



Verein Hanseatischer
Transportversicherer e.V.

Instructions for Average Agents Cargo Claims

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Your appointment as Average Agent of the

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comprises the handling of cargo claims and the supply of information as described in the following instructions.

INDEX

1. Authority
2. Survey
3. Cause of Loss and / or Damage
4. Assessment of Amount of Claim
5. Minimizing of Loss and / or Damage
6. Recovery from Third Parties
7. General Average
8. Reporting
9. General Principles

Appendix I: Survey Report Form VHT

**Appendix II: German General Rules of
Marine Insurance Special Conditions for Cargo**

Appendix III: Special Conditions for Open Policies

1. Authority

- 1.1 You are authorized to safeguard the interests of Underwriters in cases of cargo claims, in particular to survey and assess claims. You should always and mainly be guided by your own experience and by common sense.
- 1.2 You are obliged to
- use the official VHT Survey Report Form only *)
 - issue the survey report in the German or English language only report any unusual claim to Underwriters immediately
 - report claims estimated at above € 25 000,-- by telefax or e-mail
 - hold the survey jointly with the applicant without any delay
 - make sure, in case a third party is or may be responsible for the claim, that a surveyor on behalf of that party attends the survey
 - take photographs if not prohibited
 - refer the claim to the nearest Lloyd's Agent if you are yourself the Consignee, and if you are yourself a Lloyd's Agent then refer the claim to the nearest independent surveyor to be approved by VHT.
- 1.2 You are NOT authorized to
- settle claims
 - extend or amend policy conditions
 - interpret conditions of insurance
 - express any opinion as to the liability of Underwriters with regard to any claim
 - accept or reject abandonment of cargo
 - sign General Average Bonds, General Average Guarantees, other Undertakings or similar documents.

*) See APPENDIX I

2. Survey

- 2.1 If a survey is requested you will appoint a surveyor to carry out the survey.
- 2.2 On your receiving an application for survey you should make arrangements promptly for an examination of the goods and should impress upon Consignees the necessity of taking delivery of their cargo at the earliest possible moment.
- 2.3 When notice of damage is given before the cargo is discharged from a vessel, a

special survey should be held on the hatches, the stowage and the dunnage. Such a special survey is also necessary if goods have been transported in containers.

- 2.4 You should issue only one survey report for each consignment under survey at one time and not separate survey reports for each parcel contained in the same consignment.
- 2.5 The purpose of a survey is to establish the cause of loss and / or damage and to assess fairly the degree thereof.
- 2.6 To a large extent the successful achievement of this object is dependent upon the experience and efficiency of the person undertaking the survey, and, in the case of damage, the surveyor often needs to have an understanding of the special characteristics or properties of the goods requiring survey and to be familiar with any treatment necessary to minimize the loss.
- 2.7 Certain goods may call for examination by experts.
- 2.8 It should be appreciated that if, by reason of the particular nature of the damage, or unfamiliarity with the commodity in question, it is not possible to express an authoritative opinion, steps should immediately be taken to consult someone with the necessary expertise.
- 2.9 There are many occasions when experts may be employed usefully and a surveyor should appreciate that the additional employment of an expert in no way reflects upon his ability, on the contrary, the incorporation of an expert's findings enhances the value of the report.
- 2.10 If a chemical or laboratory analysis has been made, a copy of the analyst's report should be attached to and form part of the surveyor's report.
- 2.11 If considered necessary, the surveyor can engage the services of experts in the particular field which may be the subject of continuing enquiry, e.g. forensic chemists, metallurgists and indeed fine art restorers etc., should the need arise.
- 2.12 If your services are called for belatedly, you should not refuse a survey.
- 2.13 You should give the reason for any delay in requesting survey, in holding the survey, or in issuing the survey report.

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- 2.14 You should, however, refrain from expressing any opinion regarding the increase of damage by reason of delay and leave the matter to be dealt with by the Underwriters who can always communicate with you and obtain your views if required.
- 2.15 In the event that any of the information required from the Consignee is not forthcoming within a reasonable time, the survey reports should not be withheld, but should be issued with notes against the items concerned stating that the Consignee has failed to give the requisite particulars.

3. Cause of Loss and / or Damage

- 3.1 The exact nature of the claim and if possible, the actual cause should be stated.
- 3.2 The report should contain as far as possible only statements of facts and should avoid any expression of opinion that is not supported by factual information.
- 3.3 General phrases such as "perils of the sea", "rough handling", "damaged in transit" etc. should not be used unless supplemented by further details.
- 3.4 Where the claim is attributable to more than one cause, the proportion due to each cause should be stated, whenever possible.
- 3.5 Where damage is due to contact with sea water, every endeavour should be made to ascertain how it arose, such as entry of sea water into cargo spaces through heavy weather, corroded plates, defective hatches, preshipment etc.
- 3.6 Where damage is due to fresh water, not sweat, ascertain whether this is the result of leakage from the vessel's service pipes, rain water during discharge, during loading or when in craft or river water, or whether it occurred during preshipment etc.
- 3.7 When damage is caused by sweat, consider whether this may be due to heating, to restricted ventilation, by reason of heavy weather, or to the presence of cargo with high moisture contents, for example, green, wet or damp timber.
- 3.8 Damage by sea water during the voyage should be carefully distinguished from damage arising from other causes such as, for example, sweat, bad stowage or packing, vermin, pilfering, inherent causes, damage caused by hands or sling hooks during loading or discharge, or from the goods having been exposed to ram or damp of fresh water before shipment or after discharge.

