

# **CARGO TRANSIT INSURANCE**

## **INSTITUTE CARGO CLAUSES (C)**

### **PARTICULAR CONDITIONS**

Subject to the General, Individual Conditions and Specifications of the Policy, whereby the latter having preference over the former, **Tokio Marine Compañía de Seguros, S.A. de C.V.** named hereinafter as "the Company" insures in favor of the person mentioned in the Specifications of the Policy, designated hereinafter as "the Insured" against the loss and/or damage caused by the perils covered provided that the Insured has an insurable interest, in accordance with the terms, exclusions, stipulations and conditions established or endorsed in this Policy.

#### **CLAUSE 1 RISKS COVERED**

This insurance covers, except as provided in Clauses 4, 5, 6 and 7 below,

##### **1.1. Loss of or damage to the subject-matter insured reasonably attributable to:**

- 1.1.1 Fire, lightning or explosion
- 1.1.2 Vessel or craft being stranded grounded sunk or capsized
- 1.1.3 Overturning or derailment of land conveyance
- 1.1.4 Collision or contact of vessel craft or conveyance with any external object other than water
- 1.1.5 Discharge of cargo at a port of distress,

##### **1.2 Loss of or damage to the subject-matter insured caused by**

- 1.2.1 General average sacrifice
- 1.2.2 Jettison.

#### **CLAUSE 2 - GENERAL AVERAGE**

This insurance covers general average and salvage charges, adjusted or determined according to the legal dispositions effective in the Mexican Law, in specific in the Commerce Code, the "Navigation Law" and the "Navigation and Marine Commerce Law" or according to the effective "York-Amberes Rules" or to the foreign applicable laws in the moment of the damage, in accordance with the specified in the bill of lading, the carrying letter of behavior or the contract of affreightment.

#### **CLAUSE 3. - "BOTH TO BLAME COLLISION"**

This insurance is extended to indemnify the Assured against such proportion of liability under the contract of affreightment "Both to Blame Collision" Clause as is in respect of a loss recoverable hereunder. In the event of any claim by shipowners under the said Clause the Assured agree to notify the Company who shall have the right, at their own cost and expense, to defend the Assured against such claim.

For the application of the previous paragraph, always prevail the legal dispositions established in the Commerce Code, the "Navigation Law" and the "Navigation and Marine Commerce Law" or according to the effective "York-Amberes Rules" or to the foreign applicable laws in the moment of the damage, in accordance with the specified in the bill of lading, the carrying letter of behavior or the contract of affreightment.

#### **CLAUSE 4. GENERAL EXCLUSION**

##### **IN NO CASE SHALL THIS INSURANCE COVER**

- 4.1. LOSS, DAMAGE, OR EXPENSE DUE TO FRAUD OR BAD FAITH IN WHICH THE INSURED, LOSS PAYEE, EMPLOYEES, CIVIL DEPENDENTS OF THE INSURED OR WHOM MAY REPRESENT HIS INTEREST TAKE PART DIRECTLY OR INDIRECTLY.**
- 4.2. ORDINARY LEAKAGE, ORDINARY LOSS IN WEIGHT OR VOLUME, OR ORDINARY WEAR AND TEAR OF THE SUBJECT-MATTER INSURED**
- 4.3. LOSS DAMAGE OR EXPENSE CAUSED BY INSUFFICIENCY OR UNSUITABILITY OF PACKING OR PREPARATION OF THE SUBJECT-MATTER INSURED (FOR THE PURPOSE OF THIS CLAUSE "PACKING" SHALL BE DEEMED TO INCLUDE STOWAGE IN A CONTAINER OR LIFTVAN BUT ONLY WHEN SUCH STOWAGE IS CARRIED OUT PRIOR TO ATTACHMENT OF THIS INSURANCE OR BY THE ASSURED OR THEIR SERVANTS)**
- 4.4. LOSS DAMAGE OR EXPENSE CAUSED BY INHERENT VICE OR NATURE OF THE SUBJECT-MATTER INSURED.**
- 4.5. LOSS DAMAGE OR EXPENSE PROXIMATELY CAUSED BY DELAY, EVEN THOUGH THE DELAY BE CAUSED BY A RISK INSURED AGAINST (EXCEPT EXPENSES PAYABLE UNDER CLAUSE 2 "GENERAL AVERAGE" ).**
- 4.6. LOSS DAMAGE OR EXPENSE ARISING FROM INSOLVENCY OR FINANCIAL DEFAULT OF THE OWNERS MANAGERS CHARTERERS OR OPERATORS OF THE VESSEL.**
- 4.7. DELIBERATE DAMAGE TO OR DELIBERATE DESTRUCTION OF THE SUBJECT-MATTER INSURED OR ANY PART THEREOF BY THE WRONGFUL ACT OF ANY PERSON OR PERSONS.**
- 4.8. LOSS DAMAGE OR EXPENSE ARISING FROM THE USE OF ANY WEAPON OF WAR EMPLOYING ATOMIC OR NUCLEAR FISSION AND/OR FUSION OR OTHER LIKE REACTION OR RADIOACTIVE FORCE OR MATTER.**

