

DTV Cargo Insurance Conditions 2000 (DTV Cargo 2000)

November 2000 Version

All Risks

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| 1. Interest / subject matter of the insurance | | | shall make good the loss or damage only if the existing damage did not have any influence on the damage that occurred during the insured period. |
| 1.1 Insurable interest | | | |
| 1.1.1 The subject matter of the cargo insurance can be any monetary interest a person has in seeing that the goods survive the perils of transport and associated storage. | 2.3 | Insured expenses and costs | |
| | 2.3.1 | The Insurer also indemnifies: | |
| 1.1.2 Covered are the goods specified in the insurance policy and/or other expenses and costs. | 2.3.1.1 | General Average contributions (G.A.) based on an adjustment drawn up in accordance with the law, the York-Antwerp Rules, the Rhine Rules (IVR), or any other internationally recognised G.A. rules, provided that the measure was intended to avert an insured loss/damage. If the contributory value exceeds the insured value and the latter equals the sum insured, the Insurer shall indemnify to the limit of the sum insured. Provisions relating to under insurance as well as the conditions under No. 2.3.3 are unaffected by the above. | |
| 1.1.3 Besides the goods, other insurable interests can also include - anticipated profit, - increased value, - duty, - freight, - taxes and charges - other costs. | | | Within the scope of these provisions, the Insurer undertakes to reject claims made against the Assured for compensation and expenses arising from the Both to Blame Collision Clause; |
| 1.1.4 The Assured can insure his own interest (insurance for own account) or that of another (insurance for third-party account). See No. 13 for further details. | 2.3.1.2 | expenses for averting, minimising and ascertaining the scale or extent of damage, such as | |
| 2. Scope of cover | | | |
| 2.1 Perils and losses/damages | 2.3.1.2.1 | expenses reasonably incurred in averting or minimising an insured loss when that loss/damage has occurred (loss event) or is directly threatening; | |
| Unless otherwise agreed, the Insurer covers all risks to which the goods are subject for the duration of the insurance. | 2.3.1.2.2 | expenses incurred by the Assured on the instruction of the Insurer when an insured loss/damage has occurred; | |
| Irrespective of percentage, the Insurer makes good loss of or damage to the insured goods arising from an insured peril. | 2.3.1.2.3 | costs properly and reasonably incurred in assessing or determining the insured loss/damage, as well as costs incurred by a third party appointed to perform this task on instruction of the Insurer; | |
| 2.2 Special cases | | | |
| 2.2.1 Pre-carriage goods or returned goods | 2.3.1.3 | costs properly and reasonably incurred in transshipping, temporarily storing and forwarding the goods after an insured event or an insured accident involving the means of transport has occurred, insofar as they were incurred on instruction of the Insurer and are not already covered under No. 2.3.1.2. | |
| Pre-carriage goods or returned goods are covered under the same conditions as other goods. Unless otherwise agreed, this shall not affect the Assured's obligation to prove that the damage occurred during the insured transport. | | | |
| 2.2.2 Damaged goods | 2.3.2 | The Insurer bears the expenses and costs as per Nos. 2.3.1.2.1 and 2.3.1.2.2 even if the measures undertaken were unsuccessful. | |
| Unless otherwise agreed, if the goods are already damaged at the inception of the policy, the Insurer | | | |

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| 2.3.3 | Expenses and costs as per Nos. 2.3.1.1 and 2.3.1.2 are reimbursed even if, together with other payments, they result in the sum insured being exceeded. | 2.6 | Causation |
| 2.3.4 | The Assured may request the Insurer to assume contributions to general average via guarantee, advance him such contributions, as well as advance the amount required to avert, minimise or ascertain the size of a loss. | | In the event of a loss/damage which, under the circumstances, could also have been caused by a non-insured risk or peril (see Nos. 2.5.1.2 - 2.5.1.4), the Insurer is obliged to indemnify if the loss or damage was, in all probability, caused by an insured peril. |
| 2.4 | Perils not covered | | |
| 2.4.1 | Unless otherwise agreed, cover is not provided for the following perils: | 3. | Faults of the Assured |
| 2.4.1.1 | war, civil war or similar hostilities as well as perils which - whether war be declared or not - arise out of the hostile use of weapons of war and from the existence of derelict weapons of war as a result of one of these perils; | | The Insurer is not obliged to indemnify if the insured event is caused by a wilful or grossly negligent act of the Assured. |