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- 3.9 In case of damage by sea water you should ascertain as far as possible where, when and how it occurred and note the result of your enquiries in your survey report.
- 3.10 In order to confirm that damage is the result of contact with sea water it is advisable to carry out the Silver Nitrate test.
- 3.11 If there is any doubt as to whether the damage has been caused by sea water, a chemical analysis should be arranged and the analyst's report attached to your survey report.
- 3.12 In cases when vessels or their cargoes have been on fire, any damage suffered by the cargo in the effort to extinguish the fire should be distinguished clearly from damage caused by fire, heat or smoke.
- 3.13 When the vessel has stranded, sunk, burnt, been on fire or in collision with other vessels or objects or has been damaged by ice, the facts as far as ascertained should be stated, and where the damage claimed has arisen from any of these events, this should be mentioned clearly in the survey report.
- 3.14 Where shortage is claimed, but the package/container shows no sign of having been tampered with, you should not state that the loss is due to pilferage unless you are satisfied that this is so, since it is possible that such shortage may be due to short-packing or some other cause.
- 3.15 In circumstances of this nature you should satisfy yourself as to whether the articles claimed as missing could have been included in the package and whether there is reason to believe that they were packed and subsequently extracted.
- 3.16 When issuing survey reports of loss of contents, especially where the package / containers contain glass (bottles), shortage due to breakage should, whenever possible, be shown separately from that caused by pilferage.
- 3.17 Whenever damage is due to contact with other goods or soiling damage, such as bales stained with oil, the point of origin of the damage should be determined as far as possible to do so.
- 3.18 Where damage has occurred prior to loading, a sight of the bill of lading might assist, as it may be claused.
- 3.19 Where damage has occurred by stowage, a sight of the vessel's stowage plan or an enquiry of the ship's agent would assist.
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- 3.20 Where damage has occurred subsequent to discharge, details of the nature of the receipt given to the ship on landing would be helpful.
- 3.21 Full particulars of the nature of the construction of a case or carton or type and mesh of bag should be stated, as it is sometimes a condition of the insurance that packing should be of a specific kind.
- 3.22 If the packing appears to you insufficient or inadequate, give a detailed description. Suggestions for improvement would be appreciated.
- 3.23 In case of damage due to the nature of goods, give very detailed explanations.

4. Assessment of Amount of Claim

- 4.1 It may not always be easy to inspect a damaged commodity or article and reach an immediate conclusion as to the extent of the loss or damage.
- 4.2 A damaged article might well be restored to its original condition by replacing the damaged part with a new one supplied by the manufacturers.
- 4.3 Where an article, which is of no value for the purpose for which it was intended because of damage, is likely to be offered for sale by auction in order to determine its salvage value, it should be ensured that such part or parts of the article as may be damaged cannot economically be replaced.
- 4.4 Generally speaking, the Consignee is often most qualified to carry out reconditioning, in such event his co-operation should be sought and suggestions made by him carefully considered.
- 4.5 It is the practice in some trades to make an allowance to the Consignee to cover the cost of reconditioning.
- 4.6 If satisfied that whatever allowance suggested is reasonable, this may in many cases be the most satisfactory solution.
- 4.7 Consideration should be given to the possibility that damaged goods may be used for other purposes than that for which they were ordered. This possibility should be considered carefully when assessing the degree of loss, or where the Consignee chooses to have the goods sold in order to determine the extent of the depreciation.

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- 4.8 From time to time it may be necessary to take samples of commodities for submission to an analyst. Care must be taken to obtain samples truly representative of the degree of damage and in some cases it may be advisable to take samples of sound goods and packing for comparison.
- 4.9 In the event of an analyst certifying goods as unfit for human consumption, or recommending that they should be destroyed, ensure that the analyst is the proper authority to make such a recommendation.
- 4.10 In cases where an order is made for the destruction of goods, ensure that it is not interpreted in such a way as to include any part of the shipment which may be sound and that destruction is carried out properly and effectively.
- 4.11 If no repairs or replacement of parts are possible, assess the depreciation of damaged cargo by giving its percentage on the sound value.
- 4.12 In case of disagreement with the applicant in the joint survey, proceed to sell on best possible terms.
- 4.13 You are reminded that Underwriters cannot assume ownership of damaged goods. These remain the property of the assured, whose consent should be obtained to any measures adopted to minimize the loss:
- 4.14 In no case must you take over goods for sale to the debit of Underwriters account.
- 4.15 Should you intervene or assist in the sale, it must be made clear to the assured that you are merely acting with a view to seeing that proper prices are obtained in the interest of all parties concerned.
- 4.16 Any sale should take place as soon as possible after the date of landing, and the survey report should give the sound market value of the goods at the date of sale.
- 4.17 In cases where the collusion among buyers is likely to defeat the integrity of a public sale, you should see that sealed tenders are advertised for, where such a course can be pursued legally.
- 4.18 To assist in the prevention of frauds upon Underwriters at public sales, you should endeavour - where a sale is necessary - to have a voice in the appointment of the auctioneer, and wherever practicable fix the fee beforehand.
- 4.19 Due publicity of the sale must be given in each case.
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- 4.20 The applicant cannot demand, but you may decide whether to hold an open sale or a public auction.
- 4.21 The applicant is not entitled to abandon damaged goods. 4.22 State amount of costs saved in consequence of damage.
- 4.23 In the event of dispute either party shall be entitled to request that the cause and extent of damage be ascertained by experts. In that case you are requested to act in accordance with paras. 8.2.1 to 8.2.7 of the German General Rules of Marine Insurance / Special Conditions for Cargo (ADS Cargo 1973 - Edition 1984). *)
- 4.24 In case of luggage (baggage) or removal goods it is necessary also to examine whether there is an under-insurance. Inspect any list which states the value of the individual objects.

*) See APPENDIX II

5. Minimizing of Loss and / or Damage

- 5.1 Try to minimize the claim.
- 5.2 Take all necessary and possible measures.
- 5.3 Consider all possibilities of reconditioning and repairs.
- 5.4 If necessary apply for the shipment of spare parts not available locally.
- 5.5 No return of damaged goods for reconditioning or repairs without previous consent of Underwriters (beforehand please clarify whether custom clearance will allow a duty-free export and import).
- 5.6 A request for survey should be acted on immediately - delay may result in aggravation of damage.

6. Recovery from Third Parties

- 6.1 By law and / or conditions of insurance the applicant is obliged to safeguard any possible recourse against third parties.

