

## **Terms and Conditions of Art Insurance 2020 for museums**

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## **§ 1 Subject matter of the insurance**

1. The insurance cover includes items of art and collector's items of all kinds and exhibition accessories.
2. Showcases, movable walls, spotlights, catalogues, posters, postcards, film and video material which are used in connection with exhibitions by the policyholder and which belong to the policyholder as well as re-usable transportation boxes of the policyholder are also deemed to be included in insurance cover.

## **§ 2 Start and end of the insurance cover**

1. The insurance cover applies in principle "from nail to nail" or from "location to location" including all non-arranged/non-scheduled transit storage which is due to the requirements of transportation as well as temporary storage inasmuch as it falls within the insured period.

Should in an individual case the risk for the item(s) of art already pass to the policyholder prior to the commencement of transportation by reason of a contract or of legislation then the insurance shall already commence at this point in time.

The insurance cover shall begin no later than at the point in time at which the items of art are removed from the place where they had been kept up to then, irrespective of whether the transportation itself actually already starts or whether the items of art are firstly packed.

The insurance cover ceases after the completion of the unpacking of the items of art and the completion of the conveying or transfer of the items of art to the former or the newly available location.

Should the risk according to legislation or contract pass earlier to a third party then this insurance cover here already ceases at the time agreed separately with the third party.

In cases where the items on loan are already insured elsewhere the insurance cover starts and ends correspondingly with the start and the end of the insurance which exists elsewhere.

2. In general the packing and unpacking, or any storage prior to transportation and storage after transportation or any interim storage before the start of the loan contract (period of the loan) or after the end of the loan contract (period of the loan) are included in insurance cover for up to a total of 90 days (insurance from nail to nail or from location to location).

At the request of the policyholder this limited period can be extended.

3. **The insurance is in force as long as there is an interest which falls under the policy.**

## **§ 3 Insured risks / extent of the insurance**

1. **The insurers bear all the risks to which the items of art are exposed during the period of the insurance cover** unless it is a matter of items of art which are exhibited in the open air.
2. In the case of items of art which are exhibited in the open air the following extent of insurance cover shall apply:

The insurance cover is limited to damage or loss from fire, lightning, explosion (but excluding arson in the case of wooden sculptures), storm and force majeure.

The insurers shall also provide indemnification in the case of loss or damage which has arisen as a result of wilful or malicious damage by third parties (vandalism) by payment of the costs of a skilled manual reinstatement or restoration up to an amount of € 10.000,00 per claim incident per item per year.

There is deemed to be case for reinstatement if the costs do not exceed 75% of the insurable value. If this proportion is exceeded there is deemed to be a total loss and settlement will be made on a total-loss basis. At the request of the insurers any item of art damaged in such a way must be relinquished to the insurers.

The risk of theft is deemed to be included in insurance cover if the sculptures and statues or effigies are firmly anchored to the ground or to a pedestal or suchlike or are secured in another manner against simple removal.

If the sculptures and statues or effigies have an individual weight which in each case exceeds 300kg then the measures described above are not required.

Value-depreciation claims are generally excluded in respect of items of art exhibited in the open air.

Deterioration caused by the weather to items of art exhibited outdoors (e.g. bleaching, rust, mould, general moisture, dirtying by animals) and damage to the items of art from environmental pollution are not included in the insurance cover.

3. Loss or damage which has arisen because of negligence – including gross negligence – on the part of the policyholder and the insured party (including their employees, even hired staff) are deemed to be included in insurance cover.

#### 4. Defective Title

- a) For works of art commercially acquired by the policyholder after the start of the policy and which the policyholder is required to surrender to the legal owner due to the seller lacking or not having an accurate legal title, the insurer shall compensate the agreed upon and documented insurance value, but no more than the purchase price actually paid. The insurer is only obligated to compensate if the policyholder has incurred damages in this amount, the standard commercial due diligence was applied during the purchase and if the damages were declared during the contract term (see § 10 art. 5).
- b) If the legal owner asserts claims against the policyholder based on their property rights, the insurer shall also compensate the legal costs that serve to protect the policyholder's interests and which the former agreed to in advance.
- c) The maximum compensation for damages and costs is EUR 500.000,00 per insurance year.

#### § 4 Exclusions

- 1. The following risks are excluded:
  - a. of nuclear energy and other ionising radiation
  - b. of usage of chemical, biological and biochemical substances or electromagnetic waves as weapon which poses a public risk, regardless of other circumstances which might have contributed to the damage.
  - c. of acts of war of all kinds during the stationary risk, as well as during land transports.

- 2. Loss or damage caused by the following are excluded:
  - a. ordinary wear and tear, deterioration and gradual loss
  - b. seizure, nationalization, confiscation or other sovereign acts

However, insurance cover exists within the scope of the insurance contract in the event of physical loss and damage during all transports and storage caused by the withdrawal. The assumption of costs in case of a confiscation is regulated in § 9 number j).

- c. the absence of or shortcomings in the packing and wrapping customary in the art trade, inasmuch as the policyholder has carried this out himself

**In case of museum contracts this exclusion is not applied.**

- d. court order or the enforcement thereof
- e. non-compliance with delivery terms and deadlines, delays in the journey, manufacture, processing or suchlike
- f. the use, demonstration or presentation itself.

The setting-up and the exhibition of the items of art is **not** deemed to be the demonstration or presentation itself.

- g. cleaning, handling and processing, repair and restoration, **whereby the hanging and the assembly or mounting of an existing work of art and the adding of a passe-partout are not deemed to be handling and processing.**

**In the case of museum contracts, damage caused by cleaning, processing, repair and restoration up to EUR 1 million is also insured, provided that this work was carried out by professionally qualified personnel, such as restorers or equivalent persons.**

**If the insurer agrees to the measure taken, damages of this kind are fully insured.**

- h. the worsening of existing damages from earlier only provided that it did not occur as a consequence of an insured damage within the insurance period.
- i. indirect loss or damage of any kind
- j. intentional behaviour on the part of the loss payee

**In case of museum contracts this exclusion is not applied with the exception of wilful conduct by the representatives.**

**However, the insured is relieved of any service obligation in case of insurance fraud.**

**The proof of the existence of one of the risks or causes referred to in Sub-sections 1 and 2 has to be provided by the insurers.**

#### § 5 Period of limitation

- 1. The claims from the insurance policy become time-barred after three years. Details with regard to the calculation of the time limit, and in particular to the start, length and interruption of the period of limitation, shall be determined in accordance with the general provisions of the BGB German Civil Code.
- 2. If a claim from the insurance policy has been notified to the insurers then the period of limitation is suspended from the time of the notification until the time when the decision of the insurers reaches the claimant in writing.

#### § 6 Transport and packing

- 1. Transportation by lorry/truck suitable for items of art, by ferry, by aircraft and by small transport vehicles/vans are included in insurance cover.

In certain individual cases transportations to be carried out on the part of the policyholder/the insured party and their staff using the

policyholder's/the insured party's own passenger vehicle or own vehicle are also deemed to be included in insurance cover.

The insurance does not automatically relate to transportation by sea, conveyance by post and conveyance by private courier services but only after prior agreement. The insurers reserve the right to charge a possible premium surcharge.