| 2.4.1.2 | strikes, lock-outs, industrial unrest, acts of violence by terrorist or political groups - regardless of the number of people involved - riots and other civil commotions; | 4. | Assured's duty of disclosure before inception |
| 2.4.1.3 | confiscation, deprivation of possession or other acts of authorities; | 4.1 | Before inception of the policy, the Assured is obliged to disclose all material facts and circumstances, and to answer completely and truthfully all questions posed by the Insurer. A material fact is a circumstance that would influence the Insurer in accepting, declining or rating the insurance. In case of doubt, a material fact is understood as one that the Insurer has queried expressly or in writing. |
| 2.4.1.4 | nuclear energy; | | If a representative appointed by the Policyholder concludes the policy and the former is aware of a material fact, the Policyholder shall be deemed to have been aware of said material fact himself. |
| 2.4.1.5 | insolvency or financial default of the shipowner, charterer or operator, or in respect of any other financial dispute involving the above parties, unless: | 4.2 | Unless otherwise agreed, the Insurer is not obliged to indemnify if the Policyholder discloses incomplete or inaccurate information. |
| | - the Policyholder can prove that he exercised the diligence of a prudent businessman in choosing the above parties or the responsible forwarding agent; | | This also applies if information was not disclosed on account of the Policyholder's ignorance of the fact and this was due to gross negligence on his part. |
| | - the Policyholder or Assured is the buyer and, under the terms of the sales contract, had no control over the choice of persons involved in the transport of the goods. | | If the loss event has already occurred, the Insurer may not refuse cover if the Policyholder can prove that the incomplete or inaccurate information disclosed influenced neither the loss event occurring nor the size or scale of the payment obligation. |
| 2.4.2 | The risks covered under Nos. 2.4.1.1 - 2.4.1.3 can be insured additionally within the scope of the respective DTV clauses. | | |
| 2.5 | Exclusions | 4.3 | The Insurer shall be obliged to indemnify if he was aware of the material facts or that such facts had been inaccurately disclosed. |
| 2.5.1 | Unless otherwise agreed, the Insurer is not liable for losses/damages arising from | | The same shall apply if the Assured can prove that neither he nor his representative was responsible for the incomplete or inaccurate disclosure of the information. |
| 2.5.1.1 | a delay in the transport; | | |
| 2.5.1.2 | inherent vice or the nature of the goods; | | |
| 2.5.1.3 | customary differences or losses in number weight or measure of the goods. If a deductible has been agreed, however, such differences or losses are regarded as covered; | | If the Insurer requested the Assured to disclose material facts in writing, and the latter failed to disclose a circumstance that was not queried expressly by the Insurer, the latter shall be exempt from liability only if it can be proved that the Assured, or his representative, concealed the information with intent to deceive. |
| 2.5.1.4 | ordinary humidity or fluctuations in temperature; | | |
| 2.5.1.5 | unsuitable packaging or incorrect stowage insofar as the Assured acted wilfully or with gross negligence. | 4.4 | If the Insurer is obliged to indemnify in the absence of fault on the part of the Assured or his representative, the Insurer shall be due an additional premium to be agreed on commensurate with the |
| 2.5.2 | Unless otherwise agreed, the Insurer is not liable for indirect loss/damage in whatever form. | | |

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| | aggravated risk. The same applies if neither contracting party was aware of a material fact prior to conclusion of the policy. | | (DoC), as required by the 1974 SOLAS Convention and supplements. |
| 4.5 | The right of the Insurer to avoid the contract for fraudulent misrepresentation of material facts remains unaffected. | 7.2 | Even if the above conditions are not met, the goods are still covered if the Assured can prove that he exercised the diligence of a prudent businessman in choosing the carrier or forwarding agent. Should the Policyholder become aware of the unsuitability of a means of transport, he shall notify the Insurer immediately and pay a reasonable additional premium to be agreed with the Insurer. |
| 5. | Alteration of risk | | |
| 5.1 | The Policyholder may change the risk, in particular aggravate it, as well as allow change by a third party. | | |
| 5.2 | If the Policyholder alters the risk or becomes aware of a change of risk, he shall inform the Insurer without delay. | 8. | Policy duration |