#### **CLAUSE 5.- UNSEAWORTHINESS AND UNFITNESS EXCLUSION**

- 5.1. IN NO CASE SHALL THIS INSURANCE COVER LOSS DAMAGE OR EXPENSE ARISING FROM:**
  - UNSEAWORTHINESS OF VESSEL OR CRAFT.**
  - UNFITNESS OF VESSEL CRAFT CONVEYANCE CONTAINER OR LIFTVAN FOR THE SAFE CARRIAGE OF THE SUBJECT-MATTER INSURED.**

- **WHERE THE ASSURED OR THEIR SERVANTS ARE PRIVY TO UNSEAWORTHINESS OR UNFITNESS, AT THE TIME THE SUBJECT-MATTER INSURED IS LOADED THEREIN.**

**5.2. THE COMPANY WAIVE ANY BREACH OF THE IMPLIED WARRANTIES OF SEAWORTHINESS OF THE SHIP AND FITNESS OF THE SHIP TO CARRY THE SUBJECT-MATTER INSURED TO DESTINATION, UNLESS THE ASSURED OR THEIR SERVANTS ARE PRIVY TO SUCH UNSEAWORTHINESS OR UNFITNESS.**

#### **CLAUSE 6. - WAR EXCLUSION**

**IN NO CASE SHALL THIS INSURANCE COVER LOSS DAMAGE OR EXPENSE CAUSED BY:**

- 6.1. WAR CIVIL WAR REVOLUTION REBELLION INSURRECTION, OR CIVIL STRIFE ARISING THEREFROM, OR ANY HOSTILE ACT BY OR AGAINST A BELLIGERENT POWER.**
- 6.2 CAPTURE SEIZURE ARREST RESTRAINT OR DETAINMENT, AND THE CONSEQUENCES THEREOF OR ANY ATTEMPT THEREAT**
- 6.3 DERELICT MINES TORPEDOES BOMBS OR OTHER DERELICT WEAPONS OF WAR.**

#### **CLAUSE 7. STRIKES EXCLUSION**

**IN NO CASE SHALL THIS INSURANCE COVER LOSS DAMAGE OR EXPENSE:**

- 7.1. CAUSED BY STRIKERS, LOCKED-OUT WORKMEN, OR PERSONS TAKING PART IN LABOUR DISTURBANCES, RIOTS OR CIVIL COMMOTIONS.**
- 7.2. RESULTING FROM STRIKES, LOCK-OUTS, LABOUR DISTURBANCES, RIOTS OR CIVIL COMMOTIONS.**
- 7.3. CAUSED BY ANY TERRORIST OR ANY PERSON ACTING FROM A POLITICAL MOTIVE.**

#### **CLAUSE 8. TRANSIT**

8.1. This insurance attaches from the time the goods leave the warehouse or place of storage at the place named herein for the commencement of the transit, continues during the ordinary course of transit and terminates either

8.1.1. On delivery to the Consignees' or other final warehouse or place of storage at the destination named herein,

8.1.2. On delivery to any other warehouse or place of storage, whether prior to or at the destination named herein, which the Assured elect to use either

8.1.2.1 for storage other than in the ordinary course of transit or

8.1.2.2 for allocation or distribution, or

8.1.3. On the expiry of 60 (sixty) days after completion of discharge overseas of the goods hereby insured from the overseas vessel at the final port of discharge,

In order to make this insurance effective, it will apply whatever first occurs under the points 8.1.1., 8.1.2. and 8.1.3. above.

