

## Standard Wording-Marine Cargo Open Cover

### I. Content of Policy

This open cover will remain permanently in force until cancelled and is for an open amount up to the **limit of indemnity specified in the schedule** and subject to declarations issued thereunder.

#### The cover

- 1 The insurer insures the person named as the insured for consignments of interest insured on voyages which commence on or after the effective date on conditions of insurance, each as specified in the schedule, provided that these consignments are shipped by or for account of the insured or when insurance of them is under the insured's control as selling or purchasing agent.

**However, this open cover does not insure any consignments insured elsewhere either before the effective date or before the insured acquires an insurable interest.**

#### Limits on cover

- 2 **Further to any limitations to the cover set out in the applicable conditions of insurance**
  - 2.1 **in the event of a claim (other than a claim for total loss, general average or salvage) the insured must bear first the amount of any excess specified in the schedule.**
  - 2.2 **if an accident or series of accidents arising from the same event occurs in any one location, the insurer will not be liable for more than the limit of indemnity stated in the schedule.**

#### Declarations

- 3
  - 3.1 The insured must declare promptly every consignment to which this open cover applies and the insurer will accept declarations **up to but not exceeding the limit of indemnity stated in the schedule.**
  - 3.2 If an unintentional mistake causes an incorrect declaration or a failure to declare a consignment, the mistake must be corrected as soon as the insured is aware of it, in which event the cover will apply to that declaration.
  - 3.3 **If an intentional mistake in declaration or a non-declaration should occur, then any such mistaken declaration or intentional failure to declare will not constitute a valid insurance contract relieving the insurer of all liability whatsoever.**

#### Conditions of insurance

- 4 The conditions of insurance are as specified in the schedule. Any reference to Institute clauses is to the clauses published by The International Underwriting Association of London current at the time of inception of this open cover. but with any reference to "English law and practice" amended to "The People's Republic of China law and practice", wherever it appears.

#### Premium

- 5 Premium will be charged on each declared consignment at the rate(s) specified in the schedule.

### **Policies and certificates**

- 6 Any policy (if and where specifically requested as such) or certificate of insurance issued under this open cover must strictly conform with the terms, conditions and limits of this open cover.

### **Basis of valuation**

- 7 The agreed value of declared consignments for the purpose of calculating premiums and claims will be as specified in the schedule.

### **Notification of material change**

- 8 The insured must notify the insurer as soon as possible of any material change in the risk covered by this policy.

### **Settlement of claims**

- 9 In the event of a recoverable claim, **the insurer has the option of settling either by payment, repair, reinstatement or replacement of the lost or damaged interest insured.**

### **Transfer**

- 10 This open cover permits transfer of the insurance by the insured or assignee to any other person.

### **Third parties**

- 11 If anyone else is entitled to make a claim under an insurance issued pursuant to this open cover, this person must also comply with its terms.

### **Right of subrogation**

- 12 12.1 The insurer is entitled to exercise any rights the insured or any assignee may have against anyone else in relation to interest insured in respect of which the insurer has paid any amount under this open cover. The insured and all assignees entitled to claim under insurance arranged pursuant to this open cover must cooperate fully with the insurer in exercising those rights and must give the insurer any information or assistance it may require.
- 12.2 When loss or damage recoverable under this policy is caused by a third party, the insured or assignee must not forfeit the right to claim from, or agree to any settlement with such third party before the insurer has been notified and settled the claim. **If the insured waives the right to claim for indemnity against the third party after the occurrence of insurance accident and before the insurer pays the indemnity, the insurer shall bear no obligation for indemnity.** If the insured, without the insurer's consent, waives the right to claim for indemnity against the third party after indemnity is paid by the insurer, the waiver shall be null and void. **The insurer may deduct a corresponding sum from the amount of indemnity or ask the insured to refund the corresponding indemnity if it is not able to exercise the right to claim for indemnity by subrogation due to the intention or gross negligence of the insured.**

### **Claims – What must be done when an event occurs which might give rise to a claim**

- 13 **When loss or damage happens which may give rise to a claim under this policy**
- 13.1 **the insured or their agents must take such measures as may be reasonable for the purpose of averting or minimizing a loss and to ensure that all rights against carriers, bailees, or other third parties are properly preserved and exercised. In particular, the insured or their**