2. The transportations referred to above are then included in insurance cover only if it is exclusively such means of transport which are suitable for the transportation of items of art which are chosen for such transportation. Physical persons or corporate entities with extensive experience in dealing with the transportation of items of art are to be commissioned with the carrying-out of the transportations.
3. Inasmuch as the policyholder has no influence on the choice of the means of transport used the use of unsuitable means of transport should not restrict the obligation of the insurers to provide indemnity. However, the insurers reserve the right to charge a reasonable premium surcharge in such cases.
4. The packing of the items of art to be insured must be agreed upon and carried out in an appropriate and professional manner with regard to the nature of the items, the means of transportation and the route.
5. Insurance cover is offered for unpacked items of art inasmuch as it can be considered as customary practice in the art trade that these individual works of art are transported in an unpacked manner.
6. If by way of exception a transportation is to be insured for which either a form of packing considered as customary practice in the art trade is not available or a transportation of unpacked items of art is carried out which is not customary practice in the art trade then a prior agreement with regard to conditions and premiums is required. In such a case there is no obligation for the insurers to provide insurance cover.

## **§ 7 Waiver of subrogation**

The insurance companies declare a general waiver of subrogation towards the insured party, insured and policy holder as well as their institutions and employees (including instructed personnel), as well as external persons/institutions, which are instructed with the organisation and processing in connection with the insured processes with the exclusion of wilful conduct of the representatives.

For involved transport companies, forwarders etc. a waiver of subrogation is agreed with the exception of gross negligence and wilful conduct.

## **§ 8 Insurable value**

Inasmuch as nothing to the contrary is deemed to have been agreed upon according to the policy, the insurable

value is the declared value which has been stated by the policyholder and which must be verified by the entitled party in the event of a claim.

Should it emerge that an insured object is a forgery then the actual value of the object shall apply as the insurable value retroactively as from the commencement of the ongoing insurance period. The insurers shall reimburse proportionally any excess annual premium paid.

## **§ 9 Insured costs**

In addition to the insured value, the following actually incurred, reasonable and necessary costs are also insured:

- a. costs for ascertainment by the parties commissioned by the insurers of the amount of damage or amount of a loss
- b. expenditure to avert or reduce the loss or damage when a claim incident has occurred, even if such efforts prove to be unsuccessful
- c. costs for clearing the scene of the claim incident of any remains of the insured objects and their removal to the nearest suitable disposal point as well as costs for disposal and destruction
- d. costs for the modification or replacement of locks at the risk locations designated in the policy and of locks for bank safes rented by the entitled claimant and of the keys appertaining to them
- e. costs for temporary security measures following a burglary
- f. costs for the retrieval of damaged or missing items or for the acquisition of comparable items (e.g. travel and transportation costs, customs duties, official fees and suchlike).
- g. costs of gross average and salvage or recovery costs of which the settlement or the determining of the loss or damage is carried out on the basis of the freight contract and/or in accordance with applicable legislation and practice, inasmuch as these arise for the purpose of averting damage or loss covered by this insurance or in connection with an attempt to avert damage or loss covered by this insurance
- h. costs for possible transportation and storage if the location of the insurance cannot be used, but for a maximum of one year

The maximum payment for all necessary and effective costs of the type specified here (b to h) amounts to a total of EUR 1 million per claim.

- i. In addition packing and customs costs are also deemed to be included in insurance cover. The maximum payment for all necessary and effective costs for packaging and customs costs together is EUR 1 million.

The costs designated here can taken together with the other compensation payment exceed the sum insured.

- j. assumption of costs in the event of a seizure or confiscation

1. Extent of the insurance

The risks of seizure, confiscation, deprivation of possession or other interventions on high authority of or in connection with insured items of art are included in insurance cover.

## 2. Insurance settlement payment

The insurers shall reimburse costs for

- bonds, securities or guarantees which the policyholder/the insured party must provide,
- experts, specialists, lawyers and legal costs, inasmuch as their services were required,

in order to return the insured items of art to the power of control or the disposition of the policyholder or of the insured party.

The insurers shall also reimburse

- loan fees which have been lost up to a maximum amount of € 100.000,00
- lost profits up to 1 % of the sum insured.

The insurance cover offered here relates to all loans worldwide on the part of the policyholder to third parties as well as to incoming loans for exhibition projects arranged or organised by the policyholder himself.

3. The insurance benefit for which the insurers can be held liable in the event of damage is limited to a maximum of EUR 1 million in total for all objects on loan to an exhibition project, or EUR 1 million for all exhibits of a separate stationary stock insurance per insurance year.

## 4. Obligations of the policyholder

There is deemed to be insurance cover only if the policyholder, his or her representatives or commissioned parties or the insured party have taken care to ensure that

- the documents accompanying the goods (e.g. consignment note, waybill, bill of lading, customs declaration) have been made out in due form and accurately specify the contents of the consignment,
- all statutory regulations or administrative directives of the country of shipment and of the transit and receiving countries have been observed.

## 5. Special exclusions

The following are excluded from cover:

- loss or damage on account of measures because of the situation or status of the insured items arising from the policyholder or the insured party not having made payments incumbent upon them or not having provided security payments or bonds in connection with the exhibiting of the insured items of art,
- loss or damage which has arisen because of the natural state and properties of the goods, even if confiscation, deprivation of possession or other interventions on high authority has/have been the cause of such loss or damage.
- Damages resulting from court orders in connection with unlawful or criminal acts.

## 6. Re-exclusion

If any of the risks referred to in Section 1 occur in a specific region, then the insurers can exclude the risk in question for this region by means of a declaration to this effect to the policyholder, the policyholder's representative or commissioned party or the insured parties with a period of notice of twenty-four hours before the commencement of the insurance.

In connection with the insurance of goods and cargo in storage - with the exception of intermediate storage due to the transportation - the insurers can also declare re-exclusion after the commencement of the risk; this will after the expiry of the twenty-four-hour period of notice take effect as of the declared date of expiry, and at the latest after one month.

The declaration by the leading insurer simultaneously applies for all the co-insurers involved.

## § 10

### **The policyholder's obligations to disclose precedent to the policy**

1. Completeness and correctness of statements regarding circumstances which are risk-significant

By the time of the submission of his policy declaration the policyholder must disclose to the insurers all the risk circumstances he knows of which the insurers have asked about in writing and which are of importance for the decision of the insurers to effect the policy with the agreed contents. The policyholder is also obliged to disclose information inasmuch as the insurers, after the policyholder's policy declaration but before their acceptance of the policy, ask questions in writing within the meaning of Sentence 1.

The circumstances which are deemed to be risk-significant are those which are of such a kind that they could affect the decision of the insurers to effect the policy at all or to effect it with the agreed content.

If a representative appointed by the policyholder takes out the policy and if this representative is aware of such a risk-significant circumstance then the policyholder must permit himself to be treated as if he himself was aware of it or maliciously withheld or failed to disclose this circumstance.

2. Withdrawal

#### a) Preconditions for a withdrawal

Incomplete and incorrect information about the risk-significant circumstances which has been intentionally submitted entitle the insurers to withdraw from the insurance policy.

