



# Annual Marine Cargo

## Marine Insurance Policy

Incorporating Institute Clauses

# CONTENTS

ABOUT THIS INSURANCE.....	6
About Zurich .....	6
About Proteus Marine Insurance .....	6
Contact Details.....	6
Authority to act on our behalf .....	6
Duty of Disclosure .....	7
Our contract with you .....	8
Privacy .....	8
General Insurance Code of Practice .....	9
Complaints and Disputes Resolution process.....	9
ANNUAL MARINE CARGO INSURANCE POLICY WORDING.....	10
1. The cover .....	10
2. Conditions of cover .....	10
2.1 Conditions of insurance.....	10
2.2 Your insured transits .....	10
2.3 When your insured transits start and finish.....	11
2.4 Basis of cover.....	11
2.5 Employees' property .....	12
2.6 Basis of valuation.....	12
2.7 Limits on cover.....	13
3. Definitions .....	13
3.1 Communicable disease.....	13
3.2 Conveyance .....	13
3.3 Excess.....	13
3.4 Flood.....	13
3.5 Incidental charges .....	13
3.6 Insured, You, Your, Assured.....	13
3.7 Insured event.....	14
3.8 Interest insured.....	14
3.9 Packaging .....	14
3.10 Period of insurance.....	14
3.11 Premium.....	14
3.12 Schedule .....	14
3.13 Shipping containers.....	14
3.14 Subject matter insured.....	14

3.15 Terrorism.....	14
3.16 Total loss .....	14
3.17 We, our, us.....	14
4. Additional clauses .....	15
4.1 Accumulation .....	15
4.2 Acquired companies .....	15
4.3 Additional expenses – fashion and clothing goods .....	15
4.4 Additional expenses – printed goods .....	16
4.5 Brands / labels .....	16
4.6 Buyer’s interest protection and difference in conditions .....	16
4.7 Cargo ISM forwarding charges .....	17
4.8 Cargo ISPS Forwarding Charges Clause.....	17
4.9 Civil authority .....	17
4.10 Delayed unpacking .....	17
4.11 Duty clause (Imports only) .....	18
4.12 Errors and omissions .....	18
4.13 Exhibition / demonstration .....	18
4.14 Expediting expenses .....	18
4.15 FOB/CFR/C&F exports .....	19
4.16 FOB pre-shipment damage (import shipments only) .....	19
4.17 Fumigation expenses .....	19
4.18 General Average and Salvage .....	19
4.19 Insolvency of carrier .....	19
4.20 Intermediate Storage .....	19
4.21 ISPS Endorsement – JC 2004/050 04/11/04 .....	20
4.22 Livestock – agistment expenses .....	20
4.23 Livestock – mustering costs .....	20
4.24 Livestock – wandering off.....	20
4.25 Minimising losses .....	20
4.26 On Deck shipments .....	20
4.27 Other Interested Parties .....	20
4.28 Over-carried cargo.....	20
4.29 Packaging and shipping containers .....	21
4.30 Packers’ premises .....	21
4.31 Pollution .....	21
4.32 Re-consigned or re-shipped .....	21
4.33 Refused cargo .....	21

4.34	Removal of Debris, Disposal and Authorities' Costs Clause .....	21
4.35	Re-securing of cargo .....	22
4.36	Returned Goods .....	22
4.37	Sealed containers .....	22
4.38	Sellers' interest contingency .....	22
4.39	Shut out .....	23
4.40	Sorting charges .....	23
4.41	Strikes diversion expenses (imports only) .....	23
4.42	Tools of trade/travellers' sample .....	24
4.43	Transfer/on-forwarding .....	24
4.44	Voyage clause .....	24
5.	Optional Extension - Storage .....	24
5.1	Insured events.....	24
5.2	Specified events .....	24
5.3	Additional exclusions.....	25
6.	Exclusions .....	25
6.1	Antiques, paintings and pictures .....	25
6.2	Consequential loss/delay .....	26
6.3	Communicable disease .....	26
6.4	Cyber risk .....	26
6.5	Depreciation .....	26
6.6	Electrical, mechanical and electronic failure .....	26
6.7	Demonstration, use or testing, return from exhibition .....	26
6.8	Inland transits .....	26
6.9	Information technology hazards .....	27
6.10	Institute Radioactive Contamination, Chemical, Biological, Bio-chemical and Electromagnetic Weapons Exclusion Clauses .....	27
6.11	Institute Radioactive Contamination, Chemical, Biological, Bio-chemical and Electromagnetic Weapons Exclusion Clauses - USA/Canada endorsement .....	28
6.12	ISM .....	28
6.13	Pre-existing damage .....	28
6.14	Rust/oxidisation discolouration .....	28
6.15	Termination of transit (terrorism) 2009 .....	28
6.16	Terrorism.....	29
7.	Claims conditions .....	29
7.1	Apportionment of recoveries .....	29
7.2	Claims clause .....	29
7.3	Claims procedure .....	29
7.4	Claims settlement .....	30
7.5	Fraud .....	30
7.6	General average .....	30

7.7	Excess.....	30
7.8	Other insurance .....	31
7.9	Own repairs .....	31
7.10	Rights of subrogation .....	31
7.11	Survey fees .....	31
8.	General conditions .....	31
8.1	Annual declarations and premium calculation .....	31
8.2	Applicable legislation .....	31
8.3	Assignment of interest .....	32
8.4	Proper law and jurisdiction .....	32
8.5	Cancelling your policy .....	32
8.5	Contractors .....	33
8.6	Cancellation - war and strikes .....	33
8.7	Certificates of insurance .....	33
8.8	Changing this policy .....	33
8.9	Notices .....	33
8.10	Plurals and titles .....	33
8.11	Reasonable care .....	33
8.12	Trade and economic sanctions regulation .....	33
8.13	Third partiesn .....	34
8.14	Variation of war and strikes rates .....	34

# ABOUT THIS INSURANCE

## ABOUT ZURICH

The insurer of this product is Zurich Australian Insurance Limited (ZAIL), ABN 13 000 296 640, AFS Licence Number 232507. In this document, ZAIL may also be expressed as '*Zurich*', '*we*', '*us*' or '*our*'.

ZAIL is part of the Zurich Insurance Group, a leading multi-line insurer that serves its customers in global and local markets. Zurich provides a wide range of general insurance and life insurance products and services in more than 210 countries and territories. Zurich's customers include individuals, small businesses, mid-sized and large companies, including multinational corporations.

## ABOUT PROTEUS MARINE INSURANCE

Proteus Marine Insurance is a business name of NM Insurance Pty Ltd ABN 34 100 633 038 AFS Licence Number 227 186 ('NM Insurance').

NM Insurance is a company within the Steadfast Underwriting Agencies division of Steadfast Group Limited ABN 98 073 659 677 ('SGL').

## CONTACT DETAILS

**The contact details for Proteus Marine Insurance are:**

Level 7, 99 Walker Street, North Sydney, NSW, 2060

Email: [customerservice@proteusinsurance.com.au](mailto:customerservice@proteusinsurance.com.au)

Phone: 1300 767 231

### **To make a claim**

If an *event* happens which may give rise to a claim, please refer to 7.3 'Claims Procedure' on page 29. If you'd like to make a claim or to enquire about an existing claim please contact:

**Proteus by sending an email to:**

[Claims@proteusinsurance.com.au](mailto:Claims@proteusinsurance.com.au)

### **Phone**

1300 767 251

## AUTHORITY TO ACT ON OUR BEHALF

Zurich have given Proteus Marine Insurance a binding authority to administer and arrange insurance policies, alterations and renewals and manage claims. Under the terms of this binding authority Proteus Marine Insurance acts as *our* agent, and not *yours*, but liability within the terms and conditions of this policy remain at all times with *us*. If *you* have any queries in relation to this policy, please contact Proteus Marine Insurance.

# DUTY OF DISCLOSURE

This contract of insurance will be governed by either the Insurance Contracts Act 1984 (Cth) or the Marine Insurance Act 1909 (Cth).

## DUTY OF DISCLOSURE UNDER THE INSURANCE CONTRACTS ACT 1984

Before *you* enter into an insurance contract, you have a duty to tell *us* anything that *you* know, or could reasonably be expected to know, may affect *our* decision to insure *you* and on what terms.

*You* have this duty until *we* agree to insure *you*.

*You* have the same duty before *you* renew, extend, vary or reinstate an insurance contract. *You* do not need to tell *us* anything that:

- reduces the risk *we* insure *you* for; or
- is common knowledge; or
- *we* know or should know as an insurer; or
- *we* waive *your* duty to tell *us* about.