8.2. If, after discharge overseas from the overseas vessel at the final port of discharge, but prior to termination of this insurance, the goods are to be forwarded to a destination other than that to which they are insured hereunder, this insurance, whilst remaining subject to termination as provided for above, shall not extend beyond the commencement of transit to such other destination.

8.3 This insurance shall remain in force (subject to termination as provided for above and to the provisions of Clause 9 below) during delay beyond the control of the Assured, any deviation, forced discharge, reshipment or transhipment and during any variation of the adventure arising from the exercise of a liberty granted to shipowners or charterers under the contract of affreightment.

## **CLAUSE 9. TERMINATION OF CONTRACT OF CARRIAGE**

If owing to circumstances beyond the control of the Assured either the contract of carriage is terminated at a port or place other than the destination named therein or the transit is otherwise terminated before delivery of the goods as provided for in Clause 8 above, then this insurance shall also terminate unless prompt notice is given to the Company and continuation of cover is requested when the insurance shall remain in force, subject to an additional premium if required by the Company, either

9.1. Until the goods are sold and delivered at such port or place, or, unless otherwise specially agreed, until the expiry of 60 (sixty) days after arrival of the goods hereby insured at such port or place, whichever shall first occur, or

9.2. If the goods are forwarded within the said period of 60 (sixty) days (or any agreed extension thereof) to the destination named herein or to any other destination, until terminated in accordance with the provisions of Clause 8 above.

## **CLAUSE 10. - CHANGE OF VOYAGE**

Where, after attachment of this insurance, the destination is changed by the Assured, held covered at an additional premium and on conditions to be arranged subject to prompt notice being given to the Company. If the Company does not receive the immediate notice, its responsibility will cease the day after change of destination.

## **CLAUSE 11. - INSURABLE INTEREST**

11.1. 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.

11.2. Subject to 11.1 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 Company were not.

## **CLAUSE 12 - FORWARDING CHARGES**

Where, as a result of the operation of a risk covered by this insurance, the insured transit is terminated at a port or place other than that to which the subject-matter is covered under this insurance, the Company will reimburse the Assured for any extra charges properly and reasonably incurred in unloading storing and forwarding the subject-matter to the destination to which it is insured hereunder.

**THIS CLAUSE, WHICH DOES NOT APPLY TO GENERAL AVERAGE OR SALVAGE CHARGES, SHALL BE SUBJECT TO THE EXCLUSIONS CONTAINED IN CLAUSES 4, 5, 6 AND 7 ABOVE, AND SHALL NOT INCLUDE CHARGES ARISING FROM THE FAULT NEGLIGENCE INSOLVENCY OR FINANCIAL DEFAULT OF THE ASSURED OR THEIR SERVANTS.**

**CLAUSE 13. CONSTRUCTIVE TOTAL LOSS**

No claim for Constructive Total Loss shall be recoverable hereunder unless the subject-matter insured is reasonably abandoned either on account of its actual total loss appearing to be unavoidable or because the cost of recovering, reconditioning and forwarding the subject-matter to the destination to which it is insured would exceed its value on arrival.

**CLAUSE 14. - INCREASED VALUE**

14.1. If any increased value insurance is effected by the Assured on the cargo insured herein the agreed value of the cargo 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 herein bears to such total amount insured.

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

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

“The agreed value of the cargo 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 cargo by the Assured, and liability under this insurance shall be in such proportion as the sum insured herein bears to such total amount insured.

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

**CLAUSE 15. - NOT TO INURE**

This insurance shall not inure to the benefit of the carrier or other bailee.

**CLAUSE 16. - DUTY OF ASSURED**

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

16.1 To take such measures as may be reasonable for the purpose of averting or minimising such loss, and

16.2. To ensure that all rights against carriers, bailees or other third parties are properly preserved and exercised.

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

**CLAUSE 17. - WAIVER**

Measures taken by the Assured or the Company 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.