#### b) Exclusion of the right to withdrawal

The insurers do not have a right to withdrawal if the policyholder proves that he or his representative

did not provide the incorrect or incomplete information with deliberate intent.

c) Consequences of a withdrawal

In the event of a withdrawal there is no insurance cover.

If the insurers withdraw after the occurrence of the claim incident the insurers are not permitted to refuse the insurance cover if the policyholder proves that the circumstance not disclosed in full or incorrectly disclosed was the cause neither of the occurrence of the claim incident nor of the determining of the settlement of the claim or of the extent of the settlement of the claim. However, in this case too there is no insurance cover if the policyholder has with malicious intent breached the obligation to disclose. The insurers are entitled to that proportion of the premium which corresponds to that period of the policy which has elapsed up to time when the declaration of withdrawal takes effect.

3. Cancellation

If the right of the insurers to withdrawal is ruled out because the breach of an obligation to disclose was not due to intent the insurers can cancel the policy in writing while observing a period of notice of cancellation of one month.

This right of cancellation is excluded if the policyholder proves that the insurers would also have effected the policy with knowledge of the undisclosed circumstances, even if with other conditions.

4. Retroactive policy adjustment

If the insurers are unable to withdraw or cancel because they would also have effected the policy with knowledge of the undisclosed circumstances but with other conditions then if the insurers demand it these other conditions become a component of the policy with retroactive effect. If the policyholder is not responsible for the breach of the obligation to disclose then these other conditions become a component of the policy from the commencement of the ongoing period of insurance.

If the premium rises by more than 10% on account of the policy adjustment or if the insurers exclude the risk cover for the undisclosed circumstance then the policyholder can cancel the policy within one month of receiving the notification from the insurers without any period of notice of cancellation.

5. Exercising the rights of the insurer

The insurers must enforce the rights the insurers are entitled to according to Sections 2 to 4 of this paragraph in writing within one month. This period of grace begins at the time when the insurers become aware of the breach of the obligation to disclose which forms the basis for the right enforced by them. The insurers must state the circumstances on which they base their

declaration; the insurers may subsequently state further circumstances as the reason for their declaration if the one-month period of grace for this has not elapsed.

The rights of the insurers according to Sections 2 to 4 of this paragraph lapse at the end of five years after the policy was taken out; this does not apply to claim incidents which occurred before the end of this time limit. If the policyholder has breached the obligation to disclose fraudulently or with intent then this time limit amounts to ten years.

The insurers have the rights according to Sections 2 to 4 of this paragraph only if the insurers have drawn the attention of the policyholder in writing in a separate communication to the consequences of a breach of the obligation to disclose.

The insurers cannot invoke the rights stated in Sections 2 to 4 of this paragraph if they were aware of the risk circumstance which was not disclosed or of the incorrectness of the disclosure.

6. Rescission

The right of the insurers to contest the policy on account of fraudulent misrepresentation remains unaffected. In the event of contestation the insurers are entitled to that proportion of the premium which corresponds to that period of the policy which has elapsed up to time when the declaration of rescission takes effect.

### **§ 11 Risk circumstances / changes to the risk and increases in the risk / obligations**

1. The insurers acknowledge that all the circumstances which are of significance for assuming the risk were made known to them by the policyholder when the policy was taken out.

- a. There is deemed to be an **increase in the risk** if after the submission of the policy declaration of the policyholder the actually pertaining circumstances are changed to such an extent that an occurrence of a claim incident or an increase in the loss or damage or an unjustified recourse to or claim on the insurers would be more likely (e.g. the failure or outage of the alarm equipment, the presence of scaffolding or the removal of or reduction in the agreed security or locking devices and agreed security or locking measures).

There can be an increase in the risk in particular - but not only - if there is a change in a risk-significant circumstance which the insurers asked about before the policy was effected.

There is not deemed to be an increase in risk if the risk has increased only to a negligible or minor extent or if it should in view of the circumstances be deemed to be included in insurance cover.

- b. After submitting his policy declaration the policyholder is not permitted to undertake or carry out any increase in the risk or to allow any

increase in the risk to be undertaken or carried out by a third party without the prior consent of the insurers.

If the policyholder subsequently recognises or realises that he has carried out an increase in the risk or allowed an increase in the risk to be carried out without the prior consent of the insurers then he must inform the insurers of this without delay.

The policyholder must inform the insurers of any increase in the risk which, after the submission of his policy declaration, occurs independently of his will, intention or wishes, and the policyholder must inform the insurers of this without any delay after his becoming aware of it.

c. Cancellation by the insurers

If the policyholder breaches his obligation according to Letter b. Para. 1 then the insurers can cancel the policy without any period of notification of cancellation if the policyholder has breached his obligation intentionally. If the breach of the obligation is due to negligence the insurers can cancel the policy while observing a period of notice of cancellation of one month. The insurers cannot cancel if the policyholder proves that he is not responsible for the breach of the obligation.

If the insurers become aware of an increase in the risk in the cases according to Letter b. Paragraphs 2 and 3 the insurers can cancel the policy while observing a period of notice of cancellation of one month.

d. Policy adjustment

Instead of cancelling the policy the insurers can from the time of the increase in the risk demand an increased premium corresponding to the insurers' commercial principles or can exclude cover for the increased risk.

If in this case the premium rises by more than 10% or if the insurers exclude the insurance cover for the increased risk then the policyholder can cancel the policy within one month of receiving the notification from the insurers without observing any period of notice of cancellation. In the notification the insurers must draw the attention of the policyholder to this right of cancellation.

e. Lapse of the rights of the insurers

The rights of the insurers to cancellation or policy adjustment according to Letters c. and d. lapse if these rights are not exercised within one month of the insurers' becoming aware of the increase in the risk or if there is a restoration of the state of affairs which prevailed before the increase in the risk.

f. The extent of the insurance cover

If a claim incident occurs after an increase in the risk then the policyholder has no insurance cover if the policyholder has intentionally

breached his obligations according to Letter b. Para. 1.

g. With an increase in the risk according to Letter b. Para. 2 and Para. 3 the policyholder has no insurance cover in the case of an intentional breach of the obligations if the claim incident occurs later than one month after the time at which the notification would have had to have reached the insurers unless the increase in the risk was already known to the insurers at this time. The insurers are obliged to provide settlement if the breach of the obligation to disclose according to Letter b. Para. 2 and Para. 3 was not due to wilful intent.

h. The insurance cover also remains in force if the policyholder proves that the increase in the risk was not the cause of the occurrence of the claim incident or of the extent of the obligation to settle the claim or if at the time of the occurrence of the claim incident the period of grace for cancellation by the insurers had elapsed and no cancellation had taken place.

The above provisions do not apply if the risk has increased only to a negligible or minor extent or if it can in view of the circumstances be considered as agreed upon that the risk should be included in insurance cover.

Cancellation in accordance with this regulation must be in writing – an e-mail is not deemed to suffice – irrespective of whether it is carried out by the insurers or by the policyholder.

2. The exhibition and storage locations must be premises which are suitable for the exhibition or safekeeping of items of art and which are secured in due order against burglary.

