Insured must not divulge this insurance to the seller or other parties. If the Insured fails in this respect the compensation may be reduced or not paid at all.

This insurance is to the benefit of the Insured and/or declared Creditors interests and must not be transferred to other parties.

This insurance is subject to the cargo insurance conditions agreed to by the Insured and the Insurer.

805 Buyer's/Seller's Interest

Subject to terms and conditions of the open cover, the Insured is indemnified for loss of or damage to the goods which are on the other party's responsibility in the event of the other party's failure to insure goods or its insurance company refusing to settle the claim that is

recoverable under the other party's marine insurance, resulting in the trade price not being paid to the Insured.

In case of damage to or loss of the goods which the other party under the trade agreement has been obliged to insure, this insurance also covers the loss incurred to the Insured as a result of the other party's failure to insure the goods as defined by the INCOTERMS 2000 or by other trade terms applicable.

This insurance also covers any difference of limit and/or conditions between the insurance cover provided by the sellers and the terms and conditions of the Master Policy provided that the Insured have duly presented their claim under the cover provided by the seller before claiming the difference under this insurance.

Any assignment of this cover or of any interest or claim hereunder shall discharge the Insurer from this liability under this clause, if the assignment is deemed to have caused the claim.

This clause shall immediately be considered null and void, if the Insured discloses the existence of the same or transfers the benefit thereof to the contracting party, the primary insurer or any third party.

806 Clause Paramount

Anything contained in the Institute Clauses referred to herein that is inconsistent with the following clauses and conditions shall, to the extent of such inconsistency, be null and void.

This Clause Paramount shall not serve to override the Duration Clause in the Institute War Clauses.

807 "Claused" Bills of Lading

The insurance is not to be prejudiced solely by reason of the marking of the Bill of Lading (or like document) with a clause indicating items insufficiently packed.

808 Commencement and termination of Insurance Cover

This insurance commences upon lifting the goods from the shelf in the insured's premises for preparation of the insured voyage. Notwithstanding Clause 8 in Institute Cargo Clauses (A) it is hereby agreed, that this insurance covers the insured items until placed at final place of destination, provided that this operation takes place immediately after or as soon as possible after the goods have arrived at the final destination.

809 Concealed Damage

Should delay occur in the opening of packages and/or cartons and/or cases and/or containers after arrival of goods at destination, as provided for in this insurance, and damage found when packages are eventually opened, but not later than ninety (90) days after arrival at location or warehouse at destination, such damage shall be deemed to have occurred during the transport.

Claims on such goods to be adjusted and paid by the Insurer in the same manner as if the packages had been opened immediately upon their arrival.

Packages showing external evidence of damage are to be opened immediately upon arrival at destination and exceptions noted on the carrier's receipt(s).

810 Container Clause

The fitness of shipping containers for the safe carriage of the subject matter insured is admitted as between the Insured and the Underwriters.

To the extent that cover for shortage is provided hereunder, claims for shortage from a sealed container shall not be invalidated by the fact that seals are or appear intact upon arrival. Shortage in this context shall be determined as the difference between the number of packages loaded or alleged to have been loaded in accordance with the shipper's or supplier's invoice or packing list and the number of packages removed at the time the container is unloaded.

Containers that are transported at the Insured's risk shall be covered hereunder subject to Institute Container Clauses Time 1/1/87 and Institute War and Strikes clauses Containers - Time 1/1/87.

811 Container demurrage charges

This policy shall cover demurrage charges and/or late penalties assessed against, and paid by the Insured for late return of containers when said containers are retained by the Insured at the instruction of the Insurer's surveyor in investigation of loss or damage recoverable under the policy.

812 Control of Damaged Goods

Notwithstanding anything to the contrary contained elsewhere herein, it is understood and agreed that in case of damage to goods insured under this Policy, the Insured is to retain control of all damaged goods. The Insured, however, agrees wherever practicable to recondition and sell such goods after removal of all brands and trademarks.

Where the disposal or sale of such damaged goods is, in the opinion of the Insured, detrimental to their interest (or which they are unable to sell or dispose of under their agreement with any trade association), such damage shall be treated as a constructive total loss and the Insured shall dispose of the damaged goods to the best advantage, Underwriters being entitled to such proceeds or they shall be destroyed subject to Underwriters agreement.