| 5.3 | A change of risk is said to exist in particular when <ul style="list-style-type: none"> - the commencement or end of the insured transport is subject to considerable delay; - there is a major deviation from the specified or customary transport route; - the destination port or airport is changed; - the goods are stowed on deck. | | The policy provides cover from warehouse to warehouse, and |
| 5.4 | Unless otherwise agreed, the Insurer is not obliged to indemnify if the Assured fails to disclose an aggravation of risk, provided that the failure to disclose was neither a wilful nor grossly negligent act and influenced neither occurrence of the loss event nor the amount payable by the Insurer. | 8.1 | commences the moment the goods are removed - for immediate transport - from the place of storage. |
| 5.5 | The Insurer shall be due an additional premium commensurate with the aggravated risk, unless the aggravation was in the Insurer's own interest or on humanitarian grounds, or was caused by an insured event that posed a threat to the goods. | 8.2 | Depending on which occurs first, the cover terminates |
| 6. | Alteration or abandonment of conveyance | 8.2.1 | the moment the goods arrive at the place of final delivery stipulated by the consignee; |
| 6.1 | Unless otherwise agreed, the Insurer is not obliged to indemnify if the goods are shipped via a means of transport other than the one named in the policy, or are discharged despite direct transport having been stipulated. The same applies if a specific means of transport or specific route were named in the policy. | 8.2.2 | the moment the goods are forwarded after discharge at the port or airport of destination to a place of delivery not named in the policy if this change aggravates the risk; |
| 6.2 | The Insurer's obligation to indemnify remains unaffected if, after inception of the policy, the transport is altered or abandoned as a consequence of an insured event or without the consent of the Assured. The provisions governing alteration of risk apply correspondingly. | 8.2.3 | on expiry of days after the goods have been discharged from the ocean-going vessel or aeroplane at the port or airport of destination. Provided the Assured's own interest is involved, the policy will not terminate at the end of the period agreed in No. 8.2.3 if - following discharge of the goods from the ocean-going vessel or aeroplane at the port or airport of destination - an insured peril delayed the insured voyage and the Assured reported the delay immediately. The Insurer shall be due a reasonable additional premium that is to be agreed; |
| 7. | Means of transport | 8.2.4 | if the goods are transported as per Incoterms FOB or CFR when stowed on board an ocean-going vessel; |
| 7.1 | Unless otherwise agreed, insurance cover shall be granted only if the means of transport are suitable for stowing and transporting the insured goods. Furthermore, ocean-going vessels shall be considered suitable only if they meet the conditions of the DTV's Classification and Age Clause and, where required, are certified according to the International Safety Management Code (ISM Code), or if the shipowner is in possession of a valid Document of Compliance | 8.2.5 | if the goods are sold when an insured peril has occurred and when risk is passed; |
| | | 8.2.6 | upon expiry of the period agreed in No. 9.1 when goods are temporarily stored by order of the Assured. |
| | | 9. | Storage |
| | | 9.1 | If the goods need to be stored during the duration of the policy, cover is limited to .. days per storage period. |
| | | 9.2 | For storage in the ordinary course of transit not by order of the Assured, cover extends beyond the period agreed in No. 9.1 unless otherwise agreed. If the goods are transported by sea or air, No. 8.2.3 also applies. |

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| 9.3 | The periods of storage stated in Nos. 9.1 - 9.2 include the day of arrival and the day of departure. | 12.1 | Unless otherwise agreed, the premium plus additional costs and insurance tax shall be due immediately upon conclusion of the insurance contract. |
| 10. Sum insured; insured value | | 12.2 | Payment shall be considered made in good time if it is effected immediately upon receipt of the insurance policy and/or the invoice. |
| 10.1 | The sum insured should correspond to the insured value of the goods. | 12.3 | If the Policyholder is responsible for not making the payment in good time, he will be regarded as having defaulted the moment he receives a written reminder. The Insurer shall make a written request for the payment and set a deadline for payment of at least two weeks. |