3. Before the occurrence of a claim incident the following obligations in particular must be fulfilled:

a) The policyholder must with his own exhibition projects observe all statutory, official and agreed safety and security regulations; during the cold season either adequately heat the exhibition rooms used by himself and his staff or empty and keep empty all systems and installations carrying or conducting water; for as long as nobody is inside the policyholder's own exhibition rooms keep all doors, windows and other openings of the exhibition rooms locked in due form and keep all safety devices present when the policy was taken out and additionally agreed upon in full working order and operate them if nothing to the contrary has been agreed upon.

b) The setting-up and dismantling of the exhibitions and the packing and unpacking has to be monitored and supervised by members of staff of the policyholder or of the insured party.

- c) Supervisory and exhibition staff must be present at all times during the opening hours of the exhibition premises.
  - d) The carrying-out of the transportations is to be entrusted to suitably qualified art transportation companies or couriers of museums.
  - e) The transport and declaration regulations forming the basis of the insurance policy must be complied with.
4. Any deviations from this safety and security standard must be reported to the insurers before the commencement of the risk.

There is insurance cover only if this has been confirmed in writing by the insurers in these cases.

5. In the event of a claim incident the following obligations in particular must be met:
- a. The policyholder shall notify the insurers of any loss or damage without delay and shall as far as possible await their instructions and support,
  - b. shall avert and reduce the extent of losses or damage as far as this is possible, shall in particular enforce claims for compensation against third parties (e.g. the railways, the postal service, haulage contractors, airlines) in due form and within the required time limits or secure claims for compensation in another manner and in doing so obtain instructions from the insurers,
  - c. shall do everything possible which can serve to clarify the circumstances of the loss or damage, in particular ensure that all written and oral information provided is both correct and complete.
  - d. The policyholder is required to submit all documentation which proves the claim for compensation on the merits and in terms of amount inasmuch as the procurement of such documentation can be reasonably expected of the policyholder. The policyholder shall as far as can be reasonably expected also support the insurers to the best of his ability in the carrying-out of any possible recourse action,
  - e. shall report any loss or damage as a result of criminal actions (e.g. theft, robbery, deliberate damage to property) without delay to the relevant police station and shall verify this to the insurers.
  - f. If the insured item was in the safekeeping of a haulage or transportation company when a claim incident occurred then the loss or damage must be reported to this company without delay. The policyholder or the insured party shall verify the reporting of the loss or damage to the haulage or transportation

company by means of a written confirmation issued by the haulage or transportation company. In cases of damage or loss which is not outwardly recognisable the haulage or transportation company must be called upon without delay after the discovery of the damage or loss to examine the damage or loss and provide written confirmation within the relevant prescribed time limits for complaints.

## 6. Legal consequences in the case of breach of obligations

Contractual obligations are specific duties, such as obligations to provide information, to notify, to disclose, to behave in a specified manner et al., which arise from the insurance contract. Provisions for some of these duties and obligations are stated in this paragraph, but not all in absolutely complete and definitive form. There are also provisions regarding obligations at other points in this contract, among other things in § 6. The following legal consequences also apply to them in the event of a breach or non-fulfilment.

- a. The insurers' right of cancellation  
If the policyholder breaches or fails to fulfil an obligation from this policy which the policyholder must fulfil before the occurrence of a claim incident then the insurers can within one month of becoming aware of the breach or non-fulfilment of the obligation cancel the policy without any period of notice of cancellation. The insurers do not have a right of cancellation if the policyholder proves that the breach or non-fulfilment of the obligation was due neither to wilfulness or intent nor to gross negligence.
- b. Extent of the insurance cover/breach or non-fulfilment of obligations  
If an obligation arising from this contract is wilfully or intentionally breached then the policyholder loses his insurance cover. In the case of a grossly negligent breach or non-fulfilment of an obligation the insurers are entitled to reduce their compensation payment by a proportion which corresponds to the severity of the fault or negligence of the policyholder. It is a precondition for the complete or partial discontinuation or removal of the insurance cover in the event of a breach or non-fulfilment of an obligation to provide information or clarification pertaining after the occurrence of a claim incident that the insurers have drawn the attention of the policyholder to this legal consequence by means of a separate communication in writing.

If the policyholder proves that he did not breach the obligation in a grossly negligent manner then the insurance cover remains in force.

The insurance cover remains in force if the policyholder proves that the breach or non-fulfilment of the obligation was the cause neither of the occurrence or the ascertainment



of the claim incident nor of the ascertainment or the extent of the claim-settlement payment incumbent upon the insurers. This does not apply if the policyholder has fraudulently or maliciously breached or failed to fulfil the obligation.

- c. The above provisions apply irrespective of whether the insurers exercise a right to cancellation to which they are entitled according to Letter a.
- d. The insured party does not have to permit any breaches of obligations on the part of the policyholder to also apply to the insured party itself.  
The policyholder or the insured party does not have to have the behaviour of third parties imputed or attributed to him.  
The fault of others shall have no adverse consequence.

## **§ 12 Period of the policy / cancellation**

The period of the insurance policy is specified in concrete terms in the insurance policy itself.

Policies with terms of at least one year shall be extended from year to year unless they are cancelled in writing by one of the parties no later than three months prior to the date of expiry.

## **§ 13 Cancellation in the event of a claim**

1. After the occurrence of a claim incident both parties can cancel the insurance policy in writing. The cancellation takes effect one month after its receipt. It must reach the policyholder no later than one month after the conclusion of the negotiations about the compensation.

If the insurers cancel the policy then they are obliged to reimburse the corresponding proportional portion of the premium for the period of the insurance which has not yet elapsed. The same applies in the event of cancellation by the policyholder.

The policyholder can decide whether his cancellation shall take effect immediately or at another time, but no later than at the end of the ongoing period of insurance.

2. Notwithstanding the provision in Section 1 the insurance existing for an exhibition which has already begun before the coming-into-effect of the cancellation remains in force up to the time at which the works have been brought back to the agreed risk location and have been re-installed at the place intended for them.

## **§ 14 Premium, start and end of liability / discontinuation of the interest**

- 1. Due date of payment of the initial premium, legal consequences of a late payment

- a. The initial or single-payment premium falls due without any delay at the end of two weeks following the receipt of the insurance certificate/policy. If payment of the annual premium in instalments has been agreed upon then the first instalment alone of the first annual premium is deemed to be the initial or take-up premium.
- b. If payment by instalment has been agreed upon, then outstanding instalments shall be deemed to be deferred. However, these shall become due for immediate payment if the policyholder defaults or as soon as any compensation becomes due for payment.
- c. If any insurance tax has to be charged then this must be added.

- 2. Later commencement of insurance cover

If the policyholder does not pay the initial premium or the single-payment premium on time but at a later time then the insurance cover does not commence until that time if the attention of the policyholder has been drawn to this legal consequence by means of a separate communication in writing or by means of a clearly noticeable reference to this in the insurance certificate/policy. This does not apply if the policyholder proves that he is not responsible for the failure to pay.

- 3. Withdrawal

If the policyholder does not pay the initial or single-payment premium on time then the insurers can withdraw from the policy as long as the premium has not been paid. The insurers cannot withdraw if the policyholder proves that he is not responsible for the failure to pay.

