

INSTITUTE WAR CLAUSES (AIR CARGO)(excluding sendings by Post)2009 CL388

RISKS COVERED

1. Risks

This insurance covers, except as excluded by the provisions of Clause 3 below, loss of or damage to the subject-matter insured caused by

1.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power

1.2 capture seizure arrest restraint or detainment, arising from risks covered under 1.1 above, and the consequences thereof or any attempt thereat

1.3 derelict mines torpedoes bombs or other derelict weapons of war.

2. Salvage Charges

This insurance covers salvage charges, incurred to avoid or in connection with the avoidance of loss from any cause except those excluded in Clause 3 below.

EXCLUSIONS

3. In no case shall this insurance cover

3.1 loss damage or expense attributable to wilful misconduct of the Assured

3.2 ordinary leakage, ordinary loss in weight or volume, or ordinary wear and tear of the subject-matter insured

3.3 loss damage or expense caused by insufficiency or unsuitability of packing or preparation of the subject-matter insured to withstand the ordinary incidents of the insured transit where such packing or preparation is carried out by the Assured or their employees or prior to the attachment of this insurance (for the purpose of these Clauses "packing" shall be deemed to include stowage in a container and "employees" shall not include independent contractors)

3.4 loss damage or expense caused by inherent vice or nature of the subject-matter insured
3.5 loss damage or expense arising from unfitness of aircraft conveyance or container for the safe carriage of the subject-matter insured, where loading therein or thereon is carried out prior to attachment of this insurance or by the Assured or their employees and they are privy to such unfitness at the time of loading. This exclusion shall not apply where the contract of 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.

3.6 loss damage or expense caused by delay, even though the delay be caused by a risk insured against

3.7 loss damage or expense caused by insolvency or financial default of the owners managers charterers or operators of the aircraft where, at the time of loading of the subject-matter insured on board the aircraft, the Assured 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 transit

This exclusion shall not apply where the contract of 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

3.8 any claim based upon loss of or frustration of the transit or adventure

3.9 loss damage or expense directly or indirectly caused by or arising from any hostile use of any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

DURATION

4. Transit Clause

4.1 This insurance

4.1.1 attaches only as the subject-matter insured and as to any part as that part is loaded on the aircraft for the commencement of the air transit insured and

4.1.2 terminates, subject to 4.2 and 4.3 below, either as the subject-matter insured and as to any part as that part is discharged from the aircraft at the final place of discharge

or

on expiry of 15 days counting from midnight of the day of arrival of the aircraft at the final place of discharge,

whichever shall first occur;

nevertheless, **subject to prompt notice to the Insurers and to an additional premium,** such insurance

4.1.3 reattaches when, without having discharged the subject-matter insured at the final place of discharge, the aircraft departs therefrom,

and

4.1.4 terminates, subject to 4.2 and 4.3 below, either as the subject-matter insured and as to any part as that part is thereafter discharged from the aircraft at the final (or substituted) place of discharge,

or

on expiry of 15 days counting from midnight of the day of re-arrival of the aircraft at the final place of discharge or arrival of the aircraft at a substituted place of discharge,

whichever shall first occur.

4.2 If during the insured transit the aircraft arrives at an intermediate place to discharge the subject-matter insured for on-carriage by aircraft or oversea vessel, then, subject to 4.3 below and to an additional premium if required, this insurance continues until the expiry of 15 days counting from midnight of the day of arrival of the aircraft at such place, but thereafter reattaches as the subject-matter insured and as to any part as that part is loaded on an on-carrying aircraft or oversea vessel. During the period of 15 days the insurance remains in force after discharge only whilst the subject-matter insured and as to any part as that part is at such intermediate place. If the subject-matter insured is on-carried within the said period of 15 days or if the insurance reattaches as provided in this Clause 4.2

4.2.1 where the on-carriage is by aircraft this insurance continues subject to the terms of these Clauses,

or

4.2.2 where the on-carriage is by oversea vessel, the current Institute War Clauses (Cargo) shall be deemed to form part of the contract of insurance and shall apply to the on-carriage by sea.

