

# Extract from the General Terms and Conditions for Accident Insurance (AUB 88 updated 2008)

The present translation was completed on the basis of the relevant German source text, however, the latter alone is legally authoritative.

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## §1 The insured event

- I. The insurer provides insurance cover in respect of accidents, which the insured person suffers during the period of the agreement. The types of compensation payment that may be insured are defined

under § 7; it can be read from the application and the insurance certificate what types of compensation have been contractually agreed.

- II. The insurance cover extends to accidents anywhere in the world.
- III. An accident occurs when the insured person involuntarily suffers personal injury due to the impact of a sudden event (accident) to his/her physical person.
- IV. An accident is also deemed to have occurred when, through heightened exertion on the limbs or spinal column
  1. a joint is dislocated or
  2. muscles, sinews, ligaments or capsules are wrenched or torn.

## §2 Exclusions

Insurance cover does not extend to:

- I.
  1. Accidents caused by psychosis or impaired consciousness, including where these states relate to intoxication, or where caused by strokes, epileptic seizures or other convulsions, that affect the whole body of the insured person. Insurance cover does however exist where these disorders or seizures are caused by an accident covered by this agreement.
  2. Accidents suffered by the insured person in the deliberate performance or causing of a criminal act.
  3. Accidents caused directly or indirectly by war or civil war events. Insurance cover does however exist if the insured person is travelling abroad and is unexpectedly impacted by the war or civil war events. The insurance cover expires fourteen days after the start of a war or civil war within the territory of the State in

which the insured person is located. This expansion of cover does not apply to travel in or through States in which war or civil war is already ongoing. Nor does it apply for the active participation in wars or civil wars, nor for accidents caused by ABC weapons and in connection with war or warlike situation between the States of China, Germany, France, United Kingdom, Japan, Russia or the USA. The insurer will not rely on this exclusion in the event of terrorist attacks carried out outside of the territories of the warring parties.

Accidents caused by civil commotion, if the insured person participated on behalf of the agitators.

4. Accidents suffered by the insured person
  - a) as the pilot in command (including sports pilot), insofar this requires a permit under German law, as well as another member of a crew in an aircraft;
  - b) in relation to a profession performed with the assistance of an aircraft;
  - c) the operation of spacecraft.
5. Accidents suffered by the insured person in which he/she as the driver, co-driver or occupant of a vehicle participates in driving events, including the practice drives associated with these events, in which the object is to drive at high speeds..
6. Accidents that are caused directly or indirectly by nuclear energy.
- II.
  1. Damage to health caused by radiation.
  2. Damage to health caused by medical treatments or surgery performed or undertaken by the insured person himself/herself as well as such treatments or surgery which the insured person has had arranged to be performed or undertaken regarding his/her

own physical person. Insurance cover does however exist, if the surgery or medical treatments, including radiodiagnostic and radiotherapeutic procedures, are necessitated by the occurrence of an accident covered by this agreement.

## 3. Infections

Insurance cover does however exist if the pathogen is admitted to the body by reason of an accident covered by this agreement. The following are not regarded as accident injuries in this respect: skin or mucous membrane injuries which are insignificant in themselves and which allow the pathogen to be immediately or subsequently admitted to the body; this limitation does not apply to rabies and tetanus. With regard to infections caused by medical treatments, No. 2, sentence 2 applies accordingly.

4. Poisoning as the result of taking solid or fluid matter through the pharynx.

## III. 1. Abdominal and lower abdominal hernias

Insurance cover does however exist if these are caused by a forcible external impact covered by this agreement.

2. Injuries to intervertebral discs as well as haemorrhages from internal organs and cerebral haemorrhages.

Insurance cover does however exist if the major cause of the foregoing is an accident within the definition of Paragraph 1 III..

- IV. Health abnormalities as the result of psychic reactions, irrespective of how these are caused.

## §3 Non-insurable persons

- I. Persons who largely require the assistance of others to help them



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cope in their everyday lives are not insurable.

These conditions are fulfilled by persons who are categorised within the statutory nursing care insurance system as being at least of care level II (Section 15 paragraph 1 No. 2 German Social Security Code XI amended 14.06.1996).

- II. The insurance cover lapses as soon as the insured person becomes no longer insurable within definition of I. The insurance agreement lapses at the same time.
- III. There will be a reimbursement of those premiums paid in respect of persons not insurable from the conclusion of the agreement or those premiums paid from the time that they became uninsurable.

## §3a Pre-contractual duties of disclosure of the policy holder or its representative until conclusion of the agreement

- I. 1. Prior to submitting his/her proposal for insurance, the policy holder is to disclose to the insurer all risk-related circumstances known to him/her, the insurer will undertake a written inquiry in this respect and the information given here is of fundamental importance to the insurer in deciding whether or not to conclude the contract under the agreed conditions. The policy holder is also duty bound to disclose information insofar as the insurer asked questions within the definition of sentence 1 following the issue of the proposal/contractual declaration by the policy holder but before the acceptance of the agreement by the insurer. Circumstances are risk-related if they are of such a nature that they have an influence on the decision of the insurer whether to actually conclude a contract with the agreed content and scope.
- 2. If another person is to be insured, alongside the policy holder this person is responsible for submitting an accurate and complete notification of the risk circumstances and for responding to the questions put to them.
- 3. If the agreement is concluded by a representative of the policy holder who is familiar with the risk circumstances, the policy holder shall be treated as if it had knowledge of this or had fraudulently failed to disclose it.
- II. 1. The insurer is entitled to rescind the insurance agreement where incomplete or inaccurate information has been given with regard to the risk-related circumstances. The insurer must exercise its right of rescission with respect to the policy holder within one

month in writing. In doing so the insurer must state the reasons on the basis of which it is making its declaration. The time period starts from that point in time when it becomes aware of the breach of the duty of disclosure upon which it is basing the its right of rescission.