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- 6.2 Please assist him in his efforts and take care of time-limits.
 - 6.3 In cases of third parties' liability secure Underwriters' rights in all aspects.
 - 6.4 It is important to establish the condition of the goods at the time of unstuffing from container, discharge from the vessel/aircraft, other carrying vehicle or warehouse.
 - 6.5 A joint survey between carrier's representative and the surveyor in the presence of the Consignee is an ideal aim, especially if all parties agree upon the measures necessary to minimize any loss or damage and subsequently agree to the extent of the loss.
 - 6.6 You should impress upon the Consignee the importance of giving notice to the carrier of loss or damage immediately it becomes apparent, and also of inviting the representative of the carrier to attend the survey.
 - 6.7 If verbal notice is given to the carrier it should be confirmed immediately in writing so that he may not only be made aware of the loss or a damage but held responsible.
 - 6.8 Factual evidence in your report as to the actual cause and place of loss or damage is of the greatest value in the presentation and consideration of a claim.
 - 6.9 Correspondence with third parties to be attached to your survey report.
 - 6.10 State whether the Bill of Lading is clean or if exceptions are made and whether cargo was shipped on deck or in a container.
 - 6.11 Please state in your report what steps are being taken to ensure a recovery.
 - 6.12 Your report should, generally, be so clear that any person wishing to enquire into the possible liability of the ship owner or other carrier can, by a study of the report, determine without difficulty at what stage of transit the damage or loss occurred.
 - 6.13 In case of large claims - at all events when these are estimated at above € 25 000,00 and for which the vessel could be liable try to get an Undertaking from vessel's P&I Club.
If this is impossible, contact Underwriters by telefax in order to clarify whether you should have the vessel arrested.

7. General Average

- 7.1 You should have a working knowledge of the basic principles of General Average.
- 7.2 In case General Average damages are involved, a surveyor on behalf of the General Average community must be present at the survey.
- 7.3 When called to survey goods which have been damaged by reason of a fire on board a vessel you must take particular care to define the cause or causes of the damage and to report in such detail that the loss attributable to such cause or causes may be quantified.
- 7.4 Where damage to cargo is attributable to water or other means used to extinguish a fire and also to smoke and/or heat, it is required that the report indicates the agreed apportionment of loss to the separate causes, preferably expressed in percentages.
- 7.5 No opinion should be expressed in a report as to whether or not a loss is allowable or to be made good in General Average.
- 7.6 General Average documents must be limited to the cif-value less the value of damaged goods.

8. Reporting

- 8.1 Carefully state actual facts having considered all questions contained in the survey report form.
- 8.2 Precise information is required as to whether the survey was held in the Custom House, Consignee's Warehouse, on the quay or elsewhere.
- 8.3 Information as to whether the goods showed signs of having been tampered with or not is only required in cases of shortage of contents, and you will include this information into your survey report.
- 8.4 Full particulars of the nature of the packing should be given, as it is at times a condition of the insurance that the packing should be of a special kind.
- 8.5 If it is considered that the packing is defective or insufficient this should be stated.

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- 8.6 You should insert any further facts or details not provided for above which you or your surveyor may consider to be material.
- 8.7 If the further remarks are of a confidential nature they should not be inserted in the survey report, but should be advised by letter to Underwriters.
- 8.8 Once a survey has been issued by you, the document itself must under no circumstances be amended or altered.
- 8.9 Should subsequent additional information be required, this should be supplied either in writing or by supplementary survey reports, both signed by you.
- 8.10 Care should be exercised when issuing signed copies or duplicates of survey reports, as cases have occurred where double insurances were effected and claims collected twice on one interest by means of duplicates or copies of survey reports.
- 8.11 All photographs and relevant documents should be attached with the survey report.
- 8.12 You should be careful to state in every survey report that it is subject to the conditions of the policy of insurance.**

9. General Principles

- 9.1 You are on no account to act in another Agent's district unless with the consent of the Agent for that district.
- 9.2 You may appoint subagents at any place within your district where it is found necessary or desirable. You are responsible for the activities of your subagents. Their names should always be reported to VHT. Any change should also be notified at once.
- 9.3 When you are temporarily absent through sickness or any other cause you must leave in charge of the Agency a special substitute in whom you have confidence.
- 9.4 VHT has to be informed of any alteration of the legal status or registration of the Agency or any change of the partnership or directorate.
- 9.5 Should you wish to resign for any reason, you are requested to give immediate notice thereof to VHT.
- 9.6 In the case of your insolvency your appointment is to be considered as terminated.



- 9.7 Please give current information at least once a year to VHT on important economical and political development etc. in particular of port conditions, including also your experience in inland transport by road, rail, river or canal.
- 9.8 The occurrence of unusually frequent damages of the same nature and to the same kind of cargo and suggestions for loss prevention should be reported to the VHT.
- 9.9 No claims can be debited to Underwriter's account if not presented within 15 months after termination of the insurance.
- 9.10 Your survey fees must be paid by the applicant and must be shown in the survey report.





APENDIXES

I

SURVEY REPORT FORM VHT



Havarie-Zertifikat Nr.
Survey Report No.

1	ALLGEMEINE ANGABEN GENERAL INFORMATION	
1.1	Name und Anschrift des Antragstellers <i>Name and address of applicant</i>	
1.2	Name und/oder Bezeichnung des Transportmittels bei Ankunft <i>Name and/or type of means of conveyance on arrival</i>	
1.3	Falls Umladung erfolgte, bitte ursprüngliches Transportmittel und Umladeplatz angeben <i>In case of transhipment please state original means of conveyance and place of transhipment</i>	
1.4	Waren die Güter im Raum oder an Deck verladen? <i>Were the goods stowed in the hold or on deck?</i>	
1.5	Waren die Güter im Container? <i>Were the goods in container?</i>	
1.6	Ankunftsort an welchem die Güter entladen wurden <i>Place of arrival at which goods discharged</i>	
1.7	Datum der Ankunft und des Beginns der Entladung <i>Date of arrival and commencement of discharge</i>	
1.8	Ort der Besichtigung <i>Place of survey</i>	
2	VERPACKUNG PACKING	
2.1	Beschreibung des äußeren und inneren Zustandes der Verpackung (Hinweis, wenn unverpackt) <i>Describe condition of outer and inner packing (state if unpacked)</i>	
2.2	Neu Oder gebraucht? <i>New or second-hand?</i>	

2.3	Welche Stau- und/oder Stapelsymbole sind vorhanden? <i>Which stowing and/or storing symbols are existing?</i>	
2.4	Verpackung für Güter dieser Art und diesen Transport geeignet? <i>State whether packing suitable/sufficient for goods of this nature and this particular transport?</i>	
2.5	Wenn nicht geeignet, Grund der Beanstandung nennen <i>If unsuitable and/or insufficient, state reason</i>	
2.6	Verbesserungsvorschläge <i>Suggestions for improvement</i>	