- 4. Due date of payment of the subsequent premium, legal consequences of a late payment

- a. Due date for payment

The subsequent premiums fall due for payment at the time agreed upon in each case.

- b. Payment arrears

If a subsequent premium is not paid on time then the policyholder is deemed to be in arrears without a payment reminder having to be issued, unless the policyholder is not responsible for the delayed payment. The insurers are entitled to demand compensation for any loss which has arisen for them as a result of the payment being in arrears.

- c. Request for payment

If a subsequent premium is not paid on time the insurers can in writing and at the expense of the policyholder set the policyholder a time limit for payment which must amount to at least two weeks. This setting of a time limit is effective only if it states figures individually and specifically for the amounts of the premium, interest and costs which are in arrears and

states the legal consequences which are attendant upon the expiry of the time limit as according to the provisions – stated below – under Letters d. and e.

d. No insurance cover

If the policyholder is still in arrears with the payment after the end of this time limit for payment then there is no insurance cover from that time until payment if the attention of the policyholder has been drawn to this with the demand for payment in accordance with Letter c. above.

e. Cancellation

If the policyholder is still in arrears with the payment after the end of this time limit for payment then the insurers can cancel the policy without observance of any period of notice of cancellation if they have drawn the attention of the policyholder to this with the request for payment in accordance with Letter c. above. The insurers can already declare the cancellation with the setting of the time limit. This automatically takes effect as of the end of the time limit if the policyholder is still in arrears with payment at that time. The attention of the policyholder must be expressly drawn to this in the notice of cancellation.

If the insurers have cancelled the policy and if after that the policyholder pays the amount for which a payment reminder has been issued within one month, or – if the cancellation has been made attendant upon the setting of the time limit for payment – within one month after the end of the time limit for payment then the policy continues. There is, however, no insurance cover for claim incidents which have occurred between the receipt of the cancellation/the end of the payment time limit and the payment.

5. If the insurance relationship is cancelled by the insurers on account of the breach of an obligation or on account of an increase in the risk then the insurers are entitled to the premium up to the point in time at which the cancellation comes into legal force.

If the insurance relationship is cancelled on account of non-payment of premium then the insurers are also entitled to the premium up to the time when the declared cancellation takes effect.

6. If the insurers increase the premium without the extent of the insurance cover changing correspondingly then the policyholder can, within one month of the receipt of the notification from the insurers, cancel the insurance relationship with immediate effect, but at the earliest as of the point in time at which the increase comes into effect.

In their communication the insurers must draw the attention of the policyholder to the right to

cancellation. The communication must reach the policyholder no later than one month before the increase in premium comes into effect.

The above paragraph applies correspondingly if the insurers on account of an adjustment clause reduce the extent of the insurance cover without reducing the premium correspondingly.

Any premiums already paid by the policyholder for a later insurance period, but at the longest up to the end of the ongoing insurance period, have to be refunded to the policyholder.

7. If the policyholder is aware at the time of applying for insurance that a claim incident (damage or a loss) has already occurred, then no liability shall be accepted for such damage or loss.
8. If the insurance relationship ceases before the end of the insurance period then for this period the insurers are entitled only to that portion of the premium which corresponds to the length of time during which there has been insurance cover. If the insurance relationship ceases because of withdrawal on account of a breach of the "obligation to disclose by the time of the submission of the policyholder's policy declaration" (see § 10) or as a result of contesting the policy by the insurers on account of fraudulent deception then the insurers are entitled to the premium up to time at which the declaration of withdrawal or the declaration of contestation takes effect. If the insurers withdraw on account of payment default on the initial premium they can demand a reasonable business fee.
9. If the insured interest is discontinued after the start of the insurance then the insurers are entitled to the premium which they could have charged if the insurance had been applied for only up to the time at which the insurers became aware of the discontinuation of the interest.

### **§ 15 Establishment of loss or damage/ascertainment of the extent of loss or damage, expert's-opinion/specialist's-opinion procedure**

1. The insurers are to be informed without delay of a claim incident in order to have, if and as appropriate, the loss or damage ascertained and to take the necessary measures.  
The costs of any average agent or surveyor who may have to be brought in shall be borne by the insurers.
2. The policyholder or the insured parties must check after the completion of the transportation whether there has been any loss or damage if the items of art have been brought to their old or newly available final location.  
The policyholder or the insured parties must prove in the case of a later check that any possible loss or damage occurred during the insured period.

In the case of exhibition tours which are not yet completed this agreement does not apply if such behaviour cannot be reasonably expected of the policyholder and the insured parties, for example in the case of insured arranged or scheduled intermediate storage.

3. Each claim incident which is liable for indemnification shall be indemnified. If in individual cases there should be disputes and disagreements in the settling of claims then the insurers shall in agreement and coordination with the policyholder and/or the insured commission an impartial art specialist to ascertain and determine the loss or damage, unless the claim is paid.

The insurers shall bear the verified costs of the art specialist.

If the insurers, the policyholder or the insured are not in agreement with regard to the art specialist's findings concerning the loss or damage then there shall be an expert's-opinion/specialist's-opinion procedure.

4. After the occurrence of a claim incident the policyholder, the insured party and the insurer can agree upon the amount of the loss or damage being determined by experts/specialists.

The expert's-opinion/specialist's-opinion procedure can, if agreed, be extended to other actual prerequisites of the entitlement to compensation and of the amount of indemnification and to the cause of the loss or damage. The policyholder and/or the insured can also demand an expert's-opinion/specialist's-opinion procedure by means of a unilateral declaration issued to the insurers.

5. The following shall apply to the expert's-opinion / specialist's-opinion procedure:

- a) Each party designates in writing an expert / a specialist and can then require in writing that the other party state the name of the expert/specialist it has in turn designated. If the second expert/specialist is not nominated within two weeks of the receipt of the demand then the party making the demand can have the second expert/specialist appointed by the competent court for the location of the claim. Attention must be drawn in the demand to this method of proceeding.
- b) Both experts/specialists shall designate in writing a third expert/specialist as a third expert before the start of the determination procedure. If they do not reach an agreement then upon the application of one of the parties the third expert is appointed by the competent court for the location of the claim.
- c) The insurers are not allowed to appoint as the expert/specialist any persons who are competitors of the policyholder or the insured or who have permanent business contacts with the policyholder, nor any persons who are employed by competitors or business partners or who have a similar relationship to them. This

applies correspondingly in respect of the nomination of a third expert by the experts/specialists.

6. The findings of the experts must include
  - a) a list of the destroyed, damaged or missing items and their insurable value
  - b) in the case of damaged items the restoration costs and the amount of any possible reduction in value and other expenditure
7. The experts/specialists shall submit their findings to both parties simultaneously. Should these findings differ from each other than the insurers shall submit them immediately to the third expert. The referee shall then decide with respect to the still disputed items within the boundaries drawn up by the findings of the experts/specialists and shall communicate his decision to both parties simultaneously.
8. The insurers bear the costs of the experts. The costs for the third expert shall be divided equally between both parties.
9. The findings of the experts/specialists or of the third expert are binding if it is not proved that they obviously deviate substantially from the facts of the case. The insurers shall calculate the compensation on the basis of these binding findings.
10. The experts/specialists determine the location at which they wish to make their findings. The insurers shall bear the costs of any despatch or conveyance of the insured items of art which may be necessary for this.