## IF YOU DO NOT TELL US SOMETHING

If *you* do not tell *us* anything *you* are required to, *we* may cancel *your* contract or reduce the amount *we* will pay *you* if *you* make a claim, or both.

If *your* failure to tell *us* is fraudulent, *we* may refuse to pay a claim and treat the contract as if it never existed.

## DUTY OF DISCLOSURE UNDER THE MARINE INSURANCE ACT 1909

*Your* attention is drawn to Sections 23 to 27 of the Marine Insurance Act 1909 (Cth) and, in particular, that any contract of marine insurance is based on utmost good faith and in the absence of such good faith, may be avoided. Further, the *insured* has an obligation to disclose to *us* every material circumstance which is known to the *insured* and/or which in the ordinary course of business ought to be known by the *insured*. Every circumstance is material if it would influence the judgement of a prudent insurer in fixing the *premium* or determining whether he will take the risk. If there is a failure to make such disclosure, *we* may avoid the contract.

## NON-DISCLOSURE OR MISREPRESENTATION

If the *insured* makes a misrepresentation to *us*, or if they do not comply with this duty of disclosure and *we* issue this policy with terms and conditions that are different to the terms and conditions that would have been issued had there not been any misrepresentation, or the *insured's* duty of disclosure had been complied with, then:

- *we* may reduce the cover provided so that *we* are placed in the same position as *we* would have been in, had there not been any misrepresentation and the *insured's* duty of disclosure had been complied with; and
- *we* may also cancel this policy; or
- *we* may treat this policy as if it never existed if the misrepresentation or the non-compliance with the *insured's* duty of disclosure was fraudulent.

# OUR CONTRACT WITH YOU

This policy is a contract of insurance between the *insured* and Zurich and contains all the details of the cover that *we* provide. This policy is made up of:

- the policy wording. It states what is covered, sets out the claims procedure, exclusions and other terms and conditions of cover;
- the proposal, which is the information *you* provide to *us* when applying for insurance cover;
- the most current policy *schedule* issued by *us*. The *schedule* is a separate document unique to the *insured*. It includes any changes, exclusions, terms and conditions made to suit the individual circumstances and may amend the policy; and
- any other written change otherwise advised by *us* in writing (such as an endorsement). These written changes vary or modify the above documents.

Please note, only covers shown in the *schedule* are insured. This document is used for any offer of renewal *we* may make, unless *we* tell *you* otherwise. Please keep *your* policy in a safe place. *We* reserve the right to change the terms of this product where permitted to do so by law.

## PRIVACY

Zurich is bound by the Privacy Act 1988 (Cth). *We* collect, disclose and handle information, and in some cases personal or sensitive (eg health) information, about *you* ('*your* details') to assess applications, administer policies, contact *you*, enhance *our* products and services and manage claims ('Purposes'). If *you* do not provide *your* information, *we* may not be able to do those things. By providing *us*, *our* representatives or *your* intermediary with information, you consent to *us* using, disclosing to third parties and collecting from third parties *your* details for the Purposes.

*We* may disclose *your* details, including *your* sensitive information, to relevant third parties including *your* intermediary, affiliates of Zurich Insurance Group Ltd, other insurers and reinsurers, *our* banking gateway providers and credit card transactions processors, *our* service providers, *our* business partners, health practitioners, *your* employer, parties affected by claims, government bodies, regulators, law enforcement bodies and as required by law, within Australia and overseas.

*We* may obtain *your* details from relevant third parties, including those listed above. Before giving *us* information about another person, please give them a copy of this document. Laws authorising or requiring *us* to collect information include the Insurance Contracts Act 1984 (Cth), Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth), Corporations Act 2001 (Cth), Autonomous Sanctions Act 2011 (Cth), A New Tax System (Goods and Services Tax) Act 1999 (Cth) and other financial services, crime prevention, trade sanctions and tax laws.

Zurich's Privacy Policy, available at [www.zurich.com.au](http://www.zurich.com.au) or by telephoning us on 132 687, provides further information and lists service providers, business partners and countries in which recipients of *your* details are likely to be located. It also sets out how *we* handle complaints and how *you* can access or correct *your* details or make a complaint.



# GENERAL INSURANCE CODE OF PRACTICE

*Zurich* is a signatory to the General Insurance Code of Practice (the Code) and Proteus Marine Insurance supports the Code.

The objectives of the Code are:

- to commit *us* to high standards of service;
- to promote better, more informed relations between *us* and *you*;
- to maintain and promote trust and confidence in the general insurance industry;
- to provide fair and effective mechanisms for the resolution of complaints and disputes you make about *us*; and
- to promote continuous improvement of the general insurance industry through education and training.

The Code Governance Committee is an independent body that monitors and enforces insurers compliance with the Code.

Further information about the Code or the Code Governance Committee and *your* rights under it is available at <https://insurancecouncil.com.au/cop/> or by contacting *us*.

## COMPLAINTS AND DISPUTES RESOLUTION PROCESS

If *you* have a complaint about an insurance product *we* have issued or the service *you* have received from *us*, please contact *your* intermediary to initiate *your* complaint with *us*. If *you* are unable to contact *your* intermediary, *you* can contact *us* directly on 1300 767 251. *We* will acknowledge receipt of *your* complaint within 24 hours or as soon as practicable.

If *you* are not satisfied with *our* initial response, *you* may access *our* internal dispute resolution process. Please refer to the Feedback & Complaints section on the Proteus Marine Insurance website for details of *our* internal dispute resolution process.

*We* expect that *our* internal dispute resolution process will deal fairly and promptly with *your* complaint, however, *you* may take *your* complaint to the Australian Financial Complaints Authority (AFCA) at any time.

AFCA is an independent external dispute resolution scheme. *We* are a member of this scheme and *we* agree to be bound by its determinations about a dispute. AFCA provides fair and independent financial services complaint resolution that is free to *you*.

**Their contact details are:**

**Website:** [www.afca.org.au](http://www.afca.org.au)

**Email:** [info@afca.org.au](mailto:info@afca.org.au)

**Freecall:** 1800 931 678

**In writing to:** The Australian Financial Complaints Authority, GPO Box 3, Melbourne, Victoria 3001.

If *your* complaint or dispute falls outside the AFCA Rules, *you* can seek independent legal advice or access any other external dispute resolution options that may be available to *you*.

# ANNUAL MARINE CARGO INSURANCE POLICY WORDING

Subject to the prior payment of, or *your* agreement to pay, the premium set out in *the schedule*, we agree to provide insurance as set out in this policy.

In issuing this policy, we have relied on the information contained in the proposal form and/or any other information given by *you* or on *your* behalf.

## 1. THE COVER

We insure *you* for loss of or damage to the *subject matter insured*, liability or expense as set out in the conditions on *your schedule*.

### When the cover applies

The insurance only applies to voyages that commence during the *period of insurance* specified in *your schedule*, or during any subsequent period that we have accepted payment for.

## 2. CONDITIONS OF COVER

### 2.1 CONDITIONS OF INSURANCE

The conditions of insurance are as specified in this policy wording, *your schedule* and attachments and any clauses referred to in *your schedule*, all of which are to be read together.

Any reference in the conditions of insurance to Institute Clauses is to the clauses published by the International Underwriting Association of London current at the effective date of this policy.

Any reference to 'English law and practice' is amended to 'Australian law and practice' wherever it appears.

### 2.2 YOUR INSURED TRANSITS

The *interest insured* is only insured for:

2.2.1 imports;

2.2.2 exports;

2.2.3 cross voyages; and

2.2.4 inland transits

as indicated in *your schedule*.

If we have agreed to any extension to these insured transits it will be shown in *your schedule*.

Any limitations that apply to *your* insured transits will be shown in *your schedule*.

*You* are insured for loss or damage to the *interest insured* while in transit even though, the *period of insurance* has ended provided *your* insurable risk attached on that cargo during the *period of insurance*.

## 2.3 WHEN YOUR INSURED TRANSITS START AND FINISH

### 2.3.1 Imports and exports

Unless otherwise noted in *your schedule*, the duration clause of the applicable Institute Clauses (e.g. Institute Cargo Clauses (A), the Institute Strikes Clauses and the Institute Cargo Clauses (Air)) referred to in *your schedule* are extended so that the insured transit commences in respect of each item of goods when the item is first moved for the specific purpose of loading on to the conveying vehicle for transit to a destination outside the premises, continues during the ordinary course of transit and terminates:

- (a) when each item of goods, is placed inside the intended destination/ receivers premises;
- (b) on being placed inside any other warehouse or place of storage, whether prior to or at the destination named herein, which either *you* or the receivers elect to use either for storage other than in the ordinary course of transit or for allocation or distribution;
- (c) on being placed inside such other place as the receiver may instruct;
- (d) seventy-two hours after unloading from the final conveying vehicle; or
- (e) for shipments of temperature controlled or perishable products by sea upon the expiry of five days after discharge overside of the goods from the vessel at the final port of discharge.