3		TRANSPORTDATEN DATES OF TRANSPORT					
	Datum Date	Äußerlicher Zustand beschädigt <i>External condition damages</i>		Wurde reine Quittung erteilt <i>Was a clean receipt given</i>		Verzögerungen in der Abwicklung <i>Delay in dispatch</i>	
		ja yes	nein no	ja yes	nein no	ja yes	nein no
3.1	Entladung aus dem Transportmittel <i>Discharge from means of conveyance</i>						
3.2	Falls Güter geleichtert <i>If goods lightered</i>						
	Beladung <i>Loading</i>						
	Entladung <i>Discharge</i>						
3.3	Falls Güter in den Zoll gebracht <i>If goods were delivered to customs</i>						



	Einlieferung Delivery to customs							
	Auslieferung Delivery from customs							
3.4	Falls Güter weiterbefördert If goods were reforwarded							
3.5	Ankunft der Güter beim Empfänger Arrival of goods at consignee							
3.6	Besichtigungsantrag Application for survey							
3.7	Besichtigung Survey							
3.8	Weiterbeförderung per Reforwarded by							
3.9	Alle Fragen von 3.1 bis 3.7, die mit ja beantwortet sind, müssen unbedingt erklärt werden In respect of all questions from 3.1 to 3.7, if reply is yes a detailed explanation must be given							

4	Angaben über Güter, die im Container verladen waren Information to be given I or goods which have been transported in container	ja yes	nein no	unbekannt unknown
4.1	War der Container im Raum verladen? Was the container stowed in the hold?			
4.2	War der Container an Deck verladen? Was the container stowed on deck?			
4.3	Äußerer Zustand beschädigt? External condition damaged?			
4.4	Haus/Haus FCL/FCL			
4.5	Haus/Kai FCL/LCL			
4.6	Kai/Kai LCL/LCL			
4.7	Kai/Haus LCL/FCL			
4.8	War die Plombe des Containers beschädigt? Was the seal of the container damaged?			
4.9	Nummer der Plombe Seal No			



4.10	Art des Containers <i>Type of container</i>	Normal-Container <i>Ordinary container</i>	Kühl-Container <i>Refrigerated container</i>
		mit Ventilation <i>Ventilated container</i>	Tank-Container <i>Tank container</i>
		Isolier-Container <i>Insulated container</i>	Open-Top-Container <i>Open-top-container</i>
		Sonstige (Beschreibung): <i>Other type (description):</i>	
4.11	Bauweise <i>Construction</i>	des Containers <i>of container</i>	
		Ganzstahl <i>Steel only</i>	Stahlrahmen und Aluminium <i>Steel frame/aluminium plated</i>
		Aluminium <i>Aluminium only</i>	Stahlrahmen und Sperrholz/Polyester <i>Steel frame/plywood or fibreglass plated</i>
Sonstige (Beschreibung): <i>Other construction (description):</i>			
4.12	Schadenursache: <i>Cause of</i>	<i>damage:</i>	
		Undichtigkeit des Containers <i>Container not tight</i>	Mechanische Einwirkung während des Transportes <i>Physical influence during transport</i>
		mangelhafte Verpackung der Ware <i>Improper packing of goods</i>	fehlerhafte Stauung des Containers an Bord <i>Faulty stowage of container on board</i>
		Verschmutzung im Container <i>Soiled in container</i>	mangelhafte Stauung (Sicherheit der Ware) im Container <i>Faulty stowage (security of goods) in container</i>
Sonstige (Beschreibung): <i>Other causes (description):</i>			

5	SCHADENURSACHE CAUSE OF LOSS OR DAMAGE	
5.1	Angaben über die vom Besichtiger festgestellte Ursache Cause ascertained by surveyor	
5.2	Sind Fotos gemacht worden? Wenn nicht, Begründung <i>Were photos taken? If not, state reason</i>	
5.3	Wurde bei Nässeschaden (einschl. Rost) ein Salzwassertest vorgenommen? Mit welchem Ergebnis? Wenn nicht, Begründung In case of wet damage (including rust) did you carry out a salt water test? If so, state result, if not, state reason	
5.4	Vorschläge zur Schadenverhütung Suggestions for loss prevention	
6	SCHADENUMFANG EXTENT OF LOSS OR DAMAGE	
6.1	Minderwert in % vom Marktwert <i>Depreciation in per-cent of market value</i>	
6.2	Bruttoverkaufserlös <i>Gross proceeds of sale</i>	
6.3	Marktwert für gesunde Güter <i>Sound market value</i>	
6.4	Zoll für gesunde Güter <i>Duty for sound goods</i>	
6.5	tatsächlich bezahlter Zoll <i>Duty actually paid</i>	
6.6	Ist Zollrabatt beantragt worden? Wenn nicht, Begründung <i>Has an application been made for rebate on duty? If not, state reason</i>	



7	REGRESSICHERSTELLUNG SAFEGUARD OF RECOVERY	
7.1	Wer wurde für den Schaden schriftlich verantwortlich gehalten und wann? Wenn nicht, Begründung <i>Who has been held responsible in writing and when? If not, state reason</i>	
7.2	Wurde eine gemeinsame Besichtigung beantragt und durchgeführt? Wenn ja, Teilnehmer und Datum. Wenn nein, Begründung <i>Was a joint survey applied for and held? If yes, give details of parties who were present and date of joint survey If not state reason</i>	
8	WEITERE BEMERKUNGEN ZUM SCHADEN FURTHER REMARKS	



Art und Umfang des Schadens Nature and extent of loss or damage				
Marken und Nummern <i>Marks and numbers</i>	Anzahl der Kolli <i>Number of packages</i>	Beschreibung der Güter <i>Description of goods</i>	Gesunde Menge <i>Quantities sound</i>	Fehlende oder beschädigte Menge <i>Quantities missing or damaged</i>





Diesem Zertifikat sind folgende Unterlagen beigefügt: <i>The following documents are attached to this report:</i>			
Original-Versicherungszertifikat Nr. <i>Original certificate of insurance No.</i>		Regreßkorrespondenz <i>Correspondence of recovery action</i>	
Konnossement Nr. <i>Bill of Lading No.</i>		Fotografien <i>Photos</i>	
Faktura <i>Supplier's invoice</i>		Weitere Dokumente bitte auflühren: z.B. Inland-Frachtbrief, Empfangsquittung, Zolldeklaration, Einzelwertaufstellung bei Umzugsgut <i>Please enumerate further documents: e.g inland way bill, delivery receipts, customs declaration, list indicating value of individual objects (luggage, household effects etc.)</i>	
Packliste <i>Packing list</i>			
Abgangsgewichtsliste <i>Weight note on departure</i>			
Gebühren für Besichtigung <i>Surveyor's fee</i>			
Gebühren für Havarie-Zertifikat <i>Agency fee</i>			
Kosten <i>Expenses</i>			
Gesamtbetrag <i>Total</i>			
Umrechnungskurs am Tage der Besichtigung <i>Rate of exchange on date of survey</i>			
Name des Besichtigers <i>Name of surveyor</i>			
Dieses Zertifikat umfasst insgesamt Seiten <i>This report comprises in totalpages</i>			
Ort und Datum <i>Place and date</i>	<hr/> Stempel und rechtsgültige Unterschrift des Havariekommissars <i>Stamp and valid signature of average agent</i>		