| 10.2 | The insured value is the fair market value of the goods or, failing that, their market value at the place of departure at commencement of cover plus the cost of insurance, the costs incurred until the goods are delivered to the carrier, and the freight ultimately paid. | 12.4 | Unless otherwise agreed, if the Policyholder is still in default after the two weeks have passed, the Insurer is released of his obligation to indemnify any insured event which occurs before the payment is made. The Insurer may cancel the insurance contract without notice if the Policyholder is still in default after a further two weeks. The Insurer shall nevertheless be entitled to payment of the agreed premium. The Insurer is not entitled to invoke the legal provisions contained in this section of the conditions until he has notified the Policyholder in writing. |
| 10.3 | Interests as per No. 1.1.3 are covered by special arrangement only, and only if they are part of the sum insured or correspond to the insured value of the goods. Unless otherwise agreed, they shall include anticipated profit for the buyer of 10 % of the insured value. | 13. | Insurance for third-party account (to whom it may concern) |
| 10.4 | The provisions contained in No. 10.1 can be applied correspondingly to the separate insurance of other interests. No. 10.2 applies, in particular, to the insurance of increased value. | 13.1 | If insurance is taken out for a third party and the latter is named in person, it shall be assumed that the contracting party is acting not as a representative, but in his own name for third party account. In the case of an insurance contract concluded "to whom it may concern" or if the contract leaves open the account for which the insurance cover is to apply, the provisions for insurance for third-party account shall apply if it emerges that the interest of another is being insured. |
| 10.5 | If the insured value has been fixed at an agreed value, the latter shall determine the insured value. The Insurer is, however, entitled to demand that the agreed value be lowered if it exceeds the real insured value by a substantial amount. If the sum insured is less than the agreed value, the Insurer shall be obliged to indemnify - even when the agreed value has been lowered - only in the proportion the sum insured bears to the agreed value. This provision shall apply accordingly to the insurance of other insurable interests. | 13.2 | The Assured shall be entitled to exercise his rights under the contract. However, only the Policyholder shall be entitled to request that the policy be handed over. Without the Policyholder's consent, the Assured shall not be entitled to exercise his rights under the contract and to enforce these rights in a court of law unless he is in possession of the policy. |
| 11. Policy | | 13.3 | The Policyholder is entitled to exercise in his own name the contractual rights due to the Assured. |
| 11.1 | At the Policyholder's request, the Insurer is obliged to issue a signed certificate documenting the insurance contract (policy). | 13.3 | If a policy has been issued, the Policyholder shall not be entitled to accept a payment and transfer the rights of the Assured unless he is in possession of the policy. The Insurer is not obliged to indemnify the Policyholder unless the latter can prove that the Assured has given his approval to the insurance. |
| 11.2 | If a policy has been issued, the Insurer is not obliged to indemnify until presented with this policy. The payment to the holder of the policy discharges the Insurer from further liability. | | |
| 11.3 | If the policy is lost or destroyed, the Insurer is obliged to indemnify once the policy has been declared invalid, or security has been given; security by way of a guarantee is excluded. The same applies to the Insurer's obligation to issue a replacement policy, the cost of which shall be borne by the Assured. | | |
| 11.4 | The contents of the policy shall be regarded as approved by the Assured unless contested immediately upon issue. The right of the Assured to refuse approval on account of an error shall remain unaffected. | | |
| 12. Premium | | | |

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| 13.4 | The Policyholder is not obliged to surrender the policy to the Assured or - in the case of insolvency of the latter - to the receiver before he has been satisfied for claims he has on the Assured in respect of the subject matter insured. He shall be entitled to satisfy himself for such claims out of the insurance claim against the Insurer or out of the collected indemnity. | 15.3 | observe any instructions of the Insurer and shall request such instructions as far as circumstances allow. Instructions of the Insurer or the surveyor |
| 13.5 | The Insurer may set off any claim he has on the Policyholder who effected the insurance against an insurance claim in so far as the Insurer's claim results from the insurance taken out by the Policyholder for the Assured. | 15.3.1 | The Assured shall observe the instructions of the Insurer concerning the loss, consult immediately with the surveyor named in the policy or the insurance certificate in order to assess the damage, and submit the latter's survey report to the Insurer. |