**CLAUSE 18. REASONABLE DESPATCH**

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

**CLAUSE 19. - DEDUCTIBLE**

By virtue of the deductible is applied on the total value of the shipment it will be understood that it is the total Sum Insured contained in one mean of conveyance according to the established in the specifications of this Policy.

In the case of combined transport, the mean of conveyance where the goods were located in the moment of the damage; will be taken as a base. If it is not possible to objectively determine where the damage occurred the mean of conveyance with the main accumulation will be taken as the base.

## DEFINITIONS

1. **Insured.-** Holder of the interest insured, subject to risk, to whom the rights and obligations derived from this contract shall correspond.
2. **General Average.-** Extraordinary loss or damage resulting from a voluntary sacrifice of the vessel or merchandise transported, before the proximity of a hazard and in order to avoid further damage in the own vessel or merchandise or cargo. The holders of the insured property integrating the navigation community (vessel, freight and cargo) and all cargo owners involved, contribute to the payment of the loss on a pro rata basis.
3. **Particular or Common Average.-** Damage caused to the vessel or cargo thereof. The difference with the general average is that only the owner (or insurer) of the damaged property participates in the quantity thereof.
4. **Loss Payee.-** Person to whom the Insured recognizes the right to receive the corresponding indemnity derived from the occurrence of a peril covered by this Policy.
5. **Consignee.-** In marine insurance, the individual acting on behalf of the shipowner, and by reason of the payment of the agreed freight, he assumes the obligation to unload and deliver the merchandise.
6. **Deductible.-** It is a specific amount or percentage agreed upon, which shall be deducted from the indemnity corresponding to each loss, and shall always be charged to the Insured.
7. **Deceit or bad faith.-** Acts or omissions of a person to induce another to commit an error. **Fraudulent** or false acts of a person with respect to another in the contractual relation, whether at the time of agreement or during the corresponding term, and in compliance thereof
8. **Packing or containerization.-** Applies to wrapping, packing or placing in containers or boxes the insured property for the transportation thereof. The foregoing must be carried out prior to the attachment of the insured vessel
9. **Misplacement.-** Is the loss of property that has been placed at a specific site, and later on when it is searched in such place, it is not found, without existing violence signs that explain the disappearance thereof.
10. **Affreightment.-** Contract entered into between the person that hires a vessel (affreighter) to another person (freighter), whether partial or total, for one or more voyages or at a specified time
11. **Larceny.-** Theft without violence, offence committed in a furtive manner by a person who takes possession of other people's property, without being noticed by anybody
12. **Premium.-** Price of the insurance that the Insured shall pay to the Company for the concept of the coverage of risks granted to him.

13. **Constructive Total Loss.**- Such loss caused when the property insured is reasonably abandoned on account of its actual total loss appearing to be unavoidable, or because it cannot be preserved from actual total loss without an expenditure which would exceed its value.
  
14. **Salvage.**- Whole property rescued during or following the occurrence of a loss
  
15. **Terrorism.**- For the purpose of this Policy terrorism shall mean:
  - 15.1. The acts of force or violence, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization whether for political, religious, ideological, ethical or whatsoever nature with the intention to influence or pressure any government to undermine the authority of the State.
  
  - 15.2. The physical loss or damage direct or indirect with a mediate or immediate origin are the result of the utilization of explosives, toxic substances, firearms, or by any other violent means carry out against persons, objects or public services whereby said actions cause alarm, fear, terror in the general public or in a group or sector thereof, with the aim to disturb the public peace.

## **GENERAL CONDITIONS**

### **CLAUSE 1. PREMIUM**

- 1.1. The premium charged to the Insured becomes due at the time of issuing of the contract, and any subsequent agreement that may affect the Policy, which gives rise to the payment of any such additional premiums.
- 1.2. Should the Insured choose to make installment payments of the premium, the installments shall be payable in equal periods no less than a month, and the installments shall be due at the inception of each period thereto agreed upon. The financial rate of the premium shall be applied to the installment payment in force at the time of issuance or renewal of the Policy, which shall be made known to the Insured in writing.
- 1.3. The time for the payment of premium or any installment may not be greater than 30 (thirty) calendar days following the expiry date of the premium. The effects of this contract shall automatically end at the 12:00 (twelve) noon on the last day of this period. The hours shown in this item shall be the local official time in the place whereby the corresponding insurance policies are issued.
- 1.4. The agreed premium shall be paid in the Company's offices upon delivery of the corresponding receipt thereof.
- 1.5. In the event of loss, the Company shall deduct from the indemnity the total premium pending or outstanding installments not paid, until the total premium corresponding to the period of insurance contracted is completed.