### 2.3.2 Inland transits (excluding Livestock and Motor Vehicles)

Cover commences when the *interest insured* is first moved for the purpose of being conveyed to a destination outside the premises at which loading takes place. Cover terminates when the *interest insured* is last moved in being delivered at the destination but not exceeding 72 hours after unloading from the conveying vehicle, whichever first occurs or at any earlier point where *you* have interrupted the ordinary course of transit.

### 2.3.3 Transits of Livestock

Cover commences when the livestock proceed on to the loading ramp of the conveying vehicle from the ground or loading dock adjacent to the conveying vehicle. Cover terminates when the livestock exit the loading ramp adjacent to the conveying vehicle at the receiver's or other designated warehouse or premises or at any earlier point where *you* have interrupted the ordinary course of transit.

### 2.3.4 Transits of Motor Vehicles

Where a tilt tray vehicle is used to convey motor vehicles:

- (a) loading cover commences when the motor vehicle's wheels/ tracks are driven onto the loading ramps of the *conveyance* from the ground or loading dock adjacent to the *conveyance* and terminates when the motor vehicle has been positioned on the *conveyance*; and
- (b) unloading cover commences when the motor vehicle starts to drive off the loading ramps and terminates when the vehicle is parked on the loading dock adjacent to the *conveyance*.

## 2.4 BASIS OF COVER

The conditions of insurance are as specified in this policy wording, *your schedule* and attachments and any Institute Clauses referred to in *your schedule*, all of which are to be read together.

## 2.5 EMPLOYEES' PROPERTY

The following additional clauses apply to transits of employees' property for which *you* are responsible to insure as employer. This insurance does not provide cover where *you* make a charge for, or provide advice in respect of, insurance cover in contravention of the Financial Services Reform Act or related legislation.

### 2.5.1 Average

If the total value of the property covered by this policy at the time of any loss is greater than the insured value, we will only pay a proportion of the loss calculated by comparing the insured value to the total value.

### 2.5.2 Depreciation in value

If there is a claim for damaged property that can be repaired, we will not pay:

- (a) more than the reasonable cost of repair;
- (b) for any depreciation in value as a consequence of the repair; or
- (c) more than the insured value of the damaged property.

### 2.5.3 Additional exclusions

We will not be liable for loss or damage or expense:

- (a) caused by delay, confiscation or detention by Customs or other officials or authorities;
- (b) arising from wear and tear, moths or vermin;
- (c) for accompanied baggage or articles being worn or used by *you* or any other person during the insured transit; or
- (d) for bank notes, coins, shares, bonds, deeds, stamps, securities and the like, traveller's cheques and tickets, jewellery, watches, personal trinkets, pens and alcoholic beverages.

## 2.6 BASIS OF VALUATION

**2.6.1** For shipments involving imports, exports or cross voyages the *subject matter insured* is agreed to be valued as stated in *your schedule*.

**2.6.2** For transits commencing and terminating within the same country, unless stated otherwise in *your schedule* the *subject matter insured* is agreed to be valued in accordance with the following table:

Cover	Basis of valuation
Sales	Sales invoice value including freight costs+ 10%
Purchases	Purchase invoice value including freight costs+ 10%
Transfers of stock between and within the <i>Insured's</i> operations	Cost price including freight costs
Returned goods	Market value plus freight costs
Second-hand goods	Market value plus <i>incidental charges</i>
Goods on exhibition, tools of trade and travellers' samples	Market value plus <i>incidental charges</i>
Plant, Machinery and Equipment	Invoice value plus <i>incidental charges</i> incurred
FOB and CFR export sales	Sales invoice value plus <i>incidental charges</i>
Employee's property	Full replacement value regardless of age.

## 2.7 LIMITS ON COVER

Further to any limitations to the cover set out in the applicable conditions of insurance, this insurance is limited to the limit of liability stated in *your schedule*.

# 3. DEFINITIONS

When used in this policy, *schedule* or endorsements the following definitions will apply:

## 3.1 COMMUNICABLE DISEASE

*communicable disease* means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:

- 3.1.1 the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
- 3.1.2 the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
- 3.1.3 the disease, substance or agent can cause or threaten bodily injury, illness, damage to human health, human welfare or property.

## 3.2 CONVEYANCE

*conveyance* means any road, rail, ship, vessel, aircraft or postal service transport used to transport the insured goods.

## 3.3 EXCESS

*excess* means the amount *you* must pay towards a claim, as specified in *your schedule*.

## 3.4 FLOOD

*flood* means the covering of normally dry land by water that has escaped or been released from the normal confines of any of the following:

- 3.4.1 a lake (whether or not it has been altered or modified);
- 3.4.2 a river (whether or not it has been altered or modified);
- 3.4.3 a creek (whether or not it has been altered or modified);
- 3.4.4 another natural watercourse (whether or not it has been altered or modified);
- 3.4.5 a reservoir;
- 3.4.6 a canal; or
- 3.4.7 a dam.

## 3.5 INCIDENTAL CHARGES

*incidental charges* mean freight and insurance costs plus import duty and taxes.

## 3.6 INSURED, YOU, YOUR, ASSURED

*insured, you, your, Assured* means the insured as named in *your schedule* or as otherwise defined in this policy.

### 3.7 INSURED EVENT

*insured event* means any occurrence or event which arises during transportation or agreed storage locations and results in loss or damage to the insured goods which is unintended.

### 3.8 INTEREST INSURED

*interest insured* means the cargo or goods that are specified as the interest insured in *your schedule*. Where applicable, this has the same meaning as 'Subject matter insured' as referred to in the 'Institute Clauses'.

### 3.9 PACKAGING

*packaging* means packing materials, crates, pallets, or similar items belonging to *you* or for which *you* are responsible.

### 3.10 PERIOD OF INSURANCE

*period of insurance* means the period of insurance stated in *your schedule*.

### 3.11 PREMIUM

*premium* means the amount *you* pay for the insurance provided by this policy, including any taxes and other government charges.

### 3.12 SCHEDULE

*schedule* means *your schedule* attaching to and forming part of this policy, including any *schedule* substituted for the original *schedule*.

### 3.13 SHIPPING CONTAINERS

*shipping containers* means *shipping containers* owned by *you* or for which *you* are legally liable under a container hand-over or similar contractual agreement.

### 3.14 SUBJECT MATTER INSURED

*subject matter insured* means the insured goods including *packaging* and labels.

### 3.15 TERRORISM

*terrorism* means any act(s) of any person(s) or organisation(s) involving:

**3.15.1** the causing, occasioning or threatening of harm of whatever nature and by whatever means; or

**3.15.2** putting the public or any section of the public in fear;

in circumstances in which it is reasonable to conclude that the purpose(s) of the person(s) or organisation(s) concerned are wholly or partly of a political, religious, ideological or similar nature.

### 3.16 TOTAL LOSS

*total loss* means the *interest insured* is an actual *total loss* when it is totally destroyed or damaged in such a way that it can be neither recovered nor repaired for further use. If the goods are damaged beyond an amount which we consider economical to repair, then we consider it be a constructive *total loss*.

### 3.17 WE, OUR, US

*we, our, us* means *NM Insurance Pty Ltd* ABN is 98 612 132 126 *trading as* Proteus Marine Insurance and acting as agent of Zurich Australian Insurance Limited.

## 4. ADDITIONAL CLAUSES

### 4.1 ACCUMULATION

The limit of liability stated in *your schedule* will not apply in the event of, or during, forced transshipment or after arrival of the overseas vessel at the port or place of discharge provided that any accumulation of the *subject matter insured* during the ordinary course of transit beyond the limit of liability has not arisen from circumstances within *your* control.

If accumulation of the *subject matter insured* beyond the limit of liability occurs at any other time because of interruption of the transit and/or circumstances beyond *your* control, *we* will, provided *you* give notice to *us* as soon as *you* are aware of the situation, grant cover up to but not more than:

4.1.1 double the limit of liability any one *conveyance* as stated in *your schedule*; or

4.1.2 AUD \$10,000,000,

whichever is the lesser.

This clause will not apply for coverage provided under the optional extension for storage, where the limit of liability is limited to the amounts specified for the locations listed in *your schedule*.

