

General Conditions for the Insurance of Carriers' Liabilities

Carriers' Liability (ABVH Carriers 2008)

Marine Insurance

Edition 01.2008

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In these terms and conditions, the insured and all persons involved in the management or supervision of the policyholder's facilities or persons commissioned by the insured shall be considered to be equivalent to the policyholder.

Art. 1
Scope

The insurance applies to carriers that transport goods by road or by a combination of different means of transport (road/rail/ferry):

- In accordance with the provisions of the Swiss Code of Obligations relating to contracts of affreightment or in accordance with foreign legislation relating to such contracts or
- In accordance with the agreement about the contract of carriage in international road freight traffic (CMR).

Art. 2
Insured risks

- 2.1 The insurance cover comprises the legal liability of the policyholder as the carrier for
- Loss or damage of the freight and
 - Failure to meet the delivery deadline.
- 2.2 The legal liability of the policyholder for the additional services associated with the carriage of freight, such as interim storage, customs clearance, weighing, packing, repacking and sampling, is also insured.

Art. 3
Insured costs and expenses

- 3.1 If an insured loss occurs or is imminent, AXA shall bear the costs
- Of the intervention by persons commissioned by AXA
 - Of preventing or reducing the loss
 - Of providing defence against unjustified claims made against the policyholder while the insurance policy is in place
 - Of recovering and/or destroying or disposing of the damaged goods, as required by the authorities, unless another insurer is required to do this.
- 3.2 In addition, the general average contributions applicable to the loaded vehicles in accordance with a legal adjustment shall also be insured. AXA shall also advance the general average contributions made by the policyholder for the cargo of the vehicles to avoid any delays in transportation. The policyholder is not obliged to deliver the cargo until the proportional share of the general average contributions is paid or the appropriate securities are provided by the customer, the recipient or their transport insurer, and shall only then be obliged to forward the payments or securities received to AXA.

Art. 4
Exclusions

- 4.1 The consequences of the following are not insured:
- Intentional behaviour on the part of the policyholder; in the case of gross negligence, AXA is entitled to limit payment by an amount corresponding to the extent of the insured's negligence
 - Intentional behaviour on the part of those commissioned to drive or accompany the vehicle or of the subcontractor carrier; in the case of gross negligence, AXA is entitled to limit payment by an amount corresponding to the extent of the insured's negligence. However, AXA has full liability if the policyholder demonstrates that all due care was taken, given the circumstances, to prevent damage being caused by such people or subcontracted carriers
 - Incorrect declaration, contravention of import, export or transit provisions or of currency or customs regulations
 - Seizure, removal or withholding by a government, authority or power
 - War
 - Hostilities (e.g. occupation of foreign territories, border incidents)
 - Civil war, revolution, rebellion
 - Preparations for war or wartime measures
 - Explosions or other effects of mines, torpedoes, bombs or other weapons of war
 - Confiscation, requisition, sequestration, removal or withholding by a government, authority or power
 - Strikes, lockouts or unrest (the term unrest is applied to violent or malicious acts committed in the context of insurrection, riots or disturbances, and to the looting that occurs as a result)
 - Terrorism (an act of terrorism is considered to be any type of violent action or threat of violence committed for political, religious, ethnic, ideological or similar purposes. The use of violence or threat to use violence in terrorism is designed to spread fear or terror amongst the population or sections thereof for the purpose of gaining influence over government or state authorities)
 - Nuclear power and radioactivity
This exclusion does not apply to losses caused by radioisotopes and equipment for the production of ionising rays (used for medical purposes, for example).
- 4.2 AXA is released from any obligation to indemnify if the goods are transported in unsuitable vehicles with the knowledge of the policyholder.
- 4.3 AXA is entitled to limit payment by an amount corresponding to the insured's negligence if regulations on transporting hazardous goods or road traffic legislation are contravened.

- 4.4 Claims arising from personal injury are excluded.
- 4.5 Unless expressly agreed, claims arising from the transportation of the following goods are excluded:
- Securities and documents of all kinds
 - Precious metals – unprocessed, in the form of ingots or minted – that are at least as valuable as silver; current coins not made of precious metals
 - Bank notes
 - Jewellery, jewellery watches, genuine pearls, precious stones and other jewels
 - Works of art and collectibles with an item value of more than CHF 40,000
 - Living animals.

This provision is also applicable when the freight is described generically as “goods of all kinds”.

Art. 5 **Specific agreements about liability**

The insurance cover is also applicable to contractually agreed liability that is narrower in scope than statutory liability. If the policyholder and the customer contractually agree liability that goes beyond the scope of statutory liability, this is only of significance to AXA if the broader scope is included in the insurance on the basis of a special agreement prior to the inception of the risk and in return for a supplementary premium. The insurance of a special interest in the delivery – if specified in the waybill – can be agreed in individual cases prior to the inception of the risk and in return for a supplementary premium. However, this additional insurance cover is limited to 20 % of the indemnifiable value of the goods.

Art. 6 **Beginning and end of the insurance cover**

The insurance cover begins when the carrier receives the goods and ends when they are delivered to the recipient – at the latest, 30 days after the arrival of the vehicle. This does not affect the restrictive provisions for storage as specified in Art. 7.

Art. 7 **Storage**

When the goods are stored before, during or following transportation, the insurance is effective for up to 30 days in each case. If expressly agreed, this period can be extended. The policyholder has to make sure that when the loaded vehicle is parked or when the goods are stored temporarily, all possible action is taken to ensure that the vehicle and goods are protected as well as possible. Losses resulting from a breach of this obligation are not insured.

Art. 8 **Excess of the policyholder**

The policyholder must pay the excess specified in the insurance contract.

Art. 9 **Relationship to other insurance policies**

Policyholders are obliged to report double insurance coverage to AXA in writing immediately they become aware of it. If there is another insurance policy, AXA only provides subsidiary insurance cover.

Art. 10 **Limits to the insurance benefits**

AXA indemnification is limited to the agreed insured sum per vehicle for each loss event. Within the framework of this insured sum, the following cover limits are applicable to the following claims:

- Liability as per Art. 2.1:
 - For losses that do not directly affect the goods: 20 % of the insured sum, but not more than CHF 40,000
 - For failure to meet delivery deadlines: CHF 40,000
- Liability as per Art. 2.2:
 - For loss of or damage to the freight and for losses that do not directly affect the goods: 20 % of the insured sum, but not more than CHF 40,000
 - For collection of payment on delivery: CHF 40,000
- Costs and expenses as per Art. 3.1:
 - For recovery, destruction and disposal costs: 20 % of the insured sum, but not more than CHF 40,000.

A loss event shall include all the losses that have one and the same cause.