813 Control of Damaged Merchandise

In case of damage caused by an insured peril the Insured, their agents or consignees shall have the sole right to refuse acceptance of the damaged property and shall have the right to payment of the insured value of that consignment or the affected part thereof. Such property shall then be destroyed or alternatively dispatched, at Insurer(s)' risk and expense to the supplier's, manufacturer's or Insured's (including agents or associated companies) facility, as necessary for survey and testing as to suitability for sale. The Insured's decision as to suitability to be accepted by the Insurer(s) whose representative shall be present at the survey, all expenses involved being for the Insurer(s) account and any salvage recoverable by the Insured shall be applied against the total loss.

814 Debris Removals

It is agreed that subject to the operation of an insured peril, Underwriters will pay costs and expenses reasonably incurred by the Insured in connection with:

Removal of debris and/or destruction of damaged goods

The transfer of items covered hereunder from one conveyance to another in the event of an accident to the original conveyance which results in loss of or damage to such items which is recoverable hereunder

But excluding absolutely any expense incurred in consequence of or to prevent or mitigate pollution or contamination or any threat or liability therefore or clean up costs arising there from.

The indemnity provided by this clause shall be in addition to the indemnity provided elsewhere herein but be limited to a further 10 % of the insured value of the goods lost or damaged up to EUR 50 000

815 Deliberate Damage - Pollution Hazard

This policy is extended to cover but only while the property insured is on board a waterborne conveyance, loss of or damage to said property directly caused by governmental authorities acting for the public welfare to prevent or mitigate a pollution hazard or threat thereof, provided that the accident or occurrence creating the situation which required such governmental action is an insured peril hereunder.

816 Deliberate Damage Clause - Customs Service

This insurance is also specially to cover, physical loss of or damage to the goods insured arising out of the performance of inspection duties by Customs Service Agents or other duly constituted governmental agencies who are performing inspection duties of or for the Customs Service.

817 Devaluation and Revaluation Clause

This insurance is extended to cover losses to the Assured due to currency devaluation and revaluation between the time of loss and indemnification.

818 DIC cover where Insured is seller but subject to local insurance

It is noted and agreed that where the Insured or any of their Associated, Subsidiary or Affiliated Companies are obliged by legislation or otherwise to insure locally, they shall continue to have full benefit of the protection afforded by this Policy.

It is also agreed that following the payment of a claim hereunder, the Underwriters shall be subrogated to all rights and remedies of the Insured (as above defined) under such local insurance and in no case shall this insurance contribute in double insurance.

819 Duty

This insurance is also to indemnify the Insured in respect of their liability to pay duty to the customs and excise authority of any country through which the subject matter insured may pass prior to coming into the jurisdiction of the country of destination and including the country of destination.

820 Errors and Omissions Clause

Insured shall not be prejudiced by any unintentional delay or omission in the reporting hereunder or any unintentional error in the amount or description of the Interest, Vessel or voyage, or if the subject matter of the Insurance be shipped by any other vessel, if notice be given to Insurers as soon as practicable after said facts become known to the directors or

officers or whoever is considered the alter ego of the Insured and deficiency of premium, if any, is made good.

821 Exhibitions / Demonstrations / Fairs Clause

It is understood and agreed that this insurance, subject to its terms and conditions, is extended to cover goods and / or merchandise and / or other property while on exhibition or in trade fairs. The length of insurance under this section is limited to 30 days from the date of commencement of the insured transit.

Where there is no invoice, the property insured hereunder shall be valued at reproduction cost plus incurred delivery charges.

The limit of insurance under this extension shall not exceed the limit stated under section Limits of Indemnity clause "Exhibitions / Demonstrations / Fairs" any one loss.