### 4.2 ACQUIRED COMPANIES

This insurance will cover any company or entity formed or acquired by *you* during the *period of insurance*. However, *you* must hold a controlling interest in the company or entity or must accept responsibility for its insurance. In addition, *you* must:

4.2.1 inform *us* of the formation or acquisition within 90 days;

4.2.2 provide *us* with the same information in relation to the company or entity that *you* provided to *us* when applying for or renewing this policy;

4.2.3 agree to any additional conditions relating to the insurance in respect of the company or entity; and

4.2.4 pay any additional *premium* *we* may charge.

### 4.3 ADDITIONAL EXPENSES – FASHION AND CLOTHING GOODS

This policy is extended to cover reasonable additional expenses incurred by *you* resulting from an *insured event* to expedite the remake and delivery of the fashion and clothing goods to the originally intended destination.

However, this policy does not cover expenses:

4.3.1 where there is no reasonable expectation of remake and delivery occurring prior to any pre-established or recorded launch, opening, application or festivity date; or

4.3.2 for re-styling, enhancement or upgrade to original specifications.

Subject to a limit of \$50,000 any one event unless otherwise specified in *your schedule* provided these costs are not recoverable under any other policy of insurance.

An additional excess of 5% of the claim amount will apply to the settlement for each and every loss.

## Definitions

“Fashion and clothing goods” – includes clothing and apparel designed to be worn on a person’s body, hats and head wear, accessories but does not include handbags and footwear.

“Additional Expenses” – the reasonable additional costs incurred to expedite the remake of the original fashion or clothing goods and deliver them to the originally intended destination. In calculating reasonable additional costs, we will take into account amounts which might exceed the declared value of the original production run due to replacement fashion or clothing goods incurring minimum production run costs and/or the need to expedite the remake due to a pre-established or recorded launch, opening, application or festivity date.

## 4.4 ADDITIONAL EXPENSES – PRINTED GOODS

This policy is extended to cover reasonable additional expenses incurred by *you* resulting from an *insured event* to expedite the reprinting and delivery of printed goods to the originally intended destination.

However, this policy does not cover expenses:

- 4.4.1 where there is no reasonable expectation of reprinting and delivery occurring prior to any pre-established or recorded launch, application or festivity date; or
- 4.4.2 for reshooting or retaking images, or re-drafting, re-styling or upgrading artwork or any original data or material.

Subject to a limit of \$50,000 any one event unless otherwise specified in *your schedule* and provided these costs are not recoverable under any other policy of insurance

An additional excess of 5% of the claim amount will apply to the settlement for each and every loss.

### Definitions:

“Printed goods” – includes brochures, advertising fliers, magazines, catalogues, newsletters or similar interests.

“Additional Expenses” – the reasonable additional costs incurred to re-set, re-type or reprint the original printed goods and deliver to the originally intended destination. In calculating reasonable additional cost, we will take into account amounts which might exceed the original declared value of the original production run due to replacement printed goods incurring minimum production run costs and/or the need to expedite the reprint due to a pre-established or recorded launch, application or festivity date.

## 4.5 BRANDS / LABELS

In the event of loss or damage involving cargo bearing embossed or indented brands or labels or other permanent markings identifying *you* as the manufacturer or supplier, or exclusive and/or secret formula that may be involved, the cargo may be retained by *you* to dispose of as *you* see fit.

Where only the labels or trademarked cartons of the cargo are affected by the *insured event*, the amount payable by *us* is limited to the reasonable cost of reconditioning and relabelling or the cost of new trademarked cartons, subject to *our* liability not exceeding the insured value of the cargo.

## 4.6 BUYER’S INTEREST PROTECTION AND DIFFERENCE IN CONDITIONS

When the *subject matter insured* is purchased on CIF or similar terms this policy will insure the difference in the policy conditions of the insurance arranged by the seller or their agents and the insurance provided by this policy provided such difference has arisen from fault or neglect of the seller or their agents complying with *your* instructions. Consignments coming within the terms of this extension will be valued and declared in accordance with the policy conditions.



Claims recoverable under this clause are subject to the following provisions:

- 4.6.1 *you* should protect and pursue all legally enforceable means to recover the full amount of the loss or damage from the seller in accordance with the terms of purchase before claiming on this policy;
- 4.6.2 *you* should give to *us* all rights and remedies in respect of any recourse *you* may have for such loss or damage; and
- 4.6.3 *you* should cooperate in all aspect of the recovery.

The existence of this clause should not be disclosed to the seller or any other interested party.

## 4.7 CARGO ISM FORWARDING CHARGES

This insurance is extended to reimburse *you* up to the limit of the sum insured for the voyage, for any extra charges properly and reasonably incurred in unloading, sorting and forwarding the *subject matter insured* to the destination to which it is insured following release from a vessel arrested, or detained at, or diverted to any other port or place (other than the intended port of destination) where the voyage is terminated due either to:

- 4.7.1 the vessel not being certified in accordance with the ISM code; or
- 4.7.2 a current Document of Compliance not being held by her owners or operators as required under the Safety of Life at Sea (SOLAS) Convention 1974 as amended.

This clause, which does not apply to General Average or Salvage or Salvage Charges is subject to all other terms conditions and exclusions contained in this policy.

## 4.8 CARGO ISPS FORWARDING CHARGES CLAUSE - JC 2004/050B 01/11/04 (FOR USE ONLY WITH JCC CARGO ISPS ENDORSEMENT (JC 2004/050))

In consideration of an additional *premium* to be agreed, this insurance is extended to reimburse the *Assured*, up to the limit of the sum insured for the voyage, for any extra charges properly and reasonably incurred in unloading, storing and forwarding the *subject matter insured* to the destination to which it is insured hereunder following release of cargo from a vessel arrested or detained at or diverted to any other port or place (other than the intended port of destination) where the voyage is terminated due to such vessel not being certified in accordance with the ISPS Code as required under the SOLAS Convention 1974 as amended.

This clause, which does not apply to General Average or Salvage or Salvage Charges, is subject to all other terms conditions and exclusions contained in this policy and to JCC Cargo ISPS Endorsement (JC 2004/050).

## 4.9 CIVIL AUTHORITY

Notwithstanding anything contained in this policy, it is understood and agreed that the goods insured under this policy are also covered against the risk of damage or destruction by a civil authority during conflagration or for the purpose of retarding the conflagration.

## 4.10 DELAYED UNPACKING

In the case of delay in opening cases or packages (except those showing signs of damage, wetting or staining) loss or damage discovered when they are opened within 90 days of delivery will be treated as having happened during an insured transit unless there is evidence to the contrary.

## 4.11 DUTY CLAUSE (IMPORTS ONLY)

This policy covers the increased value of the *subject matter insured* being imported consequent upon payment of duty at destination. Where the insurance continues beyond the time of landing from the *conveyance* the increased value will then attach in the same manner as an additional insurance on the *subject matter insured* from the time of payment of such duty and to the extent of the amount actually paid.

However, no claim will be payable:

- 4.11.1 in the event of *total loss* of the *subject matter insured* or *total loss* of part thereof and/or *total loss* of the *conveyance* before arrival at destination;
- 4.11.2 for General Average;
- 4.11.3 in respect of duty waived by customs authorities at destination on shipments arriving damaged by a peril covered under this policy; or
- 4.11.4 in cases where no duty or landing charges are paid.

## 4.12 ERRORS AND OMISSIONS

You will not be prejudiced by an unintentional or inadvertent error or omission, such as an incorrect description of the goods or incorrect information regarding the risk, however, *you* must inform *us* as soon as practicable after *you* become aware of the error or omission.

In the event of an error or omission in making any declaration (including an Open Cover Declaration) under this policy, it is agreed that the cargo will automatically be covered by this policy, however, *you* must advise *us* as soon as possible after *you* become aware of the error or omission.

## 4.13 EXHIBITION/DEMONSTRATION

This policy is extended to include:

- 4.13.1 *the subject matter insured*, which includes stands, fixtures, fittings and exhibition equipment, in transit to or from and while at exhibition premises to a limit of \$250,000 any one loss or occurrence in addition to the sum insured;
- 4.13.2 the incurred expenses arising from the failure of the exhibitor to exhibit the goods as a direct result of loss or damage recoverable under clause 4.13.1 to a limit of \$10,000 any one loss and in the aggregate during the *period of insurance* but excluding any consequential loss absolutely; and
- 4.13.3 the theft or pilferage from an unattended stand outside the opening hours of the event but only following forcible entry into or exit from the exhibition site. However, theft or pilferage from an unattended stand during the opening hours of the event is excluded.

Notwithstanding any *excess* noted in *your schedule*, claims under this clause 4.13 are subject to an excess of \$250 each and every loss.

In the event of the *subject matter insured* being sold from the exhibition, cover terminates at the time of lifting for removal from the premises.