- 2. The insurer is not entitled to rescind the agreement if
  - a) the policy holder can demonstrate that neither it or its representative gave the inaccurate or incomplete information deliberately or as the result of gross negligence;
  - b) the policy holder can demonstrate that the insurer would still have concluded the agreement, even under other terms and conditions, had it known of the non-disclosed information.
- 3. There is no insurance cover following rescission of the agreement. If the insurer rescinds the agreement following the occurrence of an insured event, it may not refuse compensation payment if the policy holder is able to demonstrate that the incomplete or inaccurately disclosed circumstance did not have any causal connection with the occurrence of the insured event or was not relevant for the determination or scope of the compensation payment. However in this case, if the policy holder fraudulently breached his/her duty of disclosure, he/she will not be entitled to insurance cover. The insurer is entitled to that portion of the premium corresponding to the portion of the contractual period that has expired until the declaration of rescission becomes effective.
- III. 1. Where the insurer's right to rescind the agreement is excluded because the breach of the duty of disclosure was not founded on intent or gross negligence, it is entitled to terminate the agreement in writing giving a one month period of notice. In doing so the insurer must state the reasons on the basis of which it is making its declaration. The time period starts from that point in time when the insurer becomes aware of the breach of the duty of disclosure.

- 2. The insurer's right to terminate the agreement is excluded where the policy holder is able to demonstrate that the insurer would still have concluded the agreement, even under other terms and conditions, had it known of the non-disclosed information.

- IV. If the insurer is not entitled to rescind or terminate the agreement on the grounds that it would still have concluded the agreement, but in return for other terms and conditions, had it known of the non-disc-

losed circumstances, then it may demand that these other terms and conditions are made a retrospectively effective part of the agreement. If the policy holder is not responsible for the breach of the duty of disclosure, these other terms and conditions only become part an integral part of the agreement as of the current insurance period. If the modification of the agreement entails an increase in the premium by more than 10% or the insurer declines to provide insurance cover in respect of the non-disclosed circumstances, the policy holder is entitled to terminate the agreement in writing and without notice within one month of receiving the notification from the insurer.

- V. 1. The insurer must within one month assert in writing the rights established pursuant to II to IV. The period begins to run from the time that the insurer learns of the breach of the duty of disclosure that entitles it to modify the agreement. In doing so it must state the reasons on the basis of which it is making its declaration. Within the one month period the insurer may also subsequently specify other circumstances on which it is basing the declaration.
- 2. The insurer is only entitled to the rights granted under II to IV if it has instructed the policy holder in a special written communication, i. e. letter, e-mail or similar of the consequences of any breach of the duty of disclosure.
- 3. The insurer may not avail of the rights granted under paragraphs II to IV if it was aware of the non-disclosed risk-related circumstance or the inaccuracy of the disclosure.
- VI. The insurer remains entitled to seek rescission of the agreement on the grounds of fraudulent misrepresentation. Where the agreement is rescinded the insurer remains entitled to that part of the insurance premium due for the contractual period that expires until the declaration of rescission becomes effective.
- VII. The insurer's rights pursuant to II to IV expire five years after the agreement is concluded. This period is extended to ten years where the policy holder or its representative breaches its duties deliberately or by reason of gross negligence.

## §4 Inception and end of the insurance cover / Contractual rights to influence (alter/ terminate) the insurance agreement by unilateral declaration

- I. The insurance cover starts with the point in time specified in the insurance certificate, provided the policy holder has paid the first

or the one-off premium immediately upon it having become due as defined under Paragraph 5 I.

- II. The agreement may be terminated in writing by either contractual party.
  - 1. to the end of the agreed period. The notice to cancel must be received at least three months prior to expiry; otherwise the agreement will be extended in each case by a period of one year;
  - 2. to the end of the third year or any year following it, where the agreement has been concluded for a period of more than three years. The notice to cancel must be received by the other contractual party at least three months prior to the expiry of the third year or the respective year that follows it;
  - 3. if the insurer has paid compensation pursuant to Paragraph 7 or if a legal action has been raised against it for such a payment to be made, the notice to cancel must be received in writing at least one month following payment or – in the case of a legal dispute – following withdrawal of action, acknowledgement, settlement or issue of a legally enforceable judgement.Where the policy holder terminates the agreement, the termination is immediately effective once received by the insurer. The policy holder may however determine that the cancellation become effective at a later point in time, but no later than by the end of the current insurance year. A notice to cancel issued by the insurer becomes effective one month after receipt by the policy holder.
- III. If it is concluded for a period less than one year, the agreement expires at the point in time specified in the insurance certificate without the requirement of any notice to cancel.

## Important notice

The complete General Terms and Conditions for Accident Insurance (AUB 88 updated 2008) can be viewed at:  
[www.schomacker.de](http://www.schomacker.de).  
We can, of course, send you a copy if you wish.