This extension does not insure against loss, damage or expense caused by or resulting from:

- a) Delay, loss of market, indirect or consequential loss of any kind;
- b) Unexplained loss, mysterious disappearance nor loss or shortage disclosed upon taking inventory;
- c) Wear and tear, mechanical breakdown, inherent vice, latent defect, gradual deterioration, or depreciation, insects, vermin or by processing or any work upon the property unless fire or explosion ensues and then only for direct loss or damage caused by such ensuing fire or explosion;
- d) Corrosion, rust, dampness of atmosphere, freezing, overheating, extremes of temperature, contamination, change in flavour, colour or finish, shrinkage, evaporation or loss in weight. However this insurance covers damage attributable to the variation of temperature and/or moisture when outside the control of the Insured provided that proper handling and protection instructions have been given by Insured to the carriers and to the receivers/consignors;
- e) Misappropriation, secretion, conversion, infidelity or any dishonest act on the part of the assured or other party of interest, his or their employees or agents or others to whom the property is entrusted (carriers for hire excepted);
- f) Short circuit, blow out or other electrical disturbance within any article insured hereunder, unless fire or explosion ensues, and then cover is provided only for direct loss or damage caused by such ensuing fire or explosion;
- g) Theft from any automobile, motorcycle or other vehicle occurring while such vehicles are unattended, unless at the time of such theft the windows, doors and compartments or the vehicle are securely closed and locked and such theft results from forcible entry evidenced by visible marks. This exclusion shall not apply to property in the custody of carriers for hire;
- h) Error, omission or deficiency in design, specifications or materials unless fire or explosion ensues and then cover is provided only for the loss damage or expenses resulting from such fire or explosion.

822 Expediting Expenses

This insurance shall include extra freight and additional expenses reasonably incurred by or on behalf of the Insured in respect of expediting the delivery of their shipments, materials, equipment or parts thereof to the original place of destination, mitigating the effects of delay which are necessarily incurred by the Insured for the purpose of continuing the business operations of the Insured, but only to the extent such expenses are incurred as a consequence of:

The vessel, vehicle or craft on which any of the property is being carried or is intended to be carried, being involved in, or encountering

1. Any accident or breakdown of the carrying vessel, vehicle or craft or delays resulting there from
2. Loss or damage which would be covered by the Institute War and Strikes Clauses Hulls Voyage
3. A General Average Act
4. A salvage or life saving operation

The protection afforded by this insurance shall operate in respect of vessels or craft from the time that the vessel or craft comes alongside the berth or mooring point at which the property is to be loaded thereon, (including any casualties or incidents arising during such berthing or mooring), and in respect of conveyances from the time that the conveyance arrives at the place where the goods are to be loaded thereon.

Limit

The coverage under this insurance is operational after an incurred or anticipated delay of 14 days in the ordinary course of transit and limited to 10% of the original insured value of the shipments involved in the casualty with a maximum liability of EUR 50 000 each incident.

823 Extension of the Insurance (FCA Incoterms 2000) for purchase transports

Notwithstanding the Transit Clause in the Institute Cargo Clauses, the insurance attaches when the risk for the goods passes, according to the term of the delivery, from the seller to the buyer, i.e. when goods have been placed at the disposal of the carrier nominated by the buyer on the seller's arriving means of transport not unloaded.

824 Extension of the Insurance for on-carriage of purchase transports

This insurance attaches automatically in respect of goods purchased on CIF/CIP terms (Incoterms 2000) or equivalent upon termination of the insurance cover arranged by the seller for benefit of the Assured and covers the insured items until placed at final place of destination, provided that this operation takes place within the standard handling time-period applicable to the port and/or terminal.

825 Extension of the Insurance for on-carriage of shipments sold on CIF/ CIP terms of delivery

Subject to the terms of Buyer's/Seller's interest cover this insurance has been extended to include on-carriage of shipments sold on CIF and CIP terms of delivery from the port of discharge to the final place of destination.

826 Foreign Currencies

If foreign currencies have to be converted into Euros (EUR), banker's sight rate of exchange current in Helsinki on date of invoice is to be used.

However, in the event of a loss adjustment involving foreign currency, conversion into or from EUR shall be at the free rate of exchange published by a leading Finnish Bank as of the date of settlement. If, however, any part of or all of the adjustment is based on the cost of replacement or reconditioning, then that amount of settlement so based shall be converted into EUR at the prevailing free rate of exchange published by a leading bank at the time the cost of the replacement or reconditioning is incurred.

827 Fraud and Deceit

This insurance covers loss or damage to the property:

1. Occasioned by the acceptance by the Insured, Insured's agent, customer or consignee(s) or others acting in good faith of fraudulent Bills-of-Lading, Shipping or Messenger Receipts;
2. Obtained by fraud or deceit perpetrated by any person(s) who may represent themselves to be the proper party or parties to receive the property for shipment or to accept it for delivery.