agents are required

- 13.1.1 to claim immediately on the carriers, port authorities, or other bailees for any missing packages.
- 13.1.2 in no circumstances, except under written protest, to give clean receipts where goods are in damaged or doubtful condition.
- 13.1.3 when delivery is made by container, to ensure that the container and its seals are examined immediately by their responsible official.
  - 13.1.3.1 If the container is delivered damaged or with seals broken or missing or with seals other than as stated in the shipping documents, to clause the delivery receipt accordingly and retain all defective or irregular seals for subsequent identification.
- 13.1.4 to apply immediately for survey by carriers' or other bailees' representatives if any loss or damage is apparent and claim on other carriers or other bailees for any actual loss or damage found at such survey.
- 13.1.5 to give notice in writing to the carriers or other bailees within 3 (three) days of delivery if the loss or damage was not apparent at the time of taking delivery.
- 13.2 The insured must notify the insurer or its nominated survey/settling agent and send to it full details of what has happened and of any other insurance on the interest insured together with the following documentation within 72 hours when such event comes to his knowledge or in the ordinary course of business should come to his knowledge unless there occurs circumstances beyond the control of the insured:
  - 13.2.1 original or copy shipping invoices, together with shipping specifications and/or weight notes
  - 13.2.2 original bill of lading, waybill and/or other contract of carriage
  - 13.2.3 survey report evidencing the extent of the loss or damage
  - 13.2.4 landing account and weight notes at final destination
  - 13.2.5 documentary evidence to show the extent of the loss or damage
  - 13.2.6 correspondence exchanged with the carriers and other parties regarding their liability for the loss or damage.
- 13.3 The limitation of action for the insured shall be 2 years, after which the claim brought by the insured against the insurer shall be denied by the court.
- 13.4 The insured must not authorize any repairs to the goods insured without the insurer's prior consent in writing.

#### **Cancellation**

- 14 14.1 The insured may cancel this open cover at any time by giving notice in writing to the insurer.
- 14.2 The insurer may cancel this open cover at any time by giving the insured 30 days notice in writing.
- 14.3 However, the insurer may cancel war and strikes risks cover by giving 7 days notice in writing, except for strikes risks involving shipments to or from the United States of America when 48 hours notice may be given.

- 14.4 Cancellation will not apply to consignments of interest insured on voyages which commence before the effective date of cancellation.
- 14.5 **Notice of cancellation will apply from 24: 00 on the day notice is given.**
- 14.6 Within one month of the cancellation becoming effective the insured must provide the insurer with all outstanding declarations effective before the cancellation.

**Treatment of Disputes**

- 15 All disputes arising from this insurance shall be settled by negotiation between the Insured and the Insurer; where a settlement fails after negotiation, such disputes can be submitted to the arbitral authority stated on the open cover schedule; where no arbitral authority is stated on the open cover schedule or no arbitration agreement is agreed, legal actions shall be carried out.

II. Exclusions attaching to the Marine Cargo Open Cover

The following exclusions apply in addition to the exclusions contained in the Institute clauses or stated elsewhere in the schedule and attachments to this open cover.

ISM Exclusion (applicable for export/import transit by sea)

1 In no case shall insurance granted pursuant to this open cover agreement cover loss, damage or expense where the interest is carried by a vessel that is not ISM certified or whose owners or operators do not hold an ISM Code Document of Compliance when, at the time of loading of the interest insured on board the vessel, the insured is aware, or in the ordinary course of business should have been aware either

1.1 that such vessel was not certified in accordance with the ISM Code  
or

1.2 that a current Document of Compliance was not held by its owners or operators as required under the SOLAS Convention 1974 as amended.

This exclusion shall not apply where this insurance has been assigned to the party claiming under this policy who has bought or agreed to buy the interest insured in good faith under a binding contract.

Or

Transport Conveyance Statutory Compliance / Exclusion (applicable for domestic transit)

1 In no case shall this insurance cover loss, damage, or expense where the interest insured is transported by any conveyance or means of transport, whether land, sea, inland waterways or air, where,

1.1 in respect to the subject carrying conveyance, and

1.2 at the time that the transportation is being undertaken,

the owners and/or operators do not unconditionally comply with or are not appropriately certified and fully authorized to provide such service by relevant statutory authorities and are therefore not operating in accordance with all the latest current relevant laws, rules and regulations of The People's Republic of China which apply to the subject carrying conveyance.

Terrorism Exclusion

2 2.1 Insurance granted pursuant to this open cover excludes any loss, damage, liability or expense arising from

2.1.1 terrorism and/or

2.1.2 steps taken to prevent, suppress, control or reduce the consequences of any actual, attempted, anticipated, threatened, suspected or perceived terrorism.

2.2 For the purpose of this clause, "terrorism" means any act(s) of any person(s) or organization(s) involving:

2.2.1 the causing, occasioning or threatening of harm of whatever nature and by whatever means

2.2.2 putting the public or any section of the public in fear in circumstances in which it is reasonable to conclude that the purpose(s) of the person(s) or organization(s) concerned are

wholly or partly of a political, religious, ideological or similar nature.