### **CLAUSE 2. PROCEDURE IN THE EVENT OF LOSS**

Should the covered property be damaged by a peril not excluded, the Company shall indemnify the Insured for the value of such property, or at its option, choose to replace or repair to the Insured's satisfaction, or otherwise pay in cash the value of such property; within the limits or sublimits of liability, together with the terms and conditions set forth in this Policy.

#### **2.1. SAFEGUARD OR RECOVERY MEASURES**

When the Insured has knowledge of any such loss caused by of the risks covered by this Policy, it shall be lawful and necessary for the Insured, their agents, warehousekeepers or assignees, to sue, labor and travel for, in and about the defense, safeguard or recovery of the property insured, or any part thereof, for the purpose of minimizing and avoiding further damage, and to ensure that all rights against carriers, warehousekeepers or other third parties are properly preserved and exercised.

If delay is not considered dangerous, the Insured shall request and adhere to instructions given by the Company. Failure to comply with this obligation may affect the Insured's rights in the terms of article 115 of the Insurance Contract Law.

The Company shall reimburse the Insured, in addition to any loss recoverable hereunder, for any charges properly and reasonably incurred, and if the Company gives instructions, shall anticipate such expenses, applying, if any, the proportion referred to in Clause 2.5.A "Insurance Value" of these Conditions.

Measures taken by the Insured or the Company to saving, protecting or recovering the property insured shall no be deemed a waiver or abandonment.

## **2.2. CLAIMS**

In the event of a loss likely to give rise to an indemnity, in accordance with this Policy, the Insured or his representatives shall act and comply with the following:

### **2.2.A. CLAIM AGAINST CARRIERS**

In the event of any loss of or damage which may give rise to an indemnity, in accordance with this Policy, the Insured or their representatives shall make a claim in writing directly against the carrier, within the time provided for in the contract of affreightment, waybill, air waybill or bill of lading, and shall comply with the stipulations thereof to safeguard their rights.

The Insured or their representatives shall make such claim before signing accordingly the reception of the property insured, without reservation.

### **2.2.B. NOTICE OF LOSS.-**

Upon the occurrence of a loss giving rise to an indemnity in accordance with this insurance, the Insured or loss payee shall have a maximum period of 5 (five) days to give such notice in writing, such period starts when the Insured or loss payees have knowledge thereof, except in the case of an act of God or force majeure, which notice may be given as soon as ends one or other cause.

**Failure to give prompt notice may result in a reduction to the amount of the original indemnity, if however the Company had received prompt notice thereof.**

### **2.2.C. AVERAGE STATEMENT**

The Insured shall present himself to the claims agent of the Company, if any, at the point where survey is required, or in his absence, to the local agent of Lloyd's or failing such to a Notary Public, judicial authority, and finally to the local police authority.

Right of recovery in case of loss or damage sustained is specifically dependent on the survey of damage carried out within 5 (five) working days after the termination of the voyage, in accordance with stipulations in this Policy and according to the type of transportation used.

## **2.3. PROOF**

Within the 60 (sixty) days following the notice of loss, and in accordance with item 2.2.B."Notice" of Clause 2.2."Claims" of the General Conditions of this Policy, the Insured shall submit to the Company, a written detailed claim, together with the following documents:

**2.3.A.** The evidence or average statement obtained in accordance with item 2.2.D."Average Statement" of Clause 2.2."Claims".