This clause shall immediately be considered null and void, if the Insured discloses the existence of the same or transfers the benefit thereof to the contracting party, the primary insurer or any third party.

828 Full Value Reporting Clause

If the total value at risk on any one vessel or aircraft or conveyance or at any one location at any one time exceeds the applicable limit of liability provided by this policy, then Insurer shall be liable for the full amount of any insured loss up to but not exceeding the applicable limit of liability. Nothing in this clause shall be taken to alter or increase the limit of underwriter's liability as set out herein.

829 Fumigation Clause

In the event of the vessel, wharf, warehouse or conveyance (or of cargo and/or goods and/or merchandise on or in such vessel, wharf, warehouse or conveyance) in or on which the interest insured is transported or stored being fumigated by order of properly constituted authority, Insurer(s) agree to indemnify the Insured for loss or expense arising there from.

830 General Average Clause

This insurance covers general average and salvage charges, adjusted or determined according to the contract of affreightment and/or the governing law and practice (or, if there is not contract of affreightment, according to Foreign Statement or to York-Antwerp Rules) incurred to avoid or in connection with the avoidance of loss from any cause except those specifically excluded here from.

For the purpose of claims for general average contributions and salvage charges recoverable hereunder, the subject-matter insured shall be deemed to be insured for its full contributory value.

General average deposits shall be payable on production of general average deposit receipts.

831 Handling Costs

Costs of discharge, storing, sorting and all other charges incurred in connection with the ascertainment of the extent of loss of and/or damage to and disposal of damaged goods

shall be recoverable hereunder irrespective of whether or not the damage is ultimately found to have been caused by the operation of an insured peril. The compensation paid under this clause is in excess of any other compensation paid from this insurance.

832 Insolvency Exclusion

The exclusion of loss damage or expense arising from insolvency or financial default of the owners, managers, charterers' or operators of the vessel or aircraft is deleted and replaced by the following:

In no case shall this insurance cover loss damage or expense caused by insolvency or financial default of the owners managers charterers or operators of the vessel or air craft, where at the time of loading of the subject-matter insured on board the vessel or aircraft, the Insured are aware, or in the ordinary course of business should be aware, that such insolvency or financial default could prevent the normal prosecution of the voyage or air transit. This exclusion shall not apply where this insurance has been assigned to the party claiming hereunder who has bought or agreed to buy the subject-matter insured in good faith under a binding contract.

833 Institute Classification Clause

Shipments per Steamers and/or Motor Vessels are subject to the Institute Classification Clause CL354 dated 1/1/2001.

Any shipments that would be covered hereunder but for the provisions of the Institute Classification Clause are held covered at an additional premium to be agreed; and the terms of such Institute Classification Clause shall not prejudice any claim hereunder, when presentation of the claim advice to Underwriters is the first indication that a shipment, beyond the control of the Insured, has been made by a vessel which is not covered within the terms of such Institute Classification Clause, provided the appropriate additional premium is paid as soon as practicable thereafter.

834 Insufficiency of Packing

In the event of a claim being made for loss or damage which is alleged to be caused by insufficiency or unsuitability of packing or preparation of the subject matter insured, Insurers hereby agree that they will not use such alleged insufficiency or unsuitability as a defence against the claim in any case where packing or preparation was carried out by a party other than the named Insured and the insufficiency or unsuitability arose entirely without the named Insured's or knowledge. For the purpose of this clause, 'packing' shall be deemed to include stowage in a container or lift van. The above agreement is not to interfere with rights of subrogation against packers' insurers.

Notwithstanding the above, it is further agreed that where packing or preparation is undertaken by the Insured, Insurers accept such packing or preparation as sufficient and suitable to protect the subject matter insured against loss or damage and further agree to waive rights of subrogation against the Insured, provided such packing is customary for the trade or subject or in accordance established packing practices of the Insured.

835 Intermediate and/or intentional storage

Notwithstanding the Transit Clause of the Institute Cargo Clauses (A) this insurance covers intermediate and/or intentional storage of

the Insured goods arranged in the name of the Insured at locations world wide for a period of 60 days up to the policy limits. The period of cover at the final place of destination to be calculated from the date of discharge from the ocean vessel or from other means of conveyance. Including the risks covered under the Institute Strikes Clauses (Cargo).