However, this exclusion shall not apply to the extent of the provisions of the following clause

**TERMINATION OF TRANSIT CLAUSE (TERRORISM)**

**3** This clause shall be paramount and shall override anything contained in insurances granted pursuant hereunder inconsistent therewith.

**3.1** Notwithstanding any provision to the contrary contained in this open cover, insurances granted pursuant thereto or the clauses referred to therein, it is agreed that in so far as such insurance covers loss of or damage to the interest insured caused by any terrorist or any person acting from a political motive, such cover is conditional upon the interest insured being in the ordinary course of transit and, in any event **SHALL TERMINATE**

Either

**3.1.1** as per the transit clauses contained within the open cover

or

**3.1.2** on delivery to the consignee's or other final warehouse or place of storage at the destination named herein

**3.1.3** on delivery to any other warehouse or place of storage, whether prior to or at the destination named therein, which the insured elects to use either for storage other than in the ordinary course of transit or for allocation or distribution

or

**3.1.4** in respect of marine transits, on the expiry of 60 (sixty) days after completion of discharge over-side of the interest insured hereby insured from the oversea vessel at the final port of discharge

**3.1.5** in respect of air transits, on the expiry of 30 (thirty) days after unloading the interest insured from the aircraft at the final place of discharge

whichever shall first occur.

**Information Technology Hazards Exclusion**

**4** **4.1** This insurance does not cover losses otherwise recoverable arising directly or indirectly out of

**4.1.1** loss of or damage to

**4.1.2** a reduction or alteration in the functionality or operation of

a computer system, hardware, programme, software, data, information repository, microchip, integrated circuit or similar device in or connected with computer equipment or non-computer equipment whether the property of the insured or not unless such losses are caused directly by one or more of the following physical perils

**4.1.2.1** theft of equipment

**4.1.2.2** collision

**4.1.2.3** sinking, grounding or stranding of the carrying vessel

- 4.1.2.4 overturning or derailment of land conveyance
- 4.1.2.5 jettison or washing overboard
- 4.1.2.6 fire, lightning, explosion
- 4.1.2.7 aircraft or vehicle impact
- 4.1.2.8 falling objects
- 4.1.2.9 natural hazard which shall mean: earthquake, tsunami, thunder and lightning, hurricane, typhoon, tornado, storm, tempest, flood, inundation, frost, hailstorm, landslide, rockslide, avalanche, volcanic eruption, subsidence of ground and any other phenomena of nature with strong destructive power and beyond human control.

**INSTITUTE RADIOACTIVE CONTAMINATION, CHEMICAL, BIOLOGICAL, BIO-CHEMICAL AND ELECTROMAGNETIC WEAPONS EXCLUSION CLAUSE**

- 5 This clause shall be paramount and shall override anything contained in this insurance inconsistent therewith
- In no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from ionising radiations from or contamination by radioactivity from any
- 5.1 nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
  - 5.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof
  - 5.3 any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
  - 5.4 the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes
  - 5.5 any chemical, biological, bio-chemical, or electromagnetic weapon.

**Institute Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons Exclusion Clause – USA / Canada Endorsement**

- 6 6.1 When this policy states the Institute Radioactive Contamination, Chemical, Biological, Bio-chemical and Electromagnetic Weapons Exclusion Clause (RACCBE) is to apply, the inclusion of RACCBE in this policy is material to insurer's willingness to provide coverage at the quoted terms, conditions and rates.
- 6.2 It is the intent of the parties to give maximum effect to RACCBE as permitted by law.
- 6.3 In the event that any portion of RACCBE may be found to be unenforceable in whole or in part under the law of any state, territory, district, commonwealth or possession of the USA, or any province or territory of Canada, the remainder shall remain in full force and effect under the laws of that state, territory, district, commonwealth or possession, province or territory. Further, any such finding shall not alter the enforceability of RACCBE under the laws of any other state,

territory, district, commonwealth or possession of the USA or any province or territory of Canada, to the fullest extent permitted by applicable law.

**Institute Cyber Attack Exclusion Clause**

- 7      7.1      Subject only to clause 7.2 below, in no case shall any insurance granted pursuant to this open cover agreement cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer, computer system, programme, malicious code, computer virus or process or any other electronic system.
- 7.2      Where this clause is endorsed on policies covering risks of war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power, or terrorism or any person acting from a political motive, Clause 7.1 shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system, or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

**NB. Whenever the expression, “*this insurance*”, “*this policy*” or “*insurer’s liability*” is used herein above and in particular within the context of the Exclusions attaching, it is noted and understood that reference is thereby in all cases actually made to insurance issued pursuant to this open cover agreement.**

In case of conflict between this clause and body of the policy, this clause shall prevail. All other terms, conditions, and exclusions of the policy shall remain unchanged.