| 13.6 | The knowledge and conduct of the Assured shall be considered to be equivalent to the knowledge and conduct of the Policyholder. | 15.3.2 | For good reason, the services of the nearest Lloyd's agent may be called upon in place of the surveyor named in the policy. |
| 13.6.1 | Where the insurance was concluded without the knowledge of the Assured, it shall be of no avail whether or not he knew or ought to have known of the occurrence. The same applies if notification of the Policyholder was not feasible in due time. | 15.4 | Disclosure of information The Assured shall provide the Insurer with all information required to assess the insured loss or the extent of the indemnification due. He is obliged to procure and safeguard all evidence that may be of relevance to the later clarification of events leading up to the loss, or which are necessary for the assertion of claims of recourse. |
| 13.6.2 | If the Policyholder concluded the contract without the Assured's consent and failed to notify the Insurer thereof, the Insurer is not obliged to accept a plea of ignorance in a claim against him. | 15.5 | Right of subrogation In the event of a loss, the Assured shall safeguard the right of recourse against third parties who are or might be liable for the loss, as well as assist the Insurer in the recourse proceedings. |
| 13.7 | The insurance may not be concluded for the benefit of ocean carriers, carriers, warehouse keepers and forwarding agents. | 15.6 | Legal consequences of breach of obligations The Insurer shall be released of his obligation to indemnify if the Assured fails - either wilfully or through gross negligence - to meet any of the obligations stated in Nos. 15.2-15.5. In the case of gross negligence on the part of the Assured, the Insurer shall remain obliged to indemnify if the failure to meet an obligation influenced neither the assessment of the loss nor the assessment or extent of the indemnification due by the Insurer. |
| 14. | Sale of the insured property | | |
| 14.1 | If the Policyholder sells the insured goods, Articles 69, 70 Paras. 2 and 3, and 73 of the VVG (German Insurance Contracts Act) in conjunction with the above-named provisions shall apply. If a policy was issued, the Insurer may not invoke Article 69 Para. 3 of the VVG and claim before a bona fide purchaser that he was unaware of the sale. | | |
| 14.2 | If a policy has been issued, joint liability of the buyer for the payment of premiums and ancillary costs no longer apply. Once the policy has been issued, the Insurer cannot claim exemption from obligation to indemnify as per No. 12.4 on account of non-payment of premium unless the buyer knew or ought to have known the reason for this exemption. | 16. | Lodgement of claims; forfeiture of right to compensation |
| 14.3 | If the compensation claim is assigned by way of a pledge, the provision contained in No. 14.2 Para. 2 shall apply in favour of the pledgee. | 16.1 | The Assured shall claim for an insured loss within fifteen months of termination of the covered risk and, if the means of transport has disappeared presumed lost, before expiry of the period of presumptive loss. The postmark shall evidence adherence to the time limit. |
| | | 16.2 | The Assured shall forfeit his right to compensation if the claim is not made in good time. |
| 15. | Provisions for the loss event | 17. | Indemnification |
| 15.1 | Declaration of loss event The Assured shall notify the Insurer immediately of any loss/damage. | 17.1 | Loss of goods If the goods are lost either totally or in part, if they are no longer available and there is no prospect of return, or if - in the opinion of an expert - the original state of the goods has been destroyed, the Assured is entitled to claim the share of the sum insured |
| 15.2 | Averting or minimising the loss/damage In the event of a loss/damage, the Assured shall avert or minimise the damage as far as possible. He shall | | |

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| | assigned to the goods minus the value of salvaged goods. | 17.6 | Sale of goods before termination of the insured transport |