836 Issuance of Certificates

Authority is hereby given to the Insured and/or the Insurance Broker to issue and countersign certificates and/or special policies (including endorsements thereto) on any and/or all shipments insured hereunder, but only subject to the terms and conditions of this insurance.

837 Knowledge of Occurrence

It is agreed that the knowledge of an occurrence by an agent, servant, or employee of the Insured shall not in itself constitute knowledge of the Insured unless the insurance department of the Insured, shall have received such notice from the Insured's agent, servant or employee.

838 Labels

In case of damage from perils insured against affecting only to labels, capsules or wrappers, the loss is to be limited to an amount sufficient to pay the cost of new labels, capsules or wrappers and the cost of re-labelling and reconditioning the goods, provided same amounts to a claim under the terms of this insurance.

Insurance cover under this clause shall immediately be considered null and void, if the Insured discloses the existence of this insurance to any contracting or third parties.

839 Law and Jurisdiction

This contract shall be governed by Finnish Law. The parties to this contract expressly agree that the Finnish Act of Insurance Contracts on 12th May 1933 shall apply to this contract and they expressly renounce the Finnish Act of Insurance Contracts given on 28th June 1994.

However, English Law and practice shall apply to any disputes relating to the interpretation of Institute Cargo Clauses, Institute Clauses or other additional insurance clauses regarding the insurance cover applicable.

Any dispute concerning the interpretation of terms, conditions, limitations and / or exclusions contained in this Master Policy is understood and agreed by both the Insured and the Insurer(s) to be subject to Finnish Law and shall be settled by Finnish courts.

In respect of the locally issued underlying policies, the interpretation of the terms, conditions and / or limitations might be subject to national law of the country in question.

840 Letter of Credit Clause

Notwithstanding the Conditions of this Contract it is agreed, subject to the prior approval of Underwriters, that Certificates and/or Policies may be issued hereunder to enable the Insured to comply with the insurance requirements of any Letter of Credit and/or Sales Contract concerned, such agreement being conditional on the payment of any additional premium which may be required in the event that the cover required is wider than that provided by the current Contract Wording.

It is also agreed that regardless of the conditions on which any Certificates and/or Policies may be

issued pursuant to the foregoing, the Insured named herein shall continue to enjoy the full protection of this Contract.

841 Loading and unloading

This insurance includes risks of loading and unloading before the commencement and after the termination of the insured voyage. Notwithstanding Clause 8 in Institute Cargo Clauses (A) it is hereby agreed, that this insurance covers the insured items until placed at foundation at final place of destination, provided that this operation takes place without intentional delay.

842 Machinery

In case of loss or damage to any part of a machine or other article, consisting when complete for sale or use of several parts, Underwriter (if liable therefore under the terms of this Insurance) shall only be liable for the proportion of the insured value applicable to the part or parts lost or damaged or, at the Insured's option, for the cost and expense of replacing, duplicating, assembling and repairing the part or parts lost or damaged (including forwarding charges via vessel, or with approval of Underwriters via air) and labour and installation charges necessary to restore the damaged machine or article to its condition at time of shipment.

843 Master Policy

The Master policy shall provide coverage for all insured companies as per these coverage specifications, endorsements and applicable policy wordings.

The Master policy shall provide:

Difference in conditions cover (DIC)

The Master policy shall apply if the cover is broader than the cover of a Local policy issued for an insured company.

The DIC cover shall apply also in respect of the Local policies not forming part of the Program.

Difference in limits cover (DIL)

In respect of the insured companies having local Marine Cargo and Inland Transit insurance the Master policy shall pay the portion of a loss, which exceeds the amount of the limit of the Local policies up to the amount of the Master policy limit.

The DIL cover shall apply also in respect of the Local policies not forming part of the Program.

Program clause

Premiums paid out of the integrated or non-integrated Local policies shall be deducted from the premiums paid under the Master policy.

Maintenance of underlying insurance

Failure from the part of the insured to maintain underlying insurance does not invalidate.

844 No Survey Clause

No survey report is required for any claim that does not or appears unlikely on first notification to exceed EUR 5'000 (or equivalent in any other currency) in excess of the relevant cover deductible, if any. The Insured's or consignee's statement of the loss and, where applicable and available, the Customs and/or Landing Account to be accepted as sufficient proof of loss.