**2.3.B.** Comercial invoice and packing or baling list.

**2.3.C.** Contract of affreightment, bill of lading, waybill or air waybill.

- 2.3.D.** Evidence of the claim against the carriers and the plea thereof if any.
- 2.3.E.** Certified copy of the vessel Master's protest, if any, and/or original certificates of discharge.
- 2.3.F.** Import or export orders and supporting documents of expenses incurred, if any.
- 2.3.G.** Originals of Certificates of discharge.
- 2.3.H.** At the demand of the Company, any other supporting document related to the claim or loss.
- 2.3.I.** Declaration, if any, with respect to any other insurance existing in the property covered by this Policy.

## **2.4. MAXIMUM LIABILITY OF THE COMPANY**

The maximum liability for any single shipment or any single conveyance, at any single time, in any single place has been fixed by the Insured, and such shall be neither a proof of existence of nor the value of the property. They are to be used exclusively as a basis to determine the maximum liability of the Company that would be obliged to indemnify.

## **2.5. CONDITIONS FOR PAYMENT OF LOSSES**

### **2.5.A. INSURANCE VALUE**

The Company shall never be liable for a percentage greater than any compensable loss existing between the amount insured and the actual cash value of the property at the time of loss, nor by a percentage greater than that existing between the amount of this Policy and the whole value of all insurances existing on the same property covering the risk causing the damage. Should the Policy comprise various items, this provision shall be applicable to each one of them separately.

In shipment of antiquities and fine arts, the Insured must submit a description of such property, as a necessary requirement, at the time of making a claim, with the corresponding invoice or appraisal made by an expert appraisal with professional certificate in force

In shipment of household goods, the Insured must submit, at the time of making a claim, a complete report of all property forming part of such household goods, including the value of each property separately.

### **2.5.B. REPLACEMENT IN KIND**

With respect to consumer goods, the Company may replace the lost or damaged property with other of like kind and quality, to the Insured's satisfaction, instead of paying in cash the amount of loss or damage.

### **2.5.C. PARTS AND COMPONENTS**

In case of loss or damage from covered risks is caused directly to any insured unit, consisting when complete for sale or use of several parts, the Company shall be only liable for the actual cash value of the lost or damaged parts, in the same proportion that the Sum Insured bears with the actual cash value of the insured property

#### **2.5.D. LABELS AND WRAPPERS**

When the damage is caused directly to insured labels or wrappers, by any of the risks covered against, the Company shall only be liable for the replacement of such labels or wrappers, and if any, the cost of re-labelling such articles, paying at its own expense, the same proportion that the Sum Insured bears with the actual cash value of such property.

#### **CLAUSE 3. ARBITRATION**

In the event of dispute between the Insured and the Company as to the amount of any loss or damage, the matter shall be given over in writing to an Arbitrator of mutual agreement; however, in such cases where no single Arbitrator can be agreed upon, two such arbitrators shall be named; one for each party, within a period of 10 (ten) days from the date on which either of the parties has required the other to do so in writing. Moreover, before commencement of arbitration, the two arbitrators shall name an umpire in case of further disagreement.

If either of the parties shall refuse or simply neglect to designate his arbitrator at the request of the other, or if the arbitrators do not agree upon the umpire, then the judicial authority shall, at the request of either of the parties, make the appointment of the arbitrator or the umpire, or both if necessary.

The death of any party, if an individual; or the dissolution, if a corporation, during the arbitration process shall not cancel or affect the authority or powers of the arbitrator, or arbitrators or umpire, as the case may be; or in the event of the death of an arbitrator or umpire of either of the parties die before a decision is made, another shall be appointed by such respective (party, arbitrator, judicial Authority) as a substitution thereof.

Expenses and fees originated by the arbitration shall be divided equally between the Insured and the Company, but each party shall pay the fees of his own arbitrator.

The arbitration referred to in this Clause shall not be construed as an admission of liability by the Company; it shall only determine the amount of the loss which shall eventually be payable by the Company, and while giving both parties liberty to exercise the corresponding objections.

#### **CLAUSE 4. PROPORTIONAL RULE.**

The sum insured has been fixed by the Insured, and such shall be neither a proof of existence of nor the value of the property. They are to be used exclusively as a basis to determine the maximum liability of the Company.

If, at the time of the occurrence of a loss, the property has a total value greater than the amount covered, the Company shall only be liable proportionally for the damage caused. Should the policy include various items, this provision shall be applied separately to each item.