APENDIX

II

**GERMAN GENERAL RULES OF MARINE INSURANCE
SPECIAL CONDITIONS FOR CARGO**

1 Extent of Cover

1.1 Insured and non-insured risks

1.1.1 The insurance covers all risks to which the goods are exposed during the currency of the insurance.

1.1.2 The insurance does not cover the risks of

1.1.2.1 war, civil war or warlike events, as well as events arising — independent of a state of war — from the hostile use of engines of war and the presence of engines of war as a consequence of one of these risks;

1.1.2.2 strikes, lockouts labour disturbances, acts of violence by terrorists or persons acting from a political motive irrespective of the number of participants, riots and other civil commotions;

1.1.2.3 nuclear energy;

1.1.2.4 seizure, deprivation or other acts of authorities;

1.1.2.5 insolvency or financial default of the owners, charterers or operators of the vessel or other financial disputes with the parties mentioned above.

1.1.3 For the inclusion of the risks excluded as per Sect. 1.1.2.1 to 1.1.2.4 the respective DTV Clauses (shall apply; if these are not attached to the policy the versions last published in the Bundesanzeiger Federal Gazette) prior to attachment of the insurance shall apply.

1.2 Forms of cover

Full Cover (unless otherwise agreed)

The insurance covers, irrespective of percentage, loss of or damage to the goods insured as a consequence of a risk insured against.

Stranding Cover (where agreed)

The insurance covers, irrespective of percentage, loss of or damage to the goods as a consequence of

- a) stranding; there is a case of stranding where the vessel carrying the goods strikes ground or runs aground, capsizes, sinks, founders, collides with other vessels or objects or is damaged by ice;
- b) accident to another means of conveyance carrying the goods;
- c) collapse of storage buildings;
- d) fire, lightning, explosion, earthquake, seaquake, volcanic eruptions and other natural catastrophes, impact or crashing of a flying object, parts thereof or its cargo;
- e) jettison washing overboard or being lost overboard as a result of heavy weather;
- f) sacrifice of goods;
- g) discharge, intermediate storage and loading of the goods at a port of refuge called at on account of a risk insured against.

The insurance also covers, irrespective of percentage, the total loss of whole packages excluding loss arising from damage or disappearance (e.g. theft, embezzlement, nondelivery)

and

total loss of whole packages as a result of damage caused by accidents during loading and unloading of the means of conveyance.

1.3 Special Cases

1.3.1 Deck cargo

For goods loaded on deck with the consent of the Assured, Stranding Cover only shall apply. Goods carried in closed containers or in barges carried by oversea vessels are insured on deck on the same conditions as in the hold.

1.3.2. Goods transhipped and returned

For goods which, subsequent to a previous voyage, are on carried or returned on the insured voyage, Stranding Cover only shall apply unless Underwriters were informed or should have been aware thereof at the time the contract was concluded or the loss or damage sustained could have occurred only on the insured voyage.

1.3.3. Damaged Goods

If the goods are already damaged at the time the insured voyage commences the insurance covers loss or damage only if the damage existing at the time the voyage commences has no influence on the loss or damage occurring during the voyage.

1.4 Exclusions

1.4.1 The insurance does not cover loss or damage caused by

1.4.1.1 delay;

1.4.1.2 inherent vice or nature of the goods;

1.4.1.3 ullages or differences in quantity, measure or weight customary in the trade, which are, however, deemed to have been taken into account if a deductible has been agreed;

1.4.1.4 normal atmospheric humidity and ordinary temperature fluctuations; 1.4.1.5 lack or insufficiency of packing customary in trade;

1.4.2 The insurance also excludes indirect loss or damage.

1.5 Insured expenses and charges

1.5.1 The insurance covers

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- 1.5.1.1 general average contributions payable by the Assured by virtue of an average statement drawn up according to law or York Antwerp Rules, provided the general average act was performed in order to prevent loss or damage for which Underwriter would be liable. Where the contributory value exceeds the insurable value, Underwriters shall be liable in full up to the amount of the sum insured. The provisions governing under-insurance shall remain unaffected;
- 1.5.1.2 the costs of transshipment, of temporarily warehousing the goods and the extra costs of forwarding them on account of an insured accident after the risk has attached, if reasonably incurred or incurred at Underwriters request;
- 1.5.1.3 expenses incurred in order to avert or minimise loss or damage arising from a risk insured against and charges by third persons for ascertaining the extent of loss or damage, if reasonably incurred or incurred at Underwriters' request.
- 1.5.2 The Assured may call upon Underwriters to guarantee payment of general average contributions and to advance sufficient funds in order to meet the expenses incurred in averting or minimising an impending loss covered by the insurance.

2 Alteration of risk

- 2.1 The Assured is entitled to alter and, in particular, to increase the risk or to allow such alteration by a third person.
- 2.2 If the Assured alters the risk or receives knowledge of any alteration of risk, he is under obligation to notify Underwriters thereof immediately.
- 2.3 There is an alteration of risk, in particular, where
- there has been a considerable delay in commencing or completing the voyage,
 - the designated or usual course of the voyage has been considerably departed from,
 - the port of destination has been changed,
 - the goods have been lightered where this is locally not customary,
 - the goods have been loaded on deck.
- 2.4 Where the Assured has not notified Underwriters of an increase in risk, Underwriters shall be discharged from liability, unless the infringement of the obligation to notify was due to neither wilful intent nor gross negligence, or the increase of risk could in no way have had any influence on the occurrence of loss or damage or the extent thereof.
- 2.5 In the event of an increase of risk Underwriters shall be entitled to an additional premium to be agreed, unless such increase in risk is made in furtherance of the interests of Underwriters for reasons of humanity or is caused by a risk insured against to which the goods are exposed.