| 17.2 | Disappearance If both the goods and the means of transport are disappeared presumed lost, the Insurer shall indemnify the Assured for total loss unless it can be assumed with all probability that the loss was caused by an uninsured risk. The means of transport are presumed lost 60 days after the expected date of arrival (30 days for journeys within Europe) and no news has been received by the time the claim is made. If communication links are interrupted owing to war, hostile events, civil war or civil commotion, the time period shall be extended in accordance with the circumstances up to a maximum of 6 months. | 17.6.1 | After inception of the policy, if the transport is abandoned or is not completed for any reason and the Insurer is still obliged to indemnify, the latter is entitled to request the assured to sell the goods with his assistance by private sale or public auction if the goods could not be forwarded at reasonable cost or within an agreed period of time. If the Insurer requests that the goods be sold, the sale shall take place immediately. |
| | | 17.6.2 | In the event of a sale, the Assured can demand reimbursement of the difference between the sum insured and the proceeds from the sale. The same applies if the goods in transit have to be sold as a result of a loss claimed against the Insurer. |
| 17.3 | Damage to goods | 17.6.3 | If the conditions of sale require the seller to pay/deliver in advance, the Insurer shall guarantee the payment of the purchase price, provided he has agreed to the terms of sale. |
| 17.3.1 | If all or part of the goods are damaged, their fair market value or, failing that, the market value they would have had at the place of discharge had the loss not occurred (sound value) and their damaged value shall be determined. The indemnification due shall bear the same proportion to the sum insured as the gross damaged value bears to the gross sound value. | 17.7 | Non-materialisation of interest; saved costs If an insured interest or anticipated profit, increased value, customs duty or freight or other costs do not materialise when the loss occurs, the corresponding part of the sum insured shall be ignored when determining the extent of the loss. The same applies to any costs saved on account of a loss event having occurred. |
| 17.3.2 | Immediately upon notification of the facts material to the extent of claim, the Insurer may request the damaged value to be determined by private sale or public auction. In this case, the gross proceeds from the sale shall take the place of the damaged value. If the conditions of sale require the seller to deliver in advance, the Insurer shall guarantee the payment of the purchase price, provided he has agreed to the terms of sale. | 17.8 | Other recoveries Any other recoveries received by the Assured in respect of a loss are set off by the Insurer against the indemnification payable. |
| 17.4 | Repair/replacement | | |
| 17.4.1 | In the event of damage to or loss of part of the goods, the Assured may, in lieu of part of the insured value, claim compensation for the necessary costs incurred at the time of loss of repairing or replacing the damaged or lost goods. | 18. | Subrogation |
| 17.4.2 | In the event of damage to or loss of goods that form part of an insured entity, the Insurer shall indemnify the Assured for total loss if repair or replacement is either impossible or inexpedient. Any residual value shall be taken into account. | 18.1 | If the Assured requests payment of the sum insured, the Insurer may decide whether or not the rights to the goods or the title to the insured goods shall transfer to him upon payment of the sum. This right applies only if exercised immediately by the Insurer upon notification of the circumstances of the loss event. |
| 17.4.3 | Unless otherwise agreed, the Insurer shall reimburse without deductible "new for old" the necessary costs at the time the loss was noted of repairing or replacing used machines, devices, equipment, vehicles and their components. If the current value of the above equipment amounts to less than 40 % of its new value, the reimbursement payable shall not exceed the current value. | 18.2 | If the Insurer elects subrogation, the Assured is obliged to minimise the loss if the Insurer himself is unable to do so. The Assured is obliged to disclose all information required to assert the rights, furnish or make available any probative documents, as well as assist the Insurer in recovering and evaluating the goods. The Insurer shall bear the relevant costs and advance these upon request. The Assured shall receive that part of the net proceeds from the sale that exceeds the sum insured. |
| 17.5 | Underinsurance If the sum insured is less than the insured value, the Insurer shall be liable for the loss and expenses only in the proportion of the insured amount to the insured value. | 18.3 | If the Insurer does not choose subrogation, the Assured shall pay the Insurer either the fair market value of the recovered goods or the net proceeds from the sale. |
| | | 18.4 | Subrogation of claims against a third party and the Insurer's rights to abandonment remain unaffected. |