The arbitration referred to in this Clause shall not be construed as an admission of liability by the Company; it shall only determine the amount of the loss which shall eventually be payable by the Company, and while giving both parties liberty to exercise the corresponding objections.

#### **CLAUSE 5. PLACE AND PAYMENT OF INDEMNITY**

The Company shall pay any indemnity at its office, within the 30 (thirty) days following the date of receipt of the documents and information, which are the fundamental base of the claim, in the terms of Clause 5 "Procedures in the Event of Loss" of the General Conditions of the Policy.

#### **CLAUSE 6. SUBROGATION OF RIGHTS.**

In all terms of Law, the Company shall be subrogated, up to the amount paid, to the Insured's rights, together with the corresponding actions against those liable or responsible for the loss. Should the Company so request, and at the Insured's expense, the Insured shall place in record such subrogation in notarized documents.

If due to acts or omissions of the Insured, such subrogation is inhibited, the Company shall be wholly or in part released from its obligations forthwith.

If only a part of the damage is paid, the Insured and the Company agree to exercise their rights in the same corresponding proportion.

**There shall be no subrogation of rights in case the Insured has a marital or blood relationship or kinship up to the second degree with the person that is known to have committed the damage; or else if he is civilly responsible for such person.**

#### **CLAUSE 7. FRAUD, DECEIT, BAD FAITH OR GROSS NEGLIGENCE**

##### **THE COMPANY'S OBLIGATIONS SHALL TERMINATE:**

- 7.1. IF THE INSURED, LOSS PAYEE OR THEIR REPRESENTATIVES WITH THE OBJECT OF INDUCING THE COMPANY TO COMMIT AN ERROR, DISSIMULATE OR MAKE INEXACT DECLARATIONS, WHEREBY EXCLUDING OR RESTRICTING SUCH OBLIGATIONS.**
- 7.2. MOREOVER, IF WITH THE SAME INTENTION THEY DO NOT FURNISH, IN DUE TIME, TO THE COMPANY THE DOCUMENTS NECESSARY FOR THE CORRECT PROCEDURE OF THE PAYMENT OF THE LOSS (BASED ON PROVISIONS IN CLAUSE 5 "PROCEDURE IN THE EVENT OF LOSS" OF THE GENERAL CONDITIONS OF THE POLICY).**
- 7.3. DECEIT OR GROSS NEGLIGENCE ON THE PART OF THE INSURED OR LOSS PAYEE OR ASSIGNEES OR ATTORNEYS, HIS REPRESENTATIVES OR PERSONS LIABLE FOR THE TECHNICAL DIRECTION; IF AND WHEN SUCH ACT OR NEGLIGENCE IS DIRECTLY ATTRIBUTABLE TO SUCH PERSONS.**

#### **CLAUSE 8. INCREASE OF HAZARD**

The Insured shall advise the Company of any essential increase of hazard of the risks covered, during the validity of this insurance, within a period of 24 hours upon having such knowledge thereof. Should the Insured omit to give such advice or provoke an essential increase of hazard, the Company's obligations shall terminate hereinafter.

#### **CLAUSE 9. ARREARS INTEREST.**

In the event that the Company, even though it has received the documents and information with reference to the basis for the claim made, does not fulfil the obligation of paying the indemnity, capital or rent, in the terms of Article 71 of the Insurance Contract Law, then, by fault of paying the legal interest applicable, the Company is obliged to pay the Insured, loss payee or third party sustaining damage, an arrears interest under the terms

provided in Article 135 Bis of the General Law of Insurance Institutions and Mutual Societies, covering the delay period. Such interest shall be calculated as of the following day in which such obligation is so demanded.

#### **CLAUSE 10. SALVAGE ON DAMAGED MERCHANDISE**

As a consequence of the payment of any indemnity for lost or damaged merchandise insured under this Policy, the Company may acquire the salvaged goods, provided always the actual cash value is credited to the Insured, as per expert appraisal; therefore, the Insured undertakes to furnish to the Company the documentation that accredits the ownership of such property, ceding in addition all rights that he has on such ownership.