3 Means of conveyance

3.1 For carriage by oversea vessels the DTV Classification Clause shall apply:

3.2.1 Transportation by other means of conveyance is insured only if such means of conveyance fulfil the necessary requirements of suitability for the loading and carriage of the goods. Inland waterway vessels are deemed to be suitable if appropriately classified by a recognised classification society.

3.2.2 Where these prerequisites are not present, carriage is insured notwithstanding, provided the Assured has selected the means of conveyance or the forwarding agent or the carrier with the necessary prudence and foresight. If the Assured receives knowledge of unsuitability of the means of conveyance, he is under obligation to notify Underwriters thereof immediately and pay an additional premium to be agreed.

4 Alteration of means of conveyance

4.1 Underwriters are discharged from liability if the goods are carried by a means of conveyance other than that agreed in the contract of insurance, or are transhipped although the contract of insurance stipulates direct transport. The same applies if a specific means of conveyance or a specific route has been agreed.

4.2 The liability of Underwriters remains if, after the risk has attached and as a consequence of a risk insured against the means of conveyance is altered or the voyage is abandoned without the consent of the Assured. The provisions governing alteration of risk shall apply accordingly.

5 Duration of insurance (warehouse to warehouse)

5.1 The insurance attaches when the goods are removed from the place of their last storage at the place of shipment for conveyance on the insured voyage.

5.2 The insurance terminates, according to whichever case shall first occur,

5.2.1 when the goods are delivered at destination to the place designated by the consignee (place of final delivery), or

5.2.2 when the goods, following discharge at the port of destination, are forwarded to a destination not agreed in the contract of insurance and as a result of the change of destination the risk is increased, or

5.2.3 when intermediate storage arranged by the Assured exceeds a total of 30 days if this time limit is exceeded before loading on the oversea vessel the insurance reattaches in case of on-carriage within 90 days, or

5.2.4 upon expiry of 60 days after discharge from the oversea vessel at the port of destination;

5.2.5 upon transfer of title when the goods are sold on account of a loss arising from a risk insured against.

6 Insurable value

The insurable value of the goods is their ordinary trade value or, if there is no such special value, the common value current at the place of shipment at the time the risk attached, plus the charges for insurance the expenses incurred up to the time the goods are delivered to the carrier and the freight paid independent of delivery.

7 Measure of indemnity

7.1 Total loss

In the case of total loss of the goods, or if the Assured is deprived of the goods without hope of recovery or if it is ascertained by experts that the goods have been reduced to such a state as to cease to be a thing of the kind insured, the measure of indemnity shall be that portion of the sum insured accruing to the goods, less the value of salvage.

7.2 Missing goods

Where the goods are missing together with the means of conveyance, the measure of indemnity shall be as in the case of total loss, unless a loss must in all probability be presumed as a consequence of a risk not insured against. The means of conveyance is deemed to be missing if from the time of its scheduled arrival 60 days — on European inland waterways 30 days — have elapsed, and up to the time of claim being made no news of it has been received. Where the forwarding of news may have been delayed on account of war, warlike events, civil war or civil commotions, the time from which the goods are presumed lost shall be extended according to circumstances, but to not more than 6 months.

7.3 Damaged goods

7.3.1 In the event of the goods or part of the goods being damaged, the ordinary trade value or, if no such value exists, the common price must be ascertained, for which the goods would have sold at the place of destination had they arrived there sound (sound value), and also the value upon arrival in damaged condition. The measure of indemnity is such proportion of the insurable value as the difference between the sound and damaged value bears to the sound value of the goods.

7.3.2 The damaged value can also be ascertained by open sale or public auction if this is requested by Underwriters immediately upon receiving knowledge of the material facts of the extent of damage; in such case, the gross proceeds of the sale replace the damage value for the purpose of adjustment. If, according to the conditions of sale, the seller has to advance money, Underwriters guarantee the payment of the sales proceeds provided they agreed to the conditions of sale.

7.4 Reconditioning

In the event of loss of or damage to parts of the goods the Assured may request — in lieu of a proportion of the insurable value — indemnification of the cost necessary at the time the loss or damage is ascertained for replacing or reconditioning the lost or damaged parts, such cost, however, being limited to the sum insured and to the proportion which the sum insured bears to the sound value.

7.5 Machinery and apparatus

Where machinery, machinery parts and apparatus are insured, the DTV Machinery Clause shall apply.

7.6 Under-insurance

If the sum insured is less than the insurable value, Underwriters are liable for loss or damage or expenses incurred for such proportion only of the measure of indemnity as such sum insured bears to the insurable value.

7.7 Franchise

Where a franchise is agreed without a modus of calculation being determined, such franchise shall, at the option of the Assured, be calculated on the value of each package (each piece in case of unpacked goods), each lot, each series or each bill of lading or on the value of the whole shipment or the contents of each ship's hold or lighter.

7.8 Sale of goods prior to termination of voyage

7.8.1 Where, after the risk has attached and without Underwriters being discharged from liability, the vessel has abandoned her voyage or of any other reason the voyage has not been completed, Underwriters are entitled to request the Assured to sell the goods with their assistance, either by open sale or public auction, if the goods cannot be forwarded within a reasonable time or without incurring unreasonable expense. If the goods must be sold at the request of Underwriters, the sale must take place forthwith.

7.8.2 Where the goods have been sold, the Assured is entitled to claim the difference between the insured value and the proceeds of the sale. This also applies where the goods have to be sold during the course of the voyage on account of an accident arising from perils insured against.

7.8.3 If, according to the conditions of sale, the seller has to advance money, Underwriters guarantee the payment of the sales proceeds provided they agreed to the conditions of sale.

7.9 Non-acquired interest; costs saved

Where an insured interest in anticipated profits, additional value, customs duty, freight or other expenses has not been acquired at the time loss or damage occurs, that proportion of the sum insured accruing thereto shall not be taken into account when the claim is assessed. The same shall apply to costs saved in consequence of loss or damage occurring.

7.10 Indemnity from third parties

- 7.10.1 Any sums received by the Assured from third parties on account of the loss or damage sustained shall be deducted from the measure of indemnity.
- 7.10.2 Where compensation cannot be claimed from third parties entrusted with the carriage of the goods on account of their having exonerated themselves beyond the legal or customary limits, Underwriters shall to such extent be discharged from liability. This shall not apply where the Assured has no influence on such exoneration.