845 Packing Clause

Notwithstanding anything contained herein to the contrary it is agreed that where packing

or preparation is undertaken by the Insured or their sub-contractors, Underwriters shall accept such packing or preparations as sufficient or suitable to protect the subject-matter insured against loss or damage and further agree to waive rights of subrogation against the Insured or their sub-contractor.

846 Partial and Advance Payment

In the event of a loss covered by this insurance, it is understood and agreed that the Insurer shall allow a partial and advance payment(s) of claim, subject to the policy provisions and the adjustment process. Once in principle a claim is well established, but is in the process of adjustment and/or restoration and the parties know about the unavoidable period of time until final documentation and assessment can be accomplished, the Insurer is prepared to agree to a down payment of at least one third of the expected final amount of loss. To obtain said partial payment, the Insured shall submit a partial evidence of loss with supporting documentation. It shall be lawful for the Insured to claim in accordance with the valuation provision(s) contained in this insurance. It is further agreed that the policy deductible must be satisfied before said partial payment(s) are allowable.

847 Particular Average Claims

Claims for partial loss or damage shall be settled, if required by the Insured, on a salvage loss basis. If it is necessary to ascertain the sound market value of goods, this shall be taken to be the insured value.

848 Payment of Loss

Insurers to settle all properly documented claims within 30 days after receipt of the claim.

849 Proof of Loss

Any loss of and/or damage to subject matter insured hereunder shall be deemed to have occurred during the currency of this insurance and to have been caused by an insured peril unless Insurer subscribing hereto can prove to the contrary.

850 Removal Goods Clause

Removal goods and personal effects in acceptable packing are insured according to the conditions stated elsewhere in this insurance excluding marring, denting, scratching or chipping howsoever caused.

All items are to be properly packed, and a valued itemized inventory (showing actual cash value per item or class of items) to be submitted by the assured at the time of attachment.

Where any insured item consists of articles in a pair or set, this insurance is not to pay more than the value of any particular part or parts which may be lost or damaged without reference to any special value which such article or articles may have as part of such pair or set nor more than a proportionate part of the insured value of the pair or set.

851 Replacement Clause

In case of loss or damage to any part of a machine or other article, consisting when complete for sale or use of several parts, the Insurer(s) (if liable therefore under the terms of this insurance) shall only be liable for the proportion of the insured value applicable to the part or parts, lost or damaged or, at the Insured's option, for the cost and expense of replacing, duplicating, assembling and repairing the part

or parts lost or damaged (including forwarding charges via vessel, or via air) and labor and installation charges necessary to restore the damaged machine or article to its condition at time of shipment.

Provided always that in no case shall the liability of Insurer(s) exceed the insured value of the complete machine.

852 Replacements by Air

Irrespective of the original method of shipping the Insurers agree in the case of loss or damage to a sales transport to cover additional costs incurred the Insured by forwarding replacement by air in order to avoid fines, or penalties and/or to meet project timetable. Coverage is limited to 10% of the insured value of the individual shipment and to a maximum of EUR 100.000 per shipment.

Insurance is not extended to shipments covered under the Buyer's/Seller's Interest.

Coverage to terminate immediately after unloading from the final means of conveyance.

Risk Manager of the Insured to approve application of this extension to replace damaged and/or lost goods.

Delivery of replacement subject to a waiting period of seven days from the date carriers have in writing confirmed their inability to trace lost goods.

853 Returned Shipments Clause

Shipments upon which delivery to the Insured and/or Consignee cannot be accomplished because of refusal of acceptance and which are returned for this or any other reason are held covered while at risk of the Insured until sold or otherwise disposed of, subject to terms and conditions of this Policy.

854 Seaworthiness and fitness

The seaworthiness of the vessel or craft and the fitness of the vessel craft conveyance lift van or aircraft for the safe carriage of the subject matter insured is admitted as between the Insured and Underwriters

855 Seller's Extension

In respect of those exports sold on F.O.B., C&F. or similar terms and where the Assured are not obliged or instructed to arrange insurance hereunder, but excluding F.O.B. or C&F. Sales made through confirming houses and the like and where full payment is received before shipment, the following shall apply.