## **§ 16 Indemnification / payment of the compensation / subrogation vis à vis third parties**

1. If the insured items are destroyed or if they are lost the insurers shall pay the insurable value if the obligation to provide indemnity has been determined on the merits and in terms of amount.
2. In the case of damage to the insured items the insurers shall provide at their own option either
  - a. compensation in accordance with Section 1 while taking into account any possible remaining value or
  - b. compensation in the amount of the reduction in value or
  - c. the restoration costs plus any possibly remaining reduction in value, but in all cases a maximum of the sum insured plus the costs referred to under § 9.
3. If the obligation on the part of the insurers to provide indemnification has been determined on the merits and in terms of amount then the payment of the compensation must take place within two weeks, although one month after the notification of the claim that amount can be claimed as a payment on account which judging

by the circumstances is the minimum that is to be paid.

4. Interest of 4% per annum has to be paid on the compensation from the time of the notification of the claim. Payment of interest shall not apply if compensation is paid within one month of submission of notification of the claim. Interest payments will become due only when the compensation becomes due for payment.
5. The coming about of the entitlement to payment on account and the start of the application of interest shall be postponed by that period of time by which the determination of the obligation of the insurers to pay compensation on the merits and in terms of amount has been delayed by fault of the policyholder or insured party.
6. The insurer can postpone the payment if
  - a) there is doubt about the policyholder's or the insured party's entitlement to receive payment;
  - b) official or criminal proceedings are in progress against the policyholder or the insured party on account of the claim incident.
7. The sale of damaged articles from the exhibition items prior to the payment of the compensation is not permitted without the consent of the insurer.
8. In the case of damage to pairs or of damage to multi-part items which belong together and to groups of works the insurers shall reimburse
  - a) the restoration costs, or
  - b) the costs of acquiring a comparable item, or
  - c) the reduction in value of the item as a whole if a suitable item as according to b) cannot be obtained, but in total no more than the insurable value of the pairs or multi-part items which belong together and of the groups of works.
9. Should the policyholder or the insured party be entitled to compensation for the loss or damage from a third party then this entitlement passes to the insurers as soon as the latter compensate the policyholder or the insured party for the loss or damage.

If the policyholder or the insured party fails by mistake and negligently to enforce claims against third parties this does not mean that the insurers are relieved of their obligation to provide compensation.
10. No deductible is agreed provided that in the insurance policy, no deductible is specified.

#### **§ 17 Retrieval of lost or missing collector's items**

1. Should the whereabouts of an item which was stolen, lost or mislaid and for which indemnification has been paid by the insurers become known then the policyholder or the insured parties shall upon learning of this inform the insurers of this in writing without delay and after consulting the insurers shall take all steps which are necessary to retrieve the items.
2. If the policyholder or the insured parties breach(es) the obligations arising from Section 1 with wilful intent or in a grossly negligent manner then the provisions and legal consequences listed in § 11 for the breaching of obligations after the claim incident shall apply.
3. If indemnification has been paid to their full value for items which have been retrieved then the policyholder or the insured parties must repay the indemnification or place the items at the disposal of the insurers.

At the request of the insurers the policyholder or the insured parties must decide about this within one month of being called upon to do so.

After the expiry of this period of grace the right to choose devolves upon the insurers.

Where only part of the value of the retrieved items has been indemnified the policyholder or the insured parties can keep them subject to their paying back the partial indemnification.

Should they not declare themselves willing to do so within one month of the request from the insurers then the items shall, after consultation with the insurers, be sold publicly to the highest bidder.

The insurers shall receive that part of the proceeds - less the costs of the sale - which corresponds to the partial indemnification paid by them.

The other provisions of the policy shall apply to any claims for compensation regarding damage to the items.

4. If the policyholder or the insured parties wish to keep retrieved items of art and if the repayment is not carried out within one month of the end of the period of grace for making a declaration (as according to Section 3) then interest of 4% is to be paid from the end of the period of grace on the amount owing to the insurers.

#### **§ 18 Overinsurance, multiple insurance, underinsurance**

1. Should the sum insured considerably exceed the value of the insured items then the policyholder or the insured and the insurers can demand that the sum insured be reduced with immediate effect to remove the overinsurance together with a proportionate reduction in the premium.
2. Whosoever takes out an insurance with more than one insurer for an interest against the same risk

must inform each insurer without delay of the other insurance.

In such a communication the insurer with whom the other insurance has been taken out must be specified and the sum insured must be stated.

There is multiple insurance if an interest against the same hazard is insured in several insurance policies and either the sums insured taken together exceed the insurable value or for other reasons the total of the compensation payments which would be payable by each insurer if the other insurances did not exist exceeds the total of the loss or damage in the claim.

If the multiple insurance came about without the policyholder or the insured knowing this he can demand that that policy be rescinded which was taken out later.

The policyholder can also demand that the sum insured be reduced to the sum which is not covered by the policy taken out earlier; in such a case the premium is to be reduced accordingly.

The right to rescission or reduction lapses if the policyholder or insured does not invoke it within one month of becoming aware of the multiple insurance. The rescission or reduction takes effect from the time at which the declaration with which it is demanded reaches the insurers.

If the policyholder or insured has taken out a multiple insurance with the intention of in this way obtaining an illegal pecuniary benefit for himself then every policy taken out with this intention is null and void. The insurers have an entitlement to the premium up to the time at which they become aware of the circumstances which justify the policies being null and void.

In any case the policyholder or insured is, in the event of a claim incident, not able to claim in total more than the amount of the loss or damage.

3. Underinsurance will not be credited in any case.

### **§ 19 Errors and omissions and oversight clause**

Cases of notifications which by mistake or oversight were not provided, were provided late or were incorrect can be subsequently made up for or corrected and shall be binding on the insurers if the omission or delay is due neither to wilful intent nor to gross negligence, the policyholder or insured can verify that a corresponding insurance should be taken out via this policy and he makes up for or corrects the notification without delay after becoming aware of the error.

It shall not have a detrimental consequence if the policyholder or the insured party in exceptional cases submits a subsequent insurance notification for transportations and halts, stops and stays in connection with which one learns about the necessary insurance

- a. in the case of transportations after the start of the transportation of the exhibits
- b. in the case of halts, stops and stays and exhibitions not until after the start of the exhibitions or halts, stops and stays.

The errors and omissions clause does not apply to cases where the maximum limits/maximum sums insured are exceeded.

There is no obligation on the KUHN & BÜLOW company to check the ongoing insurance notifications for correctness.

### **§ 20 Terrorism / strike and riot, insurrection or civil commotion**

1. Extent of the insurance

The risks of strikes, lockouts and labour unrest irrespective of the number of persons involved, and of riot, insurrection and other civil commotion are deemed to be included in insurance cover.

Any costs which arise from - as a consequence of an insured risk - a journey not being begun, being interrupted or not being continued, from - as a consequence of an insured risk - an intermediate stop having to be added or from - as a consequence of an insured risk - the goods or cargo being unloaded, stored or forwarded using another means of transport, shall be compensated for by the insurers only inasmuch as they are part of general average in accordance with the York Antwerp Rules.