7.11 Subrogation to rights and remedies

- 7.11.1 In the event of the Assured requesting payment of the sum insured all rights and remedies in and in respect of the insured goods shall pass to Underwriters, upon such payment being made at their option only. Subrogation shall not ensue if Underwriters do not exercise such option immediately upon receiving knowledge of the circumstances of loss or damage.
- 7.11.2 The subrogation of Underwriters to the rights and remedies of the Assured shall not relieve the latter from his duty to take all possible measures to minimise the loss or damage, insofar as Underwriters are not able to do so themselves. The Assured must furnish Underwriters with all information necessary for the prosecution of the claim, deliver or issue all documents by which such claim can be established and render every assistance required for recovery of the goods and turning to account whatever remains of them. The costs are to be borne by Underwriters; they must, if requested to do so, advance the sums necessary to meet the expenses. That part of the net proceeds of sale exceeding the sum insured shall be refunded to the Assured.
- 7.11.3 In the event of subrogation not ensuing, the Assured shall refund to Underwriters the common price or the net sale proceeds of goods recovered.
- 7.11.4 The subrogation of claims against third parties and the right of Underwriters to abandon remain unaffected.

7.12 Delay

Underwriters — apart from their liability for interest as provided by law — are liable to the Assured for a loss arising from delay in payment only in the event of their having delayed the payment wilfully or by gross negligence.

8 Procedure in the event of loss or damage

8.1.1 In the event of loss or damage occurring, the Assured must follow the instructions of Underwriters, immediately request attendance of the claims agent nominated in the insurance policy or certificate to survey and certify the loss or damage and forward the claim survey report to Underwriters.

8.1.2 Where substantial reasons can be proved, the Assured may call in the nearest Lloyd's Agent, instead of the nominated claims agent, to survey and certify the loss or damage.

8.2 In the event of dispute, either party shall be entitled to request that the cause and extent of loss or damage be ascertained by experts.

8.2.1 In such case, two experts must be immediately appointed, one by each party. Each party shall be entitled to request the other party in writing to appoint the second expert, at the same time advising the other party of the expert nominated by them. In the event of such party failing to nominate its expert within four weeks following receipt of such request, the requesting party shall be entitled to have said expert appointed by the Chamber of Commerce – or by the consular representation of the Federal Republic of Germany – in whose area or jurisdiction the goods are located.

8.2.2 Before entering upon the reference, the two experts shall nominate an umpire. Should the experts fail to agree on an umpire, the umpire shall, upon application by one or both parties, be appointed by the Chamber of Commerce — or the consular representation of the Federal Republic of Germany — in whose area of jurisdiction the goods are located.

8.2.3 The findings of the experts must contain all facts necessary for assessing the cause of the loss or damage and the measure of indemnity of Underwriters.

8.2.4 The experts shall submit their findings to both parties simultaneously. In the event of the experts arriving at divergent findings, Underwriters shall immediately submit said findings to the umpire. The umpire shall then decide on the points at issue within the limits of both experts' findings and shall submit his award to both parties simultaneously.

8.2.5 Each party shall bear the costs of its own expert, the costs of the umpire to be borne by the two parties in equal proportion. This also applies if such procedure has been agreed upon between the parties. In case such procedure has been requested by the Underwriters they bear the costs in total.

8.2.6 The findings of the experts or the decision of the umpire shall be binding, unless evidence is brought to show that they are obviously inconsistent with the actual material facts.

8.2.7 If the experts or umpire are unwilling or unable to ascertain the loss or damage, or if they are guilty of undue delay, other experts shall be appointed.

8.3 Underwriters may refuse payment until the loss or damage has been ascertained in accordance with the foregoing provisions. If, due to no fault or negligence of the Assured, the loss or damage has not been ascertained in the manner aforesaid, Underwriters may

refuse payment until the loss or damage has been ascertained in some other appropriate manner.

9 Concluding provisions

9.1 Currency

9.1.1 Payments to be made and received shall be effected in the currency of the sum insured.

9.1.2 If, in the event of general average, the contributory value is stated in a currency other than that of the sum insured, such contributory value shall be converted into the currency of the sum insured at the rate of exchange prevailing on the day on which vessel and cargo parted company.

9.2 Insurance for account of another

Where the insurance is concluded for account of another or for account of whom it may concern, the knowledge and conduct of the Assured shall be considered to be equivalent to the knowledge and conduct of the person concluding the insurance.

9.3 Bailees

The insurance shall not inure to the benefit of the carrier, bailee, warehouseman or forwarding agent.

9.4 Coinsurance

9.4.1 For insurances written by more than one Underwriter, the liability of the individual Underwriter is always a separate and not a joint one, even if the policy or certificate was signed by one Underwriter for and on behalf of all Underwriters.

9.4.2 Agreements between the leading Underwriter and the Assured are binding on the coinsurers. This applies in particular, in favour of the Assured, to the settlement of claims; the leading Underwriter is, however, not entitled without the consent of the coinsurers — each of whom is to take his decision separately — to

- increase the policy maximum,
- include the risks not covered as per Sect. 1.1.2,
- alter the currency of the policy,
- alter the provisions for notice of cancellation.

In the absence of the consent of the coinsurers, the leading Underwriter is also liable, by virtue of an unrestricted statement of declaration, for the shares of the coinsurers.

9.4.3 In the event of an Underwriter relinquishing the lead, he must immediately notify the coinsurers of this in writing; such notification may also be furnished by the Assured. In such case, each coinsurer is at liberty to cancel the insurance contract by giving four weeks' notice.

The right to give notice of cancellation expires at the end of one month after receipt of the

written notification that the leading Underwriter has been replaced.

9.4.4 Statements received by the leading Underwriter shall be deemed to have also been received by the coinsurers.

9.5 Notice of cancellation

Notice of cancellation given by Underwriters to the broker shall be deemed to have been notified to the Assured.

9.6 Relationship to the German General Rules of Marine Insurance (ADS)

9.6.1 These provisions replace the Special Rules for Insurance on Goods of the ADS (Sect. 80-99).

Unless otherwise provided, they also apply to other insurances covering any interest in or with respect to the goods, for instance to an insurance on anticipated profits or commission or to a special insurance on freight paid independent of delivery.

9.6.2 The remaining provisions of the ADS apply supplemental thereto, insofar as they are not amended by virtue of these Special Conditions for Cargo.