## 4.14 EXPEDITING EXPENSES

In the event of loss or damage to the *interest insured* resulting from an *insured event*, we will pay the costs and expenses incurred by *you* in connection with the repair, replacement or restoration of the *interest insured* lost or damaged for:

- 4.14.1 express carriage rates and/or airfreighting the *interest insured* and/or replacement parts; and
- 4.14.2 extra payments for overtime, night, Sunday or holiday work and other such like costs.

Provided always that the limit of liability shall not exceed 20% of the insured value of the *interest insured* or \$100,000 any one *insured event*, whichever is the lesser, unless otherwise specified in *your schedule*.

## 4.15 FOB/CFR/C&F EXPORTS

When we agree to insure *your* cargo for inland transit risks, this policy will cover cargo sold on FOB, CFR or C&F terms of sale where the marine insurance for the overseas voyage or air transit is not covered by this policy.

Cover attaches as provided for in this policy and continues until *your* interest ends but not later than the time of loading on board the vessel or aircraft or at time of transfer of risk, whichever first occurs.

## 4.16 FOB PRE-SHIPMENT DAMAGE (IMPORT SHIPMENTS ONLY)

This policy extends to cover cargo purchased on FOB, CFR (C&F), FAS, or similar terms of sale, from the time the *interest insured* leaves the seller's warehouse for the commencement of transit despite the cargo not being at *your* risk.

If loss or damage occurs which is payable under this cover, *you* must use all reasonable means to recover the full amount of the loss or damage from the seller under the terms of purchase, before claiming under this policy.

*You* must not disclose the existence of this cover to the seller and all rights of recovery against them are to be subrogated to *us*.

## 4.17 FUMIGATION EXPENSES

This policy, subject to existing cover terms and conditions, is extended to cover the reasonable costs, charges and/or expenses necessary, should the *interest insured* on arrival at the port of destination be sent to fumigation and/or quarantine because of infestation or suspected infestation.

Upon issue of the order, the following costs, charges and/or expenses necessarily incurred are payable under this policy:

**4.17.1** cost of actual fumigation and/or quarantine and related charges; and

**4.17.2** additional freight costs incurred to and/or from fumigation and/or quarantine.

Fumigation and/or quarantine costs, charges and/or expenses which are mandatory for particular goods or commodities under government quarantine regulations or similar statutory requirements are excluded.

Subject to a limit of \$100,000 any one *insured event* unless otherwise specified in *your schedule* and provided these costs are not recoverable under any other policy of insurance.

## 4.18 GENERAL AVERAGE AND SALVAGE

For the purpose of claims for General Average contribution and Salvage Charges the *subject matter insured* shall be deemed to be insured for its full contributory value and the claim will be paid in full without deduction of any policy excess.

## 4.19 INSOLVENCY OF CARRIER

If the insured transit is interrupted or terminated due to the insolvency or financial default of the carrier, whether or not loss or damage has been occasioned to the cargo, we will pay *you* the extra costs of freight and/or storage to forward the cargo to its intended destination, or to return the cargo to the place from which it was dispatched.

This policy will not apply where, at the time of loading of the cargo on board the *conveyance*, *you* were aware, or in the ordinary course of *your* business should be aware, that such insolvency or financial default could have occurred during the insured transit.

## 4.20 INTERMEDIATE STORAGE

This policy is extended to cover all intermediate storage during transit and prior to delivery into the warehouse at the final destination anywhere in the World (except as otherwise excluded), for a period not exceeding thirty (30) days.

#### 4.21 ISPS ENDORSEMENT – JC 2004/050 04/11/04

In no case shall this insurance cover loss, damage or expense where the *subject matter insured* is carried by a vessel that does not hold a valid International Ship Security Certificate as required under the International Ship and Port Facility Security (ISPS) Code when, at the time of loading of the *subject matter insured* on board the vessel, the *Assured* were aware, or in the ordinary course of business should have been aware that such vessel was not certified in accordance with the ISPS Code as required under the SOLAS Convention 1974 as amended. 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.

#### 4.22 LIVESTOCK – AGISTMENT EXPENSES

We will pay all reasonable costs and expenses necessarily incurred in maintaining the livestock at agistment when caused by an *insured event*. Subject to a limit of \$1,000 per animal and \$100,000 in the aggregate for any one loss or series of losses caused by the one *insured event*, unless otherwise specified in *your schedule*.

#### 4.23 LIVESTOCK – MUSTERING COSTS

We will pay all reasonable costs and expenses necessarily incurred for mustering of the livestock at the scene of the accident when caused by an *insured event*. Subject to a limit of \$1,000 per animal to a maximum of \$100,000 in total for any one loss or series of losses caused by the one *insured event*, unless otherwise specified in *your schedule*.

#### 4.24 LIVESTOCK – WANDERING OFF

We will pay for loss of livestock due to 'wandering off' from the scene of the accident caused by an *insured event*. Subject to a limit of \$100,000 one loss or series of losses caused by the one *insured event*, unless otherwise specified in *your schedule*.

#### 4.25 MINIMISING LOSSES

In addition to *your* claim for loss or damage, we will also reimburse *you* for any charges properly and reasonably incurred by *you* in taking such measures as would be reasonable for the purpose of averting or minimising any loss recoverable under this policy.

#### 4.26 ON DECK SHIPMENTS

Cargo shipped on deck in general purpose ISO fully enclosed *shipping containers* or cargo carried on deck without *your* privity, knowledge or consent, but subject to an under-deck bill of lading, is covered under this policy.

Other on-deck cargoes are covered under the policy conditions unless otherwise stated on *your schedule* which exclude loss, damage or expense caused by or arising from rust, oxidation, discolouration or seawater unless as a result of a peril insured by the Institute Cargo Clauses (B) with clause 1.2.3 deleted.

#### 4.27 OTHER INTERESTED PARTIES

It is agreed that this policy shall operate for the protection and benefit of any bank, hire purchase or leasing company that has an insurable interest by way of duly registered and stamped contracts or agreement in the *subject matter insured* or part thereof.

#### 4.28 OVER-CARRIED CARGO

Should the *interest insured* be over-carried to a different destination, this policy covers the cargo until returned to the original destination.

## 4.29 PACKAGING AND SHIPPING CONTAINERS

This policy covers accidental loss of, or damage to, *packaging* and *shipping containers* while carried in transit. Expenses incurred in demurrage charges following the late return of *shipping containers* are also covered where the charges are necessary due to *you* retaining containers for *our* inspection following a claim and upon *our* instruction.

Cover is also extended to include any General Average contributions or Salvage Charges.

Subject to a limit of \$150,000 any one event unless otherwise specified in *your schedule* and provided the costs are not recoverable under any other policy of insurance.

## 4.30 PACKERS' PREMISES

The *interest insured* is covered from the time of leaving the suppliers' warehouse while in transit to the packers' warehouse. Cover remains in force while at the packers' warehouses, 90 days prior to shipment or held covered and thereafter while in transit to the final destination.

## 4.31 POLLUTION

We will pay for loss of or damage to the *subject matter insured* caused by government authorities acting in the public interest to prevent or mitigate a pollution hazard or threat following a risk insured under this policy to the *subject matter insured*.

## 4.32 RE-CONSIGNED OR RE-SHIPPED

Subject to the terms and conditions of this policy where the cargo has been insured to a named port and is re-consigned or re-shipped to another destination, the insurance continues up until the final destination without payment of extra *premium* or prior notification.

## 4.33 REFUSED CARGO

In the event that you or your customer either refuse to take delivery or are unable to accept delivery of the *interest insured*, cover remains in force during any delay, storage or onward transport, provided that:

- 4.33.1 the goods are insured under this policy for the inward or outward journey;
- 4.33.2 cover has been continuous; and
- 4.33.3 the goods have not been unpacked and are returned in their original packing.

*You* must take all reasonable precautions to prevent the goods from loss or damage. Temperature controlled products must be kept in a refrigerated or frozen condition as appropriate with instructions being provided to all third parties handling and storing the goods.

## 4.34 REMOVAL OF DEBRIS, DISPOSAL AND AUTHORITIES' COSTS

In the event of loss and/or damage by an insured peril to the goods and notwithstanding *our* liability to pay a *total loss*, it is agreed the cover provided by this policy extends to include:

- 4.34.1 all costs of clean-up and/or deteriorated and/or contaminated goods; and
- 4.34.2 all costs other than fines and penalties levied by any recognised emergency service or any statutory authority including but not limited to police, ambulance, fire services and environmental protection services.

Provided always that this extension will only cover costs incurred that relate to the goods and that such costs are not recoverable under any other policy of insurance.

The maximum we will pay under this clause is \$200,000 for any one loss or series of losses arising from the one event unless specified otherwise on *your schedule*.