- (1) This insurance is to cover the interest of the Assured as seller of the goods in respect of those consignments sold on "free on board" and "cost and freight" terms dispatched on or the commencement date appearing in the policy.
- (2) This insurance commences from the attachment of the Assureds' and/or Sub-Contract's Premises, Storage Depots and/or Warehouses for the commencement of Transit and terminates when the goods are delivered into the carrying vessel at the port or place of loading including all loading and unloading Risks.
- (3) Thereafter cover re-attaches retrospective to the commencement of the transit if one or more of the following contingencies occur:
 - a) The buyer fails or refuses to accept the shipping documents.

b) The buyer fails to accept the goods.

c) The Assured exercises a lien on the goods, or interrupts their transit, or suspends the sale contract whilst the goods are in transit, when this is reasonable to safeguard his interests.

- (4) The Assured must use all reasonable and usual care, skill and forethought and take all practical measures, including measures, which may be required by the insurers to prevent or minimize loss, and to enforce the contract of sale.
- (5) All rights and benefits against the buyer and/or buyer's insurers, and/or carrier(s) and/or persons are to be subrogated to the insurers.
- (6) The Assured must advise the Insurers immediately of the occurrence of any of the contingencies in Clause 3 above.
- (7) Delay and/or Deviation are held covered at an additional premium to be agreed. This overrides any term, condition or clauses to the contrary in the policy or in the Institute Clauses incorporated herein by reference.
- (8) This insurance any money payable under it is not assignable without the consent in writing of the Insurer.
- (9) The existence of this Insurance is not to be disclosed to the buyer.
- (10) In circumstances where the Buyer's Insurers have settled a claim but where the Buyer is unable to effect payment of the Assureds' invoice in full or in part, due to foreign exchange relations, Insurers hereunder agree to advance the unpaid amount to the Assured, provided the Assured subsequently takes all reasonable steps to recover the unpaid amount from the Buyer, in order to reimburse Insurers.

In case of loss or damage to any part of a machine or other article, consisting when complete for sale or use of several parts, the Insurer(s) (if liable therefore under the terms of this insurance) shall only be liable for the proportion of the insured value applicable to the part or parts, lost or damaged or, at the Insured's option, for the cost and expense of replacing, duplicating, assembling and repairing the part or parts lost or damaged (including forwarding charges via vessel, or via air) and labor and installation charges necessary to restore the damaged machine or article to its condition at time of shipment.

Provided always that in no case shall the liability of Insurer(s) exceed the insured value of the complete machine.

856 Shipment Clause

Shipments are covered hereunder, including against loss by jettison, whether containerised or otherwise and whether on deck or under deck irrespective of Bill of Lading instructions.

857 Shipping Expenses Clause

When the subject matter insured is not delivered to the destination contemplated due to circumstances beyond the control of the Insured this insurance also to pay any charges incidental to shipping which have been or may be incurred by the Insured.

858 Shortage from Container

If, by terms of this insurance, coverage is provided for loss due to theft, it is understood

to include the unexplained disappearance of packages or other shipping units from containers; whether said containers arrive at final insured destination with original seals intact or not.

It is a condition of this insurance that the Insured shall render all reasonable assistance to the Insurer in subrogating against the party and/or parties responsible for any loss paid under this clause.

It is a further condition of this insurance that the Insured shall not divulge the existence of the insurance provided by this clause to anyone outside of the Insured's organisation. Violation of this condition shall void the insurance provided by this clause as respects containers which arrive at final destination with original seals intact.

859 Sorting charges

It is agreed that in the event of the Insured and/or consignee complying with the surveyor's advice to separate shipping packages showing signs of external damage from the sound packages to ascertain possible loss arising from a peril insured against, such expenses as approved by the surveyor shall be for the account of Insurers even though a claim may not subsequently result hereunder.

860 Thermo Clause

This clause covers losses caused by incorrect temperature as a result

- thermal equipment having been inoperative or having been partly out of order
- a thermostat having been wrongly adjusted
- goods having been wrongly handled or stowed as regards temperature for reasons beyond the control of the policyholder, the dispatcher or a party acting on their account.

Restrictions

The insurance does not cover any loss, damage or expenses arising from

- *the carrier not having been informed, before the commencement of transport, of the shipment's nature, and from the required transport temperature not having been indicated in the waybill*
- *the cargo not having, before commencement of loading, been stored in the temperature set out in the waybill.*

Safety regulations

The carrier shall be provided with written instructions on the appropriate handling of the goods, and the minimum and maximum transport temperature shall be indicated in the waybill.