2. The insurance cover extends with transportations within the framework of these conditions irrespective of contributory causes and without a premium surcharge also to loss or damage caused as a consequence of acts of terror and political violence and as a consequence of defence against acts of terror and political violence.

Loss or damage due to terrorism during a stay can also be included in insurance cover after prior agreement and confirmation by the insurance company.

Acts of terror are any activities undertaken by persons or groups of people to achieve political, religious, ethnic, ideological or similar aims or goals which are of such a nature as to spread fear and terror among the population at large or among sections of the population in order in this way to exert pressure or influence on a government or on a state institution.

3. The insurers can cancel this special insurance cover with a period of notice of cancellation of 48 hours. This period of grace starts at midnight of the day on which the policyholder receives the cancellation.

Within four weeks of such a cancellation by the Insurer, the Insured may cancel - for his own part -

in written form the entire insurance policy by giving a notice with a period of one week.

The notice of cancellation given by the leading Insurer also applies to all Co-Insurers.

## **§ 21 Insurance of the war risk in the case of transportation by air to and from foreign countries**

### **1. Extent of the insurance**

Included in insurance cover are loss of or damage to insured goods as a consequence of

- war, civil war or warlike events and of such which arise irrespective of the state of war from the hostile use of instruments of war and from the presence of instruments of war as a consequence of one of these risks;

- confiscation, capture, seizure, deprivation or other acts, or attempts at such, by sovereign act or on high authority as a consequence of the risks stated above.

### **2. Exclusions**

The following remain excluded from the insurance cover:

- a) incidents of war of any kind both with regard to stationary risks and with transportations on land.
- b) the loss of or damage to insured items - and this irrespective of any other contributory causes - incurred as a consequence of a hostile use of and of the presence of nuclear energy or other ionising radiation as instruments of war.
- c) any costs which, as a consequence of an insured risk, arise from a journey not being begun, being interrupted or not being continued, a port being called at or the goods being unloaded, stored or forwarded using another means of transport, unless these costs are part of the insured general average in accordance with the York Antwerp Rules;
- d) loss of or damage to the insured goods as a consequence of the inability to pay and of payment default by the owner, charterer or operator of the aircraft or other financial disputes with the named parties unless
  - the policyholder proves that he exercised the diligence of a prudent businessman in selecting the parties named or the commissioned haulage contractor,
  - the policyholder or the insured party is the buyer or borrower and under the terms of the contract of purchase/the loan contract was unable to have any influence on the choice of the persons involved in the transportation.

### **3. Commencement and end of the insurance in the case of transportation by air**

- a) The insurance against the risks named in Sub-section 1 commences as soon as the goods are on board the aircraft for transportation.
- b) The insurance cover ceases as soon as the goods have left the aircraft at the destination airport, but no later than the end of 15 days after the arrival of the aircraft at the destination airport in the case of goods which have not been unloaded.
- c) If the aircraft leaves the destination airport without having unloaded the goods then the insurance shall recommence at the start of takeoff. The continued journey must be notified without delay to the insurers and a supplementary premium to be agreed upon must be paid.
- d) If the freight contract ends at a location other than the destination airport named in it then this other location shall be deemed to be the destination airport.

If the goods are later forwarded to the destination airport referred to in the freight contract or to another destination airport then the continued journey is also insured if notification is given before it begins and a supplementary premium is paid. Failure to provide such notification when this is not the fault of the policyholder is not detrimental to the insurance cover for the continued journey.

The insurance cover for the continued journey commences as soon as the goods are on board the aircraft which is to continue the transportation. If the goods were not unloaded then the insurance cover for the continued journey commences at the start of the new takeoff.

- e) If the goods are transloaded during an intermediate landing at the airport then the insurance is suspended at the end of 15 days after the aircraft has arrived at the airport for the intermediate landing. The insurance cover does not recommence until the goods are on board the aircraft with which the continued journey is to take place.
- f) Sub-section 3 b) shall apply correspondingly for the end of the insurance cover in the cases referred to under Sub-sections 3 c) and 3 e).
- g) Only in the case of transportations by sea it is deemed that the insurance cover against the risks arising from the hostile use of or the presence of mines or torpedos, both on the surface or submerged, also applies if the goods are on board a boat or vessel which is transporting them to or from the ocean-going vessel. However, in the case of transportation from the ocean-going vessel this cover ceases

at the latest by the end of 60 (sixty) days after the goods have been unloaded from the ocean-going vessel unless a different agreement in this respect has been expressly made with the insurers and a supplementary premium has been paid.

- h) If the goods consist of several part lots or constituent parts then the insurance shall commence and end with regard to each part lot or constituent part in accordance with the above provisions.
- i) The time limits stated in accordance with Sub-sections 3 b), 3 e) and 3 g) begin at midnight following the arrival of the aircraft or ocean-going vessel.
- j) An ocean-going vessel within the meaning of this clause is a ship which during the transportation of the insured goods has to travel part of its journey on open sea.

An ocean-going vessel is deemed to have arrived when it has been moored or has dropped anchor at a quay or other berth in the docks area. If no berth is available then the vessel is deemed to have arrived when it has been moored or drops anchor for the first time within the docks area or outside.

#### **4. Changes to the journey**

The insurers are entitled to a supplementary premium to be agreed upon if the insured risks increase because of a change to the journey.

#### **5. Cancellation**

- a) Insurance against the risks specified in Section 1 may be cancelled in writing by the insurers at any time with a period of notice of cancellation of two days prior to the start of the insured transportation.
- b) Cancellation by the leading insurer simultaneously applies for all the co-insurers involved.

#### **6. Consignment by mail / courier services**

- a) The provisions of this clause shall also apply to consignment by mail and to courier services.
- b) If the transportation by sea or the transportation by air is in the form of a consignment by mail or by a courier service then the insurance shall commence when the goods are handed over to the post office or the courier service and shall cease when they are delivered by the postal services or the courier service to the addressee.

#### **7. Transportation by sea**

The provisions stated above apply correspondingly to (partial) transportations by ocean-going vessel if this has been agreed upon in advance.

### **§ 22 Sanction Clause**

Without prejudice to the other terms and conditions of this policy, the insurance coverage shall only take effect as far as and as long as no economic, commercial or financial sanctions and embargoes respectively imposed by the European Union or by the Federal Republic of Germany and directly applicable to the contract parties are in conflict with the insurance coverage.

This clause shall also apply to economic, commercial or financial sanctions and embargoes respectively imposed by the United States of America with regard to Iran, as far as no European or German legal provisions are in conflict with such sanctions and embargoes respectively.

### **§ 23 Business transactions**

All declarations, reports, notifications and disclosures arising from this policy and premium payments etc. are to be directed to the KUHN & BÜLOW company. As soon as these have been received they are deemed to have been effected with the insurers and with the policyholder in accordance with the policy.

