

## INSTITUTE FOSFA TRADES CLAUSES (B)

Agreed with The Federation of Oils, Seeds and Fats Associations

### RISKS COVERED

**1** 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 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

1.1.6 earthquake volcanic eruption or lightning,

1.2 loss of or damage to the subject-matter insured caused by

1.2.1 general average sacrifice

1.2.2 jettison or washing overboard

1.2.3 entry of sea lake or river water into vessel craft hold conveyance container liftvan or place of storage,

1.3 total loss of any package lost overboard or dropped whilst loading on to, or unloading from, vessel or craft.

**2** This insurance covers general average and salvage charges, adjusted or determined according to the contract of affreightment and/or the governing law and practice, incurred to avoid or in connection with the avoidance of loss from any cause except those excluded in Clauses 4, 5, 6 and 7 or elsewhere in this insurance.

**3** 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 Underwriters who shall have the right, at their own cost and expense, to defend the Assured against such claim.

### EXCLUSIONS

**4** In no case shall this insurance cover

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

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 4.3 "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 above)

4.6 loss damage or expense caused by insolvency or financial default of the owners managers charterers or operators of the vessel where, at the time of loading of the subject-matter insured on board the vessel, the Assured are aware, or in the ordinary course of business should be aware, that such insolvency or financial default could prevent the normal prosecution of the voyage

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

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.

**5** 5.1 In no case shall this insurance cover loss damage or expense arising from

5.1.1 unseaworthiness of vessel or craft or unfitness of vessel or craft for the safe carriage of the subject-matter insured, where the Assured are privy to such unseaworthiness or unfitness, at the time the subject-matter insured is loaded therein

5.1.2 unfitness of container liftvan or land conveyance for the safe carriage of the subject-matter insured, where loading therein is carried out prior to attachment of this insurance or by the Assured or their servants.

5.2 Where this insurance has been assigned to the party claiming hereunder who has bought or agreed to buy the subject-matter insured in good faith under a binding contract, exclusion 5.1.1 above shall not apply.

5.3 The Underwriters 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.

**6** 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 (piracy excepted), and the consequences thereof or any attempt thereat

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

**7** 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.

## **DURATION**

**8** 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 days after completion of discharge overside of the goods hereby insured from the oversea vessel at the final port of discharge, whichever shall first occur.

8.2 If, after discharge overside from the oversea 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.

**9** 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 Underwriters and continuation of cover is requested when the insurance shall remain in force, subject to an additional premium if required by the underwriters*, 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 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 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.

**10** Where, after attachment of this insurance, the destination is changed by the Assured, *held covered at a premium and on conditions to be arranged subject to prompt notice being given to the Underwriters*.

## CLAIMS

**11** 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 Underwriters were not.

**12** 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 Underwriters 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 12, 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.

**13** 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.

**14 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 Underwriters 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 Underwriters with evidence of the amounts insured under all other insurances.

**BENEFIT OF INSURANCE**

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

**MINIMISING LOSSES**

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

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

**AVOIDANCE OF DELAY**

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

**LAW AND PRACTICE**

**19** This insurance is subject to English law and practice.

*NOTE: It is necessary for the Assured when they become aware of an event which is "held covered" under this insurance to give prompt notice to the Underwriters and the right to such cover is dependent upon compliance with this obligation.*

**1/7/85**

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