The temperature of the cargo shall be taken at the time of loading and discharging and any deviation from the instructed temperatures shall be recorded in the waybill.

The cargo space must be equipped with a temperature monitoring device that reliably shows the cargo temperature throughout the transport. In the event of loss, a print from the monitoring device shall be handed over to the insurer upon request.

Should a malfunction occur in the thermal equipment during transport, the policyholder or anyone acting on the policyholder's account shall ensure that the cargo is taken immediately to a safe storage space where the correct storage temperature is guaranteed. The thermal equipment must be repaired before transport continues.

861 Time

Wherever reference in this insurance is made to time regarding hours of the day or night, it shall be held to be standard time at the place or places where this insurance covers.

862 Transfer of Rights

Upon payment of total or partial loss damage or delay the Insured automatically assigns and transfers the Insurer all remedies against and rights to claim for compensation and damages from those responsible for the loss or damage to the goods. If the Insured is indemnified by his contractual part contrary to a division of risk as specified in any contract of sale, if any, the Insured hereby agrees to assign all his rights under the cargo insurance to the indemnifying party, alongside his rights and remedies against third parties. Upon receiving a payment in accordance with the terms and conditions of the cargo insurance, the indemnifying party assigns and transfers all his rights and remedies to the Insured.

863 Transit Clause

Notwithstanding the stipulations in the Transit Clause in the Institute Cargo Clause, the time of expiry is extended to 180 days.

864 Unseaworthiness and unfitness

The seaworthiness of the vessel or craft and the fitness of the vessel craft conveyance lift van or aircraft for the safe carriage of the subject matter insured is admitted as between the Insured and Insurers.

865 Variation of temperature/humidity

Coverage is admitted for damage attributable to the variation of the temperature and/or humidity outside the scope of control by the Insured during the insured transit provided that the

carriers and the trading other party have been given proper instructions as to the protection of the goods. Excluding losses caused by inherent vice.

866 Voyage Clause

The insurance hereunder attaches from the time the subject-matter becomes the Insured's risk or the Insured assumes interest and continues whilst in the course of transit for up to 180 days prior to shipment and/or after arrival or until the Insured's risk and/or interest finally ceases. Including any interest held for purpose of consolidation and/or whilst in Customs and during transshipment, craft and barge risks when customary.

Including cover throughout all loading and unloading operations.

Specifically including coverage in respect of subject-matter insured to, from or whilst at exhibitions, trade fairs or similar displays.

867 Waiver of Subrogation

The Insurer herewith waives its right of subrogation, assignment and/or transfer to the extent that the Insured has given any waiver, indemnity or release in effect at the time of loss or in advance in a contract prior to the loss or prior to the loading of goods for a shipment.

Notwithstanding the above agreement the Insured will in every respect do their utmost to secure and fight through all legally or contractually correct subrogation rights and/or to transfer its rights to the Insurer once a claim has been settled.

Waiver of subrogation should not be granted in frame agreements similar contracts with carriers, forwarders and storage keepers which are part of the established logistics chain of the Insured.

868 War & Strikes Risks Premium

Notwithstanding anything to the contrary stated in the rates/premium applicable to the Policy into which this Clause is incorporated (the Policy), it is agreed that in the event of a transit to or from or within the geographical areas as listed as severe in the Global Cargo Watch List (GCWL) (web address: www.exclusive-analysis.com/cargo) War and/or Strikes risks in respect of such transits are held covered in accordance with the applicable war and/or strikes clauses contained in the Policy at rate(s) to be agreed.

Where storage and/or other static exposures are also covered by the Policy, this clause shall also apply to strikes risks from the time the relevant geographical area changes in the GCWL.

The applicable GCWL designated category for any particular transit/risk shall be that which is in force at the time transit/risk commences.

869 Willful Misconduct Clause

Notwithstanding anything to the contrary contained elsewhere herein or in the law and practice to which this Policy is subject, this insurance shall not exclude loss damage or expense attributable to willful misconduct of any person or persons committed without the privity of the directors and/or officers or whoever is considered the alter ego of the Insured.