### **§ 24 Adjustments of conditions and written agreements**

- 1. a) If a provision in these terms and conditions of insurance has been declared inoperative or null and void by a decision of the supreme court or by a legally valid administrative decision then the insurers can replace it with a new provision if this is necessary for the continuation of the policy or if adherence to the policy without a new provision would constitute unreasonable hardship for one of the contractual parties even when the interests of the other party are taken into consideration. The new provision is operative only if it takes into account in a reasonable manner the concerns of the policyholder while maintaining the objective of the policy.  
  
b) The new provision as according to Sub-section 1. a) becomes a component part of the policy two weeks after the new provision and the relevant reasons for this have been communicated to the policyholder.
- 2. Should any discrepancies with regard to content arise between printed conditions and clauses and written agreements then the wording of the written agreements always has precedence.
- 3. If the terms and conditions, provisions, clauses and instructions referred to are amended during the period of the insurance in favour of or to the

benefit of the policyholder then they also apply with immediate effect to the ongoing policies.

### **§ 25 Data protection**

1. The data which exist in connection with the insurance policy are stored by the KUHN & BÜLOW company and if and as appropriate passed on to the relevant insurers and reinsurers inasmuch as this is necessary for the customary service and support for the policyholder or for the management in due order of the contractual relationships. The provisions of data protection legislation regarding the transmission and transfer of data remain unaffected.
2. The addresses of the recipients of the data in each case will be furnished to the policyholder on request.

### **§ 26 Concluding provision**

Inasmuch as nothing to the contrary has been stipulated in the terms and conditions of insurance the statutory regulations and provisions of German legislation shall apply.



## § 27

# Terms and conditions of transportation and declaration provisions for exhibition items

### A) Terms and conditions of transportation

#### 1. For all exhibition items

##### 1.1 Suitability of the vehicle

Only such vehicles are to be used which are of the required suitability for taking up, stowing and transporting the goods in question, and proof of this must be furnished by the policyholder if requested by the insurers.

##### 1.2 Transportation by motor vehicle

In the case of commercial transportation by motor vehicle the national regulations which are applicable in each case must be complied with, in particular the Convention on the Contract for the International Carriage of Goods by Road (CMR).

#### 2. Special provision for the despatch of items of art and other high-value items

##### 2.1 Transportation by motor vehicle

Transportation is permitted only in non-open vehicles of a covered construction unless the size of the items for despatch makes transportation in open vehicles necessary. In such a case the vehicles must be covered with appropriately large and carefully secured and lashed waterproof tarpaulin covers.

##### 2.2 Accompanied transportations

2.2.1 The persons entrusted with carrying out and accompanying/escorting the transportations must be above 18 years of age and below 65 years of age and must be in full possession of their physical and mental capacities.

2.2.2 In the case of an insurable value of more than € 500 000.00 the items must be transported with two accompanying persons. These accompanying persons must keep the items under their constant supervision.

2.2.3. In the case of transportation in motor vehicles a further person in addition to the driver must take part in the transportation and at least one of the accompanying persons (the driver or the person

travelling with him) must constantly guard the transportation.

2.2.4 In the case of an insurable value of more than € 500 000.00 Sub-section 2.2.3 applies subject to the proviso that there must be two persons present in addition to the driver and that at least two of the accompanying persons must constantly guard the transportation.

If the motor vehicle is parked in a single fully walled-in garage which is locked with a security lock outside the place of residence of the policyholder then the requirement for guarding in accordance with the two previous paragraphs does not apply if the overall value does not exceed € 125 000.00.

2.2.5 In the case of stays in hotels the insured items must be handed over to the hotel management for safekeeping in a separate locked room and in the case of transportation by air the insured items must always be taken into the passenger cabin.

2.2.6 On journeys the next possible air, train or travel connections must be taken without any unnecessary halts and stops.

### B) Declaration provisions

#### Special provision for the despatch of items of art and other high-value items

##### 1. Transportation by motor vehicle

1.1 The insured items must be precisely specified with regard to their type in the "Contents" column of the consignment note / waybill / bill of freight. In particular the collective designation "Items of art" must be avoided. With all types of transportation the number of the items per consignment brought for despatch must be stated.

##### 2. Transportation by air

2.1 In the case of transportation by air the insured items must be precisely specified as to their type in the airway bill and must be declared with at least US \$ 1 000.00 per kg gross weight.

2.2 In the case of items which are sensitive to temperature and pressure, in particular in the case of paintings, attention must be clearly drawn in the airway bill and on the packing to their susceptibility to damage.

2.3 The declaration of value does not apply

- either if the insurable value is lower than US \$ 1 000.00 per kg gross weight
- or if the insured items are accompanied at all times by commissioned parties on the airport premises up to being loaded into the aircraft and from being unloaded from the aircraft.

If the individual values are exceeded then the insurers shall provide compensation at maximum in the amount up to which the selected method of despatch would have been permissible.

## § 28

### Instructions in the event of a claim incident

**(Failure to comply with these instructions may mean that the insurer is released from its obligation to provide settlement for a claim)**

1. Examine the goods at once to see if there is any loss or damage.  
  
Even if loss or damage is only suspected certify the receipt only with a reservation (e.g. on the freight document) stating the extent of the loss or damage suspected.  
  
If the goods are in containers make sure that the containers and locks or seals are examined by responsible persons of the shipping company or the carrier/haulage contractor. If any containers are damaged or any locks or seals are broken or missing or deviate from what is stated in freight documents confirm the receipt only with reservation, stating the suspected damage or loss, and retain the damaged or incorrect locks and seals.
  2. Secure any claims for compensation against third parties.  
  
Call on the shipping company, the railway service, the postal service, the haulage or trucking company, other carriers, freight forwarders, warehouse keepers, customs, port and dock authorities  
    - to a joint inspection of the loss or damage,
    - demand from them a written acknowledgement and confirmation of the loss or damage,
    - hold them liable in writing  
and  
    - do this before the acceptance of the item(s) in the case of damage or loss which can be recognised from the outward appearance,
    - without any delay after discovery in the case of damage or loss which cannot be recognised from the outward appearance, but at the latest before the end of the time limit for lodging complaints (e.g. shipping company 3 days after unloading).
  3. Make every effort to minimise loss or damage which has already occurred and to avert further loss or damage.
  4. Contact the average agent or surveyor named in the policy or certificate of insurance without delay.  
  
Upon proof of substantial reasons the nearest Lloyd's agent may be called in instead of the average agent or surveyor named
  5. Do not alter the condition of the consignment and its packing before the arrival of the average agent or surveyor unless this is required by measures according to Section 3.
  6. Inform the insurers without any delay of the claim incident.
  7. Provide the insurers with complete documentation with regard to the loss or damage, in particular
    - the claim invoice
    - the insurance certificate/the individual policy
    - certificate of average
    - the consignment note, bill of lading, other transportation or storage documents
    - the commercial invoice
    - documents regarding the determining of numbers, measurements or weights at the point of despatch and at the point of destination
    - certificate or confirmation of the loss or damage / correspondence with regard to claims for compensation against third parties as according to Section 2
    - written declaration of assignment to the insurers by the party entitled under the transportation contract.
- For the prompt and trouble-free settlement of claims submit these claim documents without delay, but at the latest in good time before the expiry of any possible exclusion time limits and/or time-barring time limits for claims for compensation against third parties as according to Section 2.
8. Any claim to compensation lapses at the end of fifteen months following the cessation of the insurance.