## 4.35 RE-SECURING OF CARGO

This policy covers all reasonable costs and expenses incurred in re-securing the *interest insured* that has moved in transit which makes re-securing necessary. This cover applies even though there may be no claim resulting from the incident, provided these circumstances were outside *your* control and *you* could not be reasonably expected to have knowledge of them in the normal course of *your* business.

Subject to a limit of \$10,000 any one *insured event* unless otherwise specified in *your schedule* and provided these costs are not recoverable under any other policy of insurance.

## 4.36 RETURNED GOODS

Goods returned by consignees, *you* are held covered in accordance with the terms and conditions of this policy subject to the following:

- 4.36.1 that the goods are insured under this policy for the outward journey;
- 4.36.2 that cover has been continuous; and
- 4.36.3 that the goods have not been unpacked and are to be returned in their original packaging.

In all other cases the goods are held covered subject to the Institute Cargo Clauses (B) 01/01/09, including non-delivery and/or theft of a complete shipping package, malicious damage and war and strikes risks clauses. If, however, an independent survey is held prior to attachment of cover and this shows that the goods have been examined, found to be in good order and re-packed, in adequate export packing, cover in accordance with the terms and conditions of this policy will attach.

## 4.37 SEALED CONTAINERS

Where the *interest insured* is shipped in a shipping, road or airfreight container and the containers seal is intact at the unloading point, claims for theft, pilferage, shortage or non-delivery will be recoverable under this policy, provided:

- 4.37.1 documentary evidence is produced to substantiate the quantity loaded into the container;
- 4.37.2 *you* agree to use all reasonable means to first recover the full amount of the loss from the seller, packer or other responsible third party before claiming under this policy, all rights of recovery against the seller; and
- 4.37.3 all rights of recovery against the seller, packer or other third party where liability may attach are to be subrogated to *us*.

## 4.38 SELLERS' INTEREST CONTINGENCY

- 4.38.1 Where, under the contract of sale, *you* do not have a responsibility to arrange insurance up to the final destination, subject to the voyage limits shown in *your schedule*, *we* will pay for loss, damage or expense that would otherwise be recoverable under this policy if:
  - (a) the buyer fails to accept the cargo and pay *you* its purchase price;
  - (b) the buyer fails to take up the documents of title and pay *you* the cargo purchase price;
  - (c) *you* exercise a right or lien;
  - (d) *you* interrupt the transit; or
  - (e) *you* suspend the contract of sale in order to protect *your* interests.

**4.38.2** Cover will remain in force, subject to the policy conditions until:

- (a) the *interest insured* is accepted by the buyer;
- (b) the *subject matter insured* is sold to an alternative buyer;
- (c) the *subject matter insured* is returned to *you*; or
- (d) 90 days has elapsed from the time of arrival of the overseas vessel at the port of discharge,

whichever occurs first.

**4.38.3** We will not pay for loss or damage to the *interest insured*:

- (i) unless notice is given to *us* as soon as practical;
- (ii) if *you* have divulged the existence of this insurance to the seller, their insurers or any other interested third party;
- (iii) if this policy or any interest in the *subject matter insured* is assigned;
- (iv) if the loss is recoverable from any credit insurers; or
- (v) arising from government action and/or regulations preventing the transfer of currency.

This clause is not deemed to be double insurance.

When a claim is paid under this clause we will acquire all *your* rights and remedies including the right to sue or proceed in any way against the buyer or their insurers.

## 4.39 SHUT OUT

If goods are shutout from the vessel or aircraft this policy will cover the goods while at a wharf or airport awaiting shipment and during any transit to another wharf or airport.

## 4.40 SORTING CHARGES

Where, following an *insured event* that may be recoverable under this policy, *our* surveyor requires or recommends that packages and/or damaged cargo be sorted in order to ascertain or assess the nature and/or extent of loss and/or damage, expenses arising from such sorting shall be recoverable hereunder, notwithstanding that a claim for such loss or damage is not ultimately made by *you*.

## 4.41 STRIKES DIVERSION EXPENSES (IMPORTS ONLY)

We will pay any additional expense incurred by *you* when importing the *subject matter insured* following the exercise by the ship owners or charterers of any liberty granted by the contract of affreightment where solely in consequence of strikes, riots, civil commotions, lockouts or labour disturbances, or conditions arising from them, the *subject matter insured* is over carried to or discharged at a port other than the intended port of discharge under the contract of affreightment. The additional expense is payable irrespective of any other loss, whether partial or total, recoverable under this policy.

However, we will not be liable of any claims unless the liberty referred to is exercised prior to the expiry of 15 days from midnight on the day on which the strikes, riots, civil commotion, lockouts or labour disturbances cease to be in active operation.

*Our* liability under this extension is limited to 20 per cent of the insured value of the *subject matter insured* or \$150,000 whichever is lesser any one loss or occurrence in addition to the sum insured.

## 4.42 TOOLS OF TRADE/TRAVELLERS' SAMPLE

This policy covers loss of, or damage to tools of trade and travellers' samples whilst in transit or while temporarily removed from the conveying vehicle and kept in any securely locked building, provided that:

**4.42.1** the tools of trade and travellers' samples remain in the care, custody or control of an authorised employee; and

**4.42.2** the tools of trade and travellers' samples are stored within a securely locked vehicle or building.

Subject to a limit of \$40,000 in total for any one loss or series of losses caused by the one *insured event*, unless otherwise specified in *your schedule*.

## 4.43 TRANSFER/ON-FORWARDING

Where, due to an event covered by this policy, the transit is terminated short of the intended destination this policy covers all reasonable costs incurred in transferring, storing and forwarding the goods to the original destination. This extension does not include costs incurred due to *your* insolvency or financial default.

## 4.44 VOYAGE CLAUSE

This insurance attaches from the time the goods become at *your* risk or *you* assume interest (or as otherwise provided) and continues whilst the goods are in transit or elsewhere and until delivered to the final destination as required, including risks in customs as required and transshipment, craft and barge risks, whether customary or otherwise.

# 5. OPTIONAL EXTENSION - STORAGE

## 5.1 INSURED EVENTS

Where we agree to extend this policy to include this optional extension, this policy is extended to cover goods for:

**5.1.1** nominated 'Specified events' detailed in 5.2. (below) while outside the normal course of transit as provided in Section 2.3 'When *your* insured transit starts and finishes' and

**5.1.2** while in storage at the locations and

**5.1.3** for the amounts specified in *your schedule*.

Furthermore, this optional extension is subject to specified events, additional exclusions and basis of claims settlement detailed below:

## 5.2 SPECIFIED EVENTS

**5.2.1** fire, explosion or lightning;

**5.2.2** storm and/or *flood* whilst the goods are contained in a building or vehicle;

**5.2.3** impact by aircraft and other aerial devices and articles dropped from them;

**5.2.4** earthquake, tsunami, volcanic eruption, hydrothermal activity and fire following any of the preceding events; and

**5.2.5** burglary from a securely locked building.



## 5.3 ADDITIONAL EXCLUSIONS

This policy does not cover loss of, or damage to, the goods or liability or expense caused by the following:

- 5.3.1 confiscation, requisition, or destruction of or damage to property by order of Government or Local Authority unless the order is given for the purpose of controlling fire or another peril for which insurance is provided by this policy;
- 5.3.2 geothermal activity, landslip, subterranean fire, subsidence or erosion of the land;
- 5.3.3 normal settlement, shrinkage or expansion of buildings, foundations, walls, pavements, roads and other structural improvements;
- 5.3.4 The cost of:
  - (a) repairing or replacing faulty materials;
  - (b) putting right faulty workmanship;
  - (c) putting right work performed to a faulty design or defective design plan or designed specification; or
  - (d) putting right faulty or defective work where the fault or defect results from an error or omission in design plan or design specification.
- 5.3.5 Losses arising from:
  - (a) unexplained disappearances, shortages revealed only by taking of an inventory, shortages due to clerical or accounting errors;
  - (b) theft by *you* or by any of *your* employees;
  - (c) any fraudulent scheme or device or false pretence practiced on *you* or on any other person having care of the goods insured;
  - (d) theft unless accompanied by violence or threat of violence to persons or violent and forcible entry to or exit from any enclosed building;
  - (e) fumes, gas, dust, smoke, smuts;
  - (f) normal working, normal maintenance, wear and tear, erosion, corrosion, slowly developing deformation or distortion, marring or scratching;
  - (g) action of micro-organism, mould, vermin or insects;
  - (h) the inherent nature of the property or action of light;
  - (i) pollution or contamination; or
  - (j) changes in artificially controlled temperature or atmosphere.