The Company agrees not to dispose of said salvage under the printed name or trademark of the Insured

#### **CLAUSE 11. COMPENSABLE VALUE**

The Company shall indemnify on the following bases:

- 11.1. Shipments of Purchases made by the Insured:** Invoice value of the property, plus expenses such as: freights, import taxes, customhouse expenses, haulage, and other expenses inherent to the transportation of the property, if any.
- 11.2. Shipments of sales and inventories made by the Insured:** Production or acquisition costs, plus freights, and other expenses inherent to the transportation of the property, if any.
- 11.3. Shipments of manufacturing goods made by the Insured:** Value of raw material plus freights, and other expenses incurred within the production process.

This basis serves for both the collection of premiums and the payment of losses. For such purpose, the premium shall be calculated in accordance with the invoice value when this is equal or less than the sum fixed as maximum liability; in case that such value is greater than the Sum Insured in question, the premium shall be calculated on such limit.

However, in all cases, the Company's liability shall be limited to the Sum Insured or to the maximum liability per shipment, as provided in the Specification of the Policy.

#### **CLAUSE 12. STATUTE OF LIMITATIONS**

All actions derived from this insurance contract shall prescribe in **2 (two) years**, in the terms of Article 81 of the Insurance Contract Law, as of the date of the occurrence thereof, unless exceptions consigned in Article 82 of the same law.

The prescription shall be interrupted not only by ordinary causes, but also by those referred to in the **Law of Protection and Defense of the Financial Service User (CONDUSEF)**.

Article 81 and 82 of the Insurance Contract Law:

Article 81: All actions derived from an insurance contract shall prescribe in two years, as of the date of the occurrence giving rise thereto.

Article 82: The term referred to in the previous article shall not be effective in case of omission, false or inexact declarations of the risk. However, in such case, where loss has occurred it shall be effective when the interested parties have proven that they had no previous knowledge of such loss occurrence taking place but on such date when the company has knowledge thereof. With respect to third party loss payees, they should also be aware of the vested rights in their favour.

### **CLAUSE 13. NOTIFICATIONS**

Any declaration or notification in respect to this contract shall be submitted in writing to the Company's registered address indicated in the Specification of this Policy or in any office thereof.

In all such cases where the address of the offices of the Insurance Company is different from such indicated in the issued Policy, the Company shall advise the Insured the new address in the Republic of Mexico for all requests and notifications that should be sent to the Insurance Company for any legal effect.

The requirements and notifications that the Insurance Company shall make to the Insured or their assignees shall be valid to the last known address given to the Insurer.

### **CLAUSE 14. OTHER INSURANCES**

If the property is insured, wholly or in part, by other insurance covering the same risk, whether acquired on the same date or another, the Insured is under the obligation to declare such immediately in writing to the Company and/or they should be mentioned in the Policy or enclosure thereto; indicating the name of the insurance companies and the sums insured, with the purpose to be registered in the Policy or in an enclosure.

Should the Insured intentionally omit to give such notice, or acquire other insurance in order to obtain an illicit gain, the Company shall be released from its obligations.

When the Company has been duly notified that other companies cover the same interests by this Policy, the Company is obliged to pay the full value of the damage sustained within the limits of the Sum Insured, and thereafter shall be repeated proportionally against other companies, which have issued coverage for the amount insured.

### **CLAUSE 15. BENEFITS FOR THE INSURED**

If during the period of the insurance, the General Conditions are modified in similar contracts, the Insured shall have the right to request in writing to the Company the corresponding modifications in his Policy in order that the new conditions are applied thereto, but if such modifications grant higher benefits for the Company, the Insured is obliged to cover the equivalent increase in the corresponding premium.

### **CLAUSE 16. JURISDICTION**

In the event of controversy, the plaintiff may enforce his rights in the terms provided by the **Law of Protection and Defense of the Financial Service User (CONDUSEF)**.

### **CLAUSE 17. ARTICLE 25 OF THE INSURANCE CONTRACT LAW**

"Should the wording of the Policy or its modifications not agree with the offer, the Insured may request the necessary amendment within the 30 (thirty) days following receipt thereof. After expiry of this period, the provisions or amendments of the Policy shall be considered as accepted"