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| <p>19. Abandonment by the Insurer</p> <p>19.1 Unless otherwise agreed, the Insurer is, in the event of an insured loss, entitled to discharge himself from all further liabilities by payment of the sum insured.</p> <p>19.2 Notwithstanding any discharge of liability, the Insurer nonetheless remains obliged to indemnify the Assured for costs of averting or minimising the loss or in repairing or replacing the insured object, properly incurred before he was notified of the Insurer's intention to discharge himself from liability by payment of the sum insured. This also includes insured costs, which the Assured has undertaken to pay.</p> <p>19.3 The Insurer's right to discharge himself from liability by payment of the sum insured ceases if the Assured fails to receive notification of this intent within five working days of the Insurer becoming aware of the loss event and its direct consequences.</p> <p>19.4 Payment of the sum insured does not earn the Insurer rights to the insured objects.</p> <p>20. Experts' procedure</p> <p>If the cause or extent of the loss is disputed, either party is entitled to request their ascertainment by an expert.</p> <p>20.1 In this case, each party shall nominate an expert without delay. Upon naming an expert, each party is entitled to request the other in writing to do the same. If the second expert is not named within four weeks of receipt of the written request, the requesting party is entitled to have the expert named by the Chamber of Industry & Commerce (alternatively by the Consulate General of the Federal Republic of Germany) of the district in which the goods are currently located.</p> <p>20.2 Before the survey begins, the two experts shall appoint a third party as a representative. If the parties cannot agree on a choice of representative, either or both parties can request that the representative be appointed by the Chamber of Industry & Commerce (alternatively by the Consulate General of the Federal Republic of Germany) of the district in which the goods are currently located.</p> <p>20.3 The reports produced by the experts contain all information which, depending on the task at hand, is required to determine the cause of the loss and to assess the extent of the indemnification due.</p> <p>20.4 The experts shall present each party with their findings simultaneously. If the findings diverge, the Insurer shall forward the reports to the representative without delay. The representative shall then settle the disputed issues within the bounds of the findings made by the experts and present both parties with his decision at the same time.</p> | <p>20.5</p> <p>20.6</p> <p>20.7</p> <p>21. Limits of liability</p> <p>21.1</p> <p>21.2</p> <p>21.3</p> <p>22. Due date/payment of indemnity</p> <p>22.1</p> <p>22.2</p> <p>22.3</p> <p>23. Transfer of claims for loss/damages</p> <p>23.1</p> | <p>Each party shall assume the costs of his own expert. Each party shall pay half the costs of the representative. This applies even if the two parties agree mutually on an experts procedure. If the Insurer requested the procedure, he shall bear the entire costs of the proceedings.</p> <p>The findings of the experts or of the representative are binding unless it is obvious that they deviate substantially from the facts of the case.</p> <p>If the experts or the representative are unable or unwilling to produce findings, or if they delay proceedings unduly, different experts shall be appointed.</p> <p>Limits of liability</p> <p>Unless otherwise agreed, the Insurer's liability for losses occurring during the duration of the insurance is limited to the sum insured.</p> <p>No. 21.1 applies equally to any subsequent loss event. If payments have been made to cover repairs or replacement, or expenses and costs as per Nos. 2.3.1.1 and 2.3.1.2 have been incurred, or if the Assured has become obliged to pay expenses of this kind, the sum insured shall not be reduced by the amount of such payments and obligations.</p> <p>This does not affect No. 2.3.3 above.</p> <p>Due date/payment of indemnity</p> <p>The Insurer is obliged to indemnify within two weeks of the final assessment of the loss. If the size of the indemnity payment could not be finalised within a month of the loss being reported, the Assured shall be entitled to demand part payment of the minimum amount likely under the circumstances.</p> <p>The date on which the right to part payment arises shall be deferred by the length of time by which ascertainment of the insured event and the extent of the insurer's obligation were delayed, if this delay was the fault of the Assured.</p> <p>Indemnification must be paid in the currency of the sum insured.</p> <p>Transfer of claims for loss/damages</p> <p>If the Assured is entitled to claim against a third party, these rights shall transfer to the Insurer upon indemnification of the Assured. In this event, the Assured is obliged to provide the Insurer with the information required to assert these rights, to submit - provided they are in his possession - all certificates documenting the claim, and to submit all papers - certified by a notary public - documenting the transfer of rights. The Insurer shall bear these costs.</p> <p>Section 1 applies accordingly in case of general average. However, the Assured's claim to General Average allowance will pass to the Insurer the moment it arises if the latter is liable for sacrifices. If the compensation exceeds the damages and</p> |