## 6. EXCLUSIONS

The following exclusions apply in addition to the exclusions contained in the Institute Clauses or stated elsewhere in *your schedule* and attachments to this policy.

### 6.1 ANTIQUES, PAINTINGS AND PICTURES

We will not be liable for loss or damage or expense caused by:

- 6.1.1 delay, confiscation or detention by customs or other officials or authorities;
- 6.1.2 wear and tear, moth, vermin, normal atmospheric or climatic conditions; or
- 6.1.3 inherent vice of the goods.

## 6.2 CONSEQUENTIAL LOSS/DELAY

This policy excludes loss arising from delay or consequential loss of any description even if consequent upon the happening of an *insured event* as specified in the applicable Institute Clauses.

## 6.3 COMMUNICABLE DISEASE

This policy excludes any loss, damage, liability, claim, cost or expense of whatsoever nature caused by, contributed to by, resulting from, arising out of, or in connection with a *communicable disease* or the fear or threat (whether actual or perceived) of a *communicable disease* regardless of any other cause or event contributing concurrently or in any other sequence thereto.

## 6.4 CYBER RISK

This policy excludes loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus, computer process or any other electronic system.

## 6.5 DEPRECIATION

This policy does not cover depreciation or reduction in value of the insured goods due to repairs.

## 6.6 ELECTRICAL, MECHANICAL AND ELECTRONIC FAILURE

This policy excludes electronic, electrical or mechanical failure of the *interest insured* where there is no external visible evidence of damage from an *insured event*.

## 6.7 DEMONSTRATION, USE OR TESTING, RETURN FROM EXHIBITION

Notwithstanding anything to the contrary in clause 4.13 'Exhibition/demonstration', this policy does not include cover for loss or damage to *subject matter insured* arising from demonstration, use or testing, or damage to the *subject matter insured* being returned from an exhibition unless packed to the same standard as that for the outward transit.

## 6.8 INLAND TRANSITS

For inland transits (wholly within a country) this policy does not cover loss of, or damage to, the *interest insured* or liability or expense caused by any of the following:

- 6.8.1** animal welfare:  
to animals caused by inoculation and/or its after effects, infectious diseases, rejection, abortion, loss/death of foetus, loss of use or delay.
- 6.8.2** expropriation:  
the lawful seizure, confiscation, nationalisation or requisition of the *interest insured*.
- 6.8.3** inherent vice:  
ordinary leakage, ordinary loss in weight or volume or inherent vice of the *interest insured*.
- 6.8.4** insolvency of carrier:  
expense arising from the insolvency or financial default of the carrier other than as provided by clause 4.19.
- 6.8.5** labour shortage:  
the absence, shortage or withholding of labour of any description resulting from any strike, lockout, labour disturbance, riot or civil commotion.

## 6.9 INFORMATION TECHNOLOGY HAZARDS

This policy does not cover losses otherwise recoverable arising directly or indirectly out of loss of or damage to, or a reduction or alteration in the functionality or operation of, a computer system, hardware, programme, software, data, information repository, microchip, integrated circuit or similar device in or connected with computer equipment or non computer equipment whether *your* property or not unless the losses are caused directly by one or more of the following perils:

- 6.9.1 theft of equipment;
- 6.9.2 collision;
- 6.9.3 sinking, grounding or stranding of the carrying vessel;
- 6.9.4 overturning or derailment of land *conveyance*;
- 6.9.5 jettison or washing overboard;
- 6.9.6 fire, lightning, explosion;
- 6.9.7 aircraft or vehicle impact;
- 6.9.8 falling objects; or
- 6.9.9 windstorm, hail, tornado, cyclone, hurricane, earthquake, volcano, tsunami, *flood*, freeze or weight of snow.

## 6.10 INSTITUTE RADIOACTIVE CONTAMINATION, CHEMICAL, BIOLOGICAL, BIO-CHEMICAL AND ELECTROMAGNETIC WEAPONS EXCLUSION CLAUSES

This clause shall be paramount and shall override anything contained in this insurance inconsistent therewith.

In no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from:

- 6.10.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
- 6.10.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;
- 6.10.3 any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
- 6.10.4 the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes; or
- 6.10.5 any chemical, biological, bio-chemical, or electromagnetic weapon.

## 6.11 INSTITUTE RADIOACTIVE CONTAMINATION, CHEMICAL, BIOLOGICAL, BIO-CHEMICAL AND ELECTROMAGNETIC WEAPONS EXCLUSION CLAUSES - USA/CANADA ENDORSEMENT

When *your schedule* states the Institute Radioactive Contamination, Chemical, Biological, Bio-chemical and Electromagnetic Weapons Exclusion Clause (RACCBE) is to apply, the inclusion of this clause in this policy is material to *our* willingness to provide coverage at the quoted terms, conditions and rates. It is the intent of the parties to give maximum effect to RACCBE as permitted by law. In the event that any portion of RACCBE may be found to be unenforceable in whole or in part under the law of any state, territory, district, commonwealth or possession of the USA, or any province or territory of Canada, the remainder will stay under full force and effect under the laws of that state, territory, district commonwealth or possession, province or territory. Further any such finding will not alter the enforceability of the RACCBE under the laws of any other state, territory, district, commonwealth or possession of the USA, or any province or territory of Canada, to the fullest extent permitted by applicable law.

## 6.12 ISM

Applicable to shipments on board vessels of 500 GRT or more.

This policy excludes loss, damage or expense where the *subject matter insured* is carried by a vessel that is not ISM certified or whose owners or operators do not hold an ISM Code Document of Compliance when, at the time of loading of the *subject matter insured* on board the vessel, *you* are aware, or in the ordinary course of business should have been aware that either:

- 6.12.1 the vessel was not certified in accordance with the ISM Code; or
- 6.12.2 a current Document of Compliance was not held by its owners or operators as required under the Safety of Life at Sea (SOLAS) convention 1974 as amended.

This exclusion will not apply where this insurance has been assigned to the party claiming under this policy who had bought or agreed to buy the *subject matter insured* in good faith under a binding contract.

## 6.13 PRE-EXISTING DAMAGE

This policy excludes loss or damage that existed or occurred prior to the commencement of the insured transit.

## 6.14 RUST/OXIDISATION DISCOLOURATION

This policy excludes rust, oxidisation and/or discolouration unless caused by an *insured event*.

## 6.15 TERMINATION OF TRANSIT (TERRORISM) 2009

This clause will be paramount and override anything contained in this policy inconsistent therewith.

Notwithstanding any provision to the contrary contained in this policy or the clauses referred to, it is agreed that in so far as this policy covers loss of or damage to the *subject matter insured* caused by any act of *terrorism* cover will terminate either:

- 6.15.1 as per the transit clauses contained within the contract of insurance;
- 6.15.2 on completion of unloading from the carrying vehicle or other *conveyance* in or at the final warehouse or place of storage at the destination named in the contract of insurance;
- 6.15.3 on completion of unloading from the carrying vehicle or other *conveyance* in or at any other warehouse or place of storage, whether prior to or at the destination named in the contract of insurance, which *you* or *your* employees elect to use either for storage other than in the ordinary course of transit;

- 6.15.4 when *you* or *your* employees elect to use any carrying vehicle or other conveyance or any container for storage other than in the ordinary course of transit;
- 6.15.5 in respect of marine transits, on the expiry of 60 days after the completion of discharge oversea of the *subject matter insured* from the oversea vessel at the final port of discharge; or
- 6.15.6 in respect of air transits, on the expiry of 30 days after unloading the *subject matter insured* from the aircraft at the final place of discharge,

whichever occurs first.

If the contract of insurance or the clauses referred to specifically provide cover for inland or other further transits following on from storage, or termination as provided for above, cover will re-attach and continue during the ordinary course of that transit terminating again in accordance with clause 6.15.1 - 6.15.6 above.

## 6.16 TERRORISM

This policy excludes any loss, damage, liability or expense arising from:

- 6.16.1 *terrorism*; and/or
- 6.16.2 steps taken to prevent, suppress, control or reduce the consequences of any actual, attempted, threatened, suspected or perceived *terrorism*.

However this exclusion will not apply to the extent of the provisions of exclusion clause 6.15.

# 7. CLAIMS CONDITIONS

## 7.1 APPORTIONMENT OF RECOVERIES

Where a recovery is obtained from a carrier or other third party, such recovery, at *our discretion*, will be apportioned between *you* and *us* in the same proportion as *we* have each borne such loss.

## 7.2 CLAIMS CLAUSE

Notwithstanding that the shipowner or other carrier has failed to acknowledge or otherwise reply to correspondence from *you* regarding their liability for loss or damage, it is agreed that claims recoverable under this policy will be settled by *us* on production of all other applicable supporting documents.

