

## INLAND TRANSIT INSURANCE IN VIETNAM

### GENERAL PROVISIONS

**Article 1** : The present conditions shall apply to insurance on goods transported by land, by railways and by waterways within the territory or the S.R.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.

### SCOPE OF INSURANCE

**Article 3** : The **United Insurance Company of Vietnam** (hereafter called the Insurer) shall be liable for the loss of or damage to the goods insured proximately caused by one the following occurrences, except as provided in the Exclusions 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
6. general average sacrifice

**Article 4** : In the event of loss or damage within the scope of cover under the contract of insurance as stated above, the Insurer shall also be liable for the following expenses :

- a. Reasonable expenses and costs incurred by the Assured 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 insurer is to be liable.
- d. General average and salvage charges.

### EXCLUSIONS

**Article 5** : Unless otherwise agreed, the Insurer shall not be liable for loss , damage or expense caused by :

1. War, Strike, civil war, revolution, rebellion, insurrection, or civil strike, piracy, mines, torpedoes, bombs or other weapons 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 Assured or his servants
4. inherent vice, or nature of the goods insured
5. overload or inadequate stowage of goods
6. inadequate packing, unsuitability of packing, or loading of goods in damaged condition
7. ordinary leakage, ordinary loss in weigh or volume of the goods insured in the course of transit
8. unfitness of conveyance for the safe carriage of traffic, and
9. loss, damage or expense proximately caused by delay, even though the delay be caused by a risk insured against.

### COMMENCEMENT AND TERMINATION OF INSURANCE

**Article 6** : The liability under the contract of insurance attaches from the time the insured goods are loaded in the means of transportation at the place of departure named in the contract of insurance 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 contract of insurance.

**Article 7** : 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 being given to the Insurer in connection with such occurrence or change and to an additional premium if required by the Insurer.

### **PROCEDURES FOR EFFECTING INSURANCE INSURANCE VALUE AND INSURED AMOUNT**

**Article 8** :

1. When applying for insurance, the applicant shall fill in an Application Form specifying the following items :
  - a. Name of Assured
  - 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 conveyance and estimated time of arrival
2. The Insurer shall issue a "Certificate of Insurance" on the basis of the Application Form
3. The Assured shall pay the insurance premium to the Insurer at the time of receipt of the Certificate of Insurance. The insurance contract shall not become binding until the premium is paid
4. If after the conclusion of the contract of insurance there occurs any change in the representations made by the Assured in connection with the goods insured, the Assured shall be bound to give immediate notice to the Insurer of such change or occurrence upon being aware thereof.

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

**Article 9** : If there is any misrepresentation or concealment by the Assured of the items as specified in the Application Form or of the change or occurrence as notified to the Insurer, the Insurer shall be discharged from the liability as provided for in the contract of insurance and has the right to receive the insurance premium.

**Article 10** : A Certificate of Insurance may be assigned to another person upon endorsement by the Assured or his competent representative.

**Article 11** : The insured amount of the insured goods shall be the value declared by the Assured and agreed to by the Insurer.

If the Assured 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, freight and insurance premium.

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

### **OBLIGATIONS OF THE ASSURED IN CASE OF LOSS**

**Article 12** : In case of loss damage within the scope of cover as mentioned in Article 3 of these conditions, the Assured, 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 Insurer 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 Assured fails to fulfill the aforesaid obligations, the Insurer shall have the right to repudiate the claim entirely or partly.

**Article 13** : The Assured shall, when filing a claim with the Insurer 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 or Waybill of Lading issued by the carrier
- 3. Invoice together with specifications , weight/quantities notes
- 4. Survey report showing the extents of the loss or damage
- 5. Investigating report on casualty issued by the local authority
- 6. Correspondence exchanged between the Assured and the carriers or other third parties regarding their liability for the loss or damage
- 7. Claims statement

### **ASCERTAINMENT OF LOSS**

**Article 14** :

- 1. Total loss referred to in the present conditions 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 Assured 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 15** : 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 a conveyance shall not be less than three months counting from its estimated time of arrival at such destination.

### **ASSESSMENT AND PAYMENT OF CLAIM**

**Article 16** : Where there is a partial loss, the measure of indemnity is worked out by multiplying the insured amount by the amount of the Insurer's liability. The insurer'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 17** : The liability of the Insurer 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 Insurer for loss or damage and for the expenses as specified in Article 3 and 4 of Scope of Insurance shall be of such proportion as the insured amount bears to the 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 18** : The Insurer 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 19** : In case of observance of the Insurer's instructions by the Assured for the purpose of averting or minimizing loss or damage, the Insurer shall be liable to reimburse the Assured for necessary and reasonable expenses incurred by him for that purpose even though the aggregate amount of expenses together with the indemnity for the loss may exceed the insured amount.

**Article 20** :

1. After examination of the claim documents submitted by the Assured and confirmation of loss or damage, the Insurer 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 Insurer shall notify the Assured in writing of such cases within fifteen (15) days of receipt of his claim documents.
  - Where no comment is given in writing by the Assured within thirty (30) days of receipt of notice relating to the payment or noncompliance with a payment of loss, the claim in question shall be deemed to be terminated.
2. Upon payment of the claim, the Insurer may deduct from the amount thereof such credit items as the proceeds realized from a sale of the salvaged goods and the amount recovered from the third party by the Assured.
3. Where the conveyance was missing and the insured goods were deemed to be an actual 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 Insurer and be disposed of in accordance with the regulations in force of the State.

## **SUBROGATION AND ABANDONMENT**

**Article 21** :

1. Upon payment of the insurance indemnity all the claims and rights which the Assured has against third party are subrogated to the Insurer to the extent of the amount paid.

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

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

**Article 22** : Where the Insurer 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 Assured in whatever remain of goods so paid for in accordance with the regulations in force of the State.

**Article 23** :

1. Where the Assured elects to claim for a constructive total loss of the insured goods he must give notice of abandonment to the Insurer. If he fails to do so, the loss can only be treated as a partial loss
2. Notice of abandonment must be given in writing and in any terms which must indicate the intention of the Assured to abandon his interest in the insured goods unconditionally to the Insurer.
3. Where the notice of abandonment is properly given, the rights of claim of the Assured are not prejudiced by the fact that the Insurer refuses to accept the abandonment. Where the notice of abandonment is accepted the abandonment is irrevocable.

## **PRESCRIPTION AND SETTLEMENT OF DISPUTE**

**Article 24** : The Assured's right of claim shall cease to operate after the lapse of one year, or two in case of coastwise cargo carriage, from the date on which such right arises.

**Article 25** : Any dispute in connection with the contract of insurance which cannot be settled by negotiation between the Assured and the Insurer shall be referred to the Court of Justice or to the State Economic Arbitrator, according to the circumstances, for settlement in accordance with the Law of the Socialist Republic of Vietnam.