4.3 If the air transit in the contract of carriage is terminated at a place other than the destination agreed therein, that place shall be deemed to be the final place of discharge and this insurance terminates in accordance with 4.1.2. If the subject-matter insured is subsequently consigned to the original or any other destination, then, **provided notice is given to the Insurers before the commencement of such further transit and subject to an additional premium**, this insurance reattaches

4.3.1 in the case of the subject-matter insured having been discharged, as the subject-matter insured and as to any part as that part is loaded on the on-carrying aircraft for the transit;

4.3.2 in the case of the subject-matter insured not having been discharged, when the aircraft departs from such deemed final place of discharge; thereafter this insurance terminates in accordance with 4.1.4.

4.4 **Subject to prompt notice to Insurers, and to an additional premium if required**, this insurance shall remain in force within the provisions of these Clauses during any deviation, or any variation of the adventure arising from the exercise of a liberty granted to the air carriers under the contract of carriage.

(For the purpose of Clause 4 "oversea vessel" shall be deemed to mean a vessel carrying the subject-matter from one port or place to another where such voyage involves a sea passage by that vessel)

5. Change of Transit

5.1 Where, after attachment of this insurance, the destination is changed by the Assured, **this must be notified promptly to Insurers for rates and terms to be agreed.**

Should a loss occur prior to such agreement being obtained cover may be provided but only if cover would have been available at a reasonable commercial market rate on reasonable market terms.

5.2 Where the subject-matter insured commences the transit contemplated by this insurance (in accordance with Clause 4.1), but, without the knowledge of the Assured or their employees the aircraft leaves for another destination, this insurance will nevertheless be deemed to have attached at commencement of such transit.

6. Anything contained in this contract which is inconsistent with Clauses 3.8, 3.9 or 4 shall, to the extent of such inconsistency, be null and void.

CLAIMS

7. Insurable Interest

7.1 In order to recover under this insurance the Assured must have an insurable interest in the subject-matter insured at the time of the loss.

7.2 Subject to Clause 7.1 above, the Assured shall be entitled to recover for insured loss occurring during the period covered by this insurance, notwithstanding that the loss occurred before the contract of insurance was concluded, unless the Assured were aware of the loss and the Insurers were not.

8. Increased Value

8.1 If any Increased Value insurance is effected by the Assured on the subject-matter insured under this insurance the agreed value of the subject-matter insured shall be deemed to be increased to the total amount insured under this insurance and all Increased Value insurances covering the loss, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured.

In the event of claim the Assured shall provide the Insurers with evidence of the amounts insured under all other insurances.

8.2 Where this insurance is on Increased Value the following clause shall apply:

The agreed value of the subject-matter insured shall be deemed to be equal to the total amount insured under the primary insurance and all Increased Value insurances covering the loss and effected on the subject-matter insured by the Assured, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured.

In the event of claim the Assured shall provide the Insurers with evidence of the amounts insured under all other insurances.

BENEFIT OF INSURANCE

9. This insurance

9.1 covers the Assured which includes the person claiming indemnity either as the person by or on whose behalf the contract of insurance was effected or as an assignee,

9.2 shall not extend to or otherwise benefit the carrier or other bailee.

MINIMISING LOSSES

10. Duty of Assured

It is the duty of the Assured and their employees and agents in respect of loss recoverable hereunder

10.1 to take such measures as may be reasonable for the purpose of averting or minimising such loss,

and

10.2 to ensure that all rights against carriers, bailees or other third parties are properly preserved and exercised

and the Insurers will, in addition to any loss recoverable hereunder, reimburse the Assured for any charges properly and reasonably incurred in pursuance of these duties.

11. Waiver

Measures taken by the Assured or the Insurers with the object of saving, protecting or recovering the subject-matter insured shall not be considered as a waiver or acceptance of abandonment or otherwise prejudice the rights of either party.

AVOIDANCE OF DELAY

12. It is a condition of this insurance that the Assured shall act with reasonable despatch in all circumstances within their control.

LAW AND PRACTICE

13. This insurance is subject to English law and practice.

NOTE: Where a reattachment of cover is requested under Clause 4, or a change of destination is notified under Clause 5, there is an obligation to give prompt notice to the Insurers and the right to such cover is dependent upon compliance with this obligation.

1/1/09 CL388