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| | expenses paid by the Insurer, the excess is payable to the Assured. | | unrestricted statement of declaration, for the shares of the Co-insurers. |
| 23.2 | If the Assured waives his claim against a third party or his rights to safeguard such a claim, the Insurer shall, unless otherwise agreed, be released of liability insofar as he might have made recovery via said claim or rights. | 25.3 | The leading underwriter is empowered to litigate on behalf of the Co-insurers. This applies equally to cases brought before courts of law and to those before arbitration tribunals. |
| 23.3 | Unless otherwise agreed, the Insurer shall be discharged of his obligation to indemnify insofar as the Assured is unable to claim against a third party responsible for the transport because his legal liability is limited beyond the customary measure or excluded by contract. This does not apply if the limitation or exclusion was beyond the Assured's control. | | However, a verdict against the leading underwriter for his part alone, or a settlement made after litigation or any arbitration award shall be recognised by the Co-insurers as binding for their quotas as well. If the leading insurer's share falls short of the amount in dispute, the Assured is obliged - on the request of the leading Insurer or one of the participating insurers - to extend the action to include the second and, where necessary, the third and other insurers until the sum is reached. If the Assured does not meet this request, Sentence 1 shall be void. |
| 23.4 | Even after the right of recourse has transferred to the Insurer, the Assured is obliged to minimise the loss, if need be, by withholding payments such as freight. The Assured is obliged to assist the Insurer in asserting the claim and to forward immediately any material information, messages and documents. The Insurer shall bear the costs and make advance payments upon request. | 25.4 | The existing leading underwriter shall notify the co-insurers immediately and in writing of a change in leadership. This disclosure may also be made by the Assured. In this case, each Co-insurer is entitled to cancel his participation in the policy with four weeks' notice. The right to give notice extinguishes if not exercised within one month of the written notification of a change in leadership. |
| 24. | Limitation period | | |
| 24.1 | Claims arising from the policy are subject to a limitation period of two years. The limitation period commences at the end of the year in which payment can be requested. In case of general average, the period commences at the end of the year in which the Assured's contribution is asserted by way of a general average adjustment which meets the requirements laid down in No. 2.3.1.1. | 25.5 | Disclosures and statements received by the leading underwriter are regarded as having been received by the Co-insurers as well. |
| 24.2 | If the Assured has reported a claim to the Insurer, the limitation period is suspended until the Assured has received a decision in writing from the Insurer. | 26. | Final clause (applicable law) |
| 25. | Co-insurance | | This policy is subject to the laws of the Federal Republic of Germany. Unless otherwise agreed, the provisions set out in Articles 1 to 80 of the VVG (within the scope of Article 187 of said Act) shall be applied on a supplementary basis. |
| 25.1 | If several Insurers underwrite a policy, the latter are obliged to indemnify for their respective shares only, i.e. not jointly. This applies even if the single policy or insurance certificate was underwritten by one Insurer on behalf of the others. | | |
| 25.2 | The terms and conditions concluded with the Assured by the leading underwriter are binding for the other Co-insurers. This shall weigh in favour of the Assured when claims are settled. Without the agreement of each individual Co-insurer, however, the leading underwriter is not authorised to do any of the following <ul style="list-style-type: none"> - increase the policy limit; - include the risks excluded under Nos. 2.4.1.1 - 2.4.1.3; - change the policy currency; - change the terms of cancellation. <p>In the absence of the consent of the Co-insurers, the leading Underwriter is also liable, by virtue of an</p> | | |

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