APENDIX

III

SPECIAL CONDITIONS FOR OPEN POLICIES

Special Conditions for Open Policies

1 Basis of Contract

German General Rules of Marine Insurance Special Conditions for Cargo (ADS Cargo 1973 - Edition 1984).

2 Subject of insurance

2.1 The insurance covers goods of all kinds or all goods of the class designated in the contract, which the Assured is bound, by virtue of commercial principles, to insure either for his own or for another's account. The insurance does not accordingly cover goods, which the Assured was bound — without legal or economic interest on his part — to insure by special agreement even if he is specially paid for on this account.

2.2 In an insurance on goods and merchandise of any kind the following goods are unless specially agreed, excluded:

2.2.1 Precious metals or precious stones, objects made of precious metals or precious stones (excepting industrially utilised products), jewels, pearls, bijouterie, money, coins, securities and works of art;

2.2.2 Radioactive materials and nuclear fuels, insofar as they exceed the legally permissible limits;

2.2.3 Explosive goods as per Sect. 1.1 of the Ordinance on the Carriage of Dangerous Goods by Sea;

2.2.4 Weapons and ammunition (excepting hunting and sporting weapons and ammunition);

2.2.5 Livestock and living plants;

2.2.6 Drugs, to which the currently valid version of the Law on Traffic in Narcotics (Opium Law) of the 10-12-69 applies:

3 Declaration

3.1 The Assured is under obligation to immediately declare to Underwriters all shipments and storage under the open policy individually, together with the insurable value. In doing so, he must specify the goods, the type of packing, the means of conveyance and the transport route, indicate loading in containers or oversea vessel lighters and further notify all facts expressly requested by Underwriters.

3.2 In the event of the Assured omitting to make a declaration or making a faulty declaration in respect of the goods, Underwriters are discharged from liability unless the Assured has not neglected due commercial diligence and has made or rectified such declaration with retrospective effect immediately upon discovery of the omission or error.

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- 3.3 If the Assured wilfully infringes the obligation to declare, Underwriters are at liberty to cancel the contract of insurance without notice; in such case, Underwriters are entitled to claim the amount of premium which would have been due if the contract had been duly fulfilled up to the time the cancellation became effective.

4 Goods transhipped and returned

Goods transhipped and returned are insured on the same conditions as other goods. They must, however, be specially designated upon declaration. The obligation of the Assured to prove that loss or damage sustained occurred on the voyage covered by the insurance remains unaffected.

5 Selection of owners, charterers or operators of the vessel

The risks of insolvency or financial default of the owners, charterers or operators of the vessel or other financial disputes with the parties mentioned above which are excluded by Sect. 1.1.2.5 ADS Cargo 1973- Edition 1984 are covered if the Assured proves that he or his authorized employees resp. have selected the parties named with the necessary prudence and foresight or have instructed the forwarding agent accordingly, the Assured is buyer of the goods and as per the stipulations of the contract of sale could not have had any influence on the selection of the parties concerned with the transport.

6 Duration of insurance

Insofar as the own insured interest of the Assured is concerned, the risk shall not terminate upon expiry of the 60 days' period as per Sect. 5.2.4 of the Special Conditions of Cargo (ADS Cargo 1973) if, after the goods have been discharged from the over sea vessel at the port of destination, the voyage has been delayed by a peril insured against and the Assured has given notice of such delay immediately. Underwriters shall be entitled to charge an additional premium.

7 Policy

- 7.1 The Assured is deemed to have approved of the terms of the open policy, unless he contests them immediately upon receiving the document. An open policy is not a policy within the meaning of the law and the ADS.
- 7.2 Underwriters shall deliver, at the request of the Assured, a document signed by themselves and embodying the declaration for each single transport (single policy certificate). This single policy is a policy within the meaning of the law and the ADS; the provisions governing approval of the terms of the policy shall, however, not apply to the single policy.

8 Limits

- 8.1 The agreed limits are the maximum sums insured. They apply per means of conveyance and per fire protected separate store. In the event of the total sum insured of all goods insured under the contract on one means of conveyance or in one fire-protected separate store exceeding the agreed limit, the individual sums insured shall be reduced in such proportion as the limit bears to the total sum insured.
- 8.2 This provision, however, does not apply where goods have been additionally loaded or stored – beyond the Assured's control — at a port of transshipment, thereby exceeding the agreed limit. Such exceeding of limit must be notified immediately.

9 Premium due

The premium is due upon inception of the risk and payable upon delivery of the premium debit note.

10 Cancellation

10.1 Effective upon expiry of the period of insurance

- 10.1.1 The contract of insurance shall be renewed automatically for a further year, unless cancelled by one of the parties to the contract giving 3 months' notice prior to expiry of the period of insurance.
- 10.1.2 In the event of the contract not being cancelled, the latest version of the DTV Clauses on which this contract is based shall apply to the new period of insurance. The next of the new clauses must be notified to the Assured not later than one month prior to expiry of the period of insurance. The Assured shall be entitled to cancel the contract, effective upon expiry of the period of insurance, within 14 days following such notification.

10.2 Procedure in the event of loss or damage

Following the occurrence of loss or damage insured against, either party is entitled to cancel the contract. Notice of cancellation must be given in writing and be delivered to the receiving party not later than one month after the conclusion of negotiations on the indemnification. After notice of cancellation by the underwriter the contract terminates one month after such notice. In case the Assured cancels the contract he may state whether the cancellation shall become effective immediately or at a later date, at the latest, however, by the expiry of the current period of insurance.

10.3 State of war

- 10.3.1 If the open policy also covers the carriage or storage of goods to, from on in a country which is in a state of war or involved in warlike operations, Underwriters are at liberty to cancel that part of the contract of insurance at any time by giving one week's notice.
- 10.3.2 Within 4 weeks of such cancellation by Underwriters, the Assured is at liberty to cancel the whole contract of insurance by giving one week's notice.

10.4 Termination of insurance following cancellation

- 10.4.1 Where the insurance of goods has attached prior to cancellation taking effect, such insurance shall remain in force until the time provided for termination of the insurance cover.
- 10.4.2 For goods in storage, excepting intermediate storage in the ordinary course of transit, the insurance shall terminate by virtue of such cancellation on the next declared expiry date, but not later than one month following cancellation.

11 Insolvency of Underwriters

In the event of insolvency or impending insolvency of Underwriters the, Assured is entitled to cancel the contract and to insure anew at the expense of Underwriters. Underwriters can prevent the operation of this right by issuing a guarantee.