## 7.3 CLAIMS PROCEDURE

When loss or damage happens which may give rise to a claim under this policy, *you* and/or *your* agent should take all reasonable measures to avert or minimise the loss and ensure that all rights against carriers, bailees or other third parties are properly preserved and exercised. *You* and/or *your* agent must:

- 7.3.1 claim immediately on the carriers, port authorities or other bailees for any missing packages;
- 7.3.2 in no circumstances, other than under written protest, give clean receipts where goods are in damaged or doubtful condition;
- 7.3.3 in no circumstances, other than under written protest, sign a receipt for goods which are in damaged or doubtful condition without noting the damage or doubt regarding the condition on that receipt;
- 7.3.4 apply immediately for survey by carriers' or bailees' representatives if any loss or damage is apparent and claim on the carriers or bailees for any loss or damage found during the survey;
- 7.3.5 give notice, in writing, to the carriers or bailees within 3 days of delivery if the loss or damage was not apparent at the time of taking delivery; and

**7.3.6** immediately notify *us*, or *our* nominated survey/settling agent, what has happened and promptly send full details including details of any other insurance on the *subject matter insured* and the following documentation:

- (a) original or copy of shipping invoices, shipping specifications and/or weight notes;
- (b) original bill of lading, waybill and/or other contract of carriage;
- (c) landing account and weight notes at final destination;
- (d) documentary evidence of the extent of the loss or damage; and
- (e) any correspondence with the carrier or bailee about their liability for loss or damage; and

**7.3.7** not authorise any repairs to the *subject matter insured* without *our* consent.

## 7.4 CLAIMS SETTLEMENT

In the event of a claim, *we* will settle *your* loss by payment.

### 7.4.1 Goods and Services Tax

If *you* are liable for Goods and Services Tax (GST) in respect of any goods, services or other supply which are the subject of a claim under this policy *we* will pay *you* for that GST liability. However:

- (a) where *we* make a payment under this policy for the acquisition of goods, services or other supply, *we* will reduce the payment by the amount of any input tax credit *you* are, or will be, or would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 in relation to that acquisition whether or not the acquisition is actually made; or
- (b) where *we* make a payment under this policy as compensation for the acquisition of goods, services or other supply, *we* will reduce the payment by the amount of any input tax credit *you* would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 had the payment been applied to acquire such goods, services or supply.

### 7.4.2 Foreign currency invoice

If the amount of a claim is to be calculated based on an invoice in a currency other than Australian dollars, the claim will be paid in Australian dollars at the rate of exchange current at the date the loss or damage occurred.

## 7.5 FRAUD

If any claim in whole or part is fraudulent or false in any respect, *we* may be entitled to avoid paying the claim or reduce the amount of the claim settlement. In some circumstances *we* may also be able to cancel this policy

## 7.6 GENERAL AVERAGE

In the event of a General Average contribution arising under this policy consult *us* or *our* nominated settling agent before signing any General Average bond.

## 7.7 EXCESS

In the event of a claim (other than a claim for *total loss*, General Average or Salvage) *you* must bear first the amount of any *excess* specified in *your schedule* or elsewhere in this policy wording. If more than one *excess* is payable under this policy for any claim or series of claims arising from the one accident, *you* must pay the highest *excess*, but *you* pay only one *excess*. No *excess* will be payable by *you* in respect of any claim that would have been recoverable by a peril insured against under the 'Institute Cargo Clauses (B)', had they been applicable.

## 7.8 OTHER INSURANCE

When making a claim on this policy *you* must also supply *us* with written details of all policies that may pay or partially pay that claim.

## 7.9 OWN REPAIRS

In respect to damage claims recoverable under this policy, where *you* are appointed to effect these repairs, it is agreed that the repair costs shall be based on *your* normal commercial rate for similar repairs including *your* normal element of profit.

## 7.10 RIGHTS OF SUBROGATION

*We* are entitled to exercise any rights *you* or any assignee may have against anyone else in relation to the *subject matter insured* for which *we* have settled a claim under this policy. *You*, or anyone else entitled to claim under this policy, must cooperate fully with *us* in exercising those rights and must give *us* any information or assistance *we* may require.

## 7.11 SURVEY FEES

In the event of *you* and/or consignee complying with the instructions contained in this policy or on the certificate of insurance to call for a survey in respect of loss or damage that may result in a claim, it is agreed that the expenses incurred and fees charged in respect of that survey are recoverable under this policy (subject to this policy excess) even though a claim may not be subsequently lodged.

# 8. GENERAL CONDITIONS

## 8.1 ANNUAL DECLARATIONS AND PREMIUM CALCULATION

*You* must pay *us* the deposit *premium* stated in *your schedule*. This is based on estimated figures for the *period of insurance* provided by *you* and *you* must keep accurate records of the equivalent actual figures. A statement of these actual figures (audited if requested) must be given to *us* within one month after the end of the *period of insurance*.

*We* will adjust the *premium* proportionally at the end of that period on the basis of *your* actual figures:

- 8.1.1 if the deposit *premium* is less than \$10,000 then this policy is not subject to year-end adjustment unless stated otherwise in *your schedule*;
- 8.1.2 if the deposit *premium* is greater than \$10,000 and the adjustment *premium* is higher than the deposit *premium* stated in *your schedule* *you* must pay *us* the difference unless the variation between estimated and actual figures for the period is less than 10 per cent when no difference in *premium* is payable; or
- 8.1.3 if the adjusted *premium* is lower than the *premium* stated in *your schedule*, provided that the words 'minimum and deposit *premium*' do not appear in *your schedule*, *we* must pay the difference to *you*.

However, *we* are entitled to retain 75 per cent of the deposit *premium*.

## 8.2 APPLICABLE LEGISLATION

To the extent that this policy covers risks governed by the Marine Insurance Act 1909 this policy will be subject to the provisions of the Act. To the extent that this policy covers other risks it will be subject to the Insurance Contracts Act 1984.

## 8.3 ASSIGNMENT OF INTEREST

Where a shipment involves either an import or export, transfer of this policy by *you* to an assignee is permitted. In all other respects assignment of this insurance or any right under it is only permitted with *our* written agreement.

## 8.4 PROPER LAW AND JURISDICTION

The construction, interpretation and meaning of the provisions of the policy shall be determined in accordance with Australian law.

In the event of any dispute arising under the policy including, but not limited to, its construction and/or validity and/or performance and/or interpretation, the insured will submit to the exclusive jurisdiction of any competent Court in the Commonwealth of Australia.

A reference to any statute, regulation or subordinate legislation includes any amendment, replacement, successor or equivalent to or of that statute, regulation or subordinate legislation.

## 8.5 CANCELLING YOUR POLICY

### 8.5.1 How *you* may cancel this policy

*You* may cancel this policy at any time by telling *us* in writing that *you* want to cancel it.

### 8.5.2 How *we* may cancel this policy

*We* may cancel this policy in any of the circumstances permitted by law and as detailed below:

- (a) where this policy is subject to the Insurance Contracts Act 1984, *we* may cancel this policy subject to the provision of the Act;
- (b) where this policy is subject to the Marine Insurance Act 1909 and in respect of risks other than piracy, war, strikes, riots and civil commotions, *we* may cancel this policy by giving 30 days' notice of cancellation;
- (c) in respect of the risk of piracy, *we* may cancel this policy in accordance with the provisions of the 'Cargo Piracy Notice of Cancellation Clause';
- (d) in respect of the risk of war, *we* may cancel this policy in accordance with the provisions of the 'Institute War Cancellation Clause (Cargo)'; and
- (e) in respect of strikes, riots and civil commotions risks *we* may cancel this policy at 7 days' notice with the exception of, to and from U.S.A. where 48 hours' notice applies.

Cancellation will become effective on the expiry of the requisite period of time from 4pm of the day on which notice of cancellation is issued by or to *us*, but will not apply to risks which have attached before the cancellation becomes effective.

### 8.5.3 The premium

*We* will refund to *you* the proportion of the *premium*, provided *we* retain the agreed minimum *premium* (on a pro-rata basis) and any non-refundable government taxes.



## 8.6 CANCELLATION – WAR AND STRIKES

The cover against war and/or strikes risks (as defined in the relevant Institute War and Strikes Clauses) may be cancelled by either *you* or *us* giving written notice. Such cancellation shall become effective on the expiry of 7 days (or 2 days in respect of strikes risks on shipments to and from the United States of America) from midnight on the day on which written notice of cancellation is issued to or by *us* but shall not apply to risks which have attached in accordance with the conditions of the Institute War and/or Strikes Clauses before the cancellation becomes effective. Within 30 days of the effective date of cancellation *you* must advise *us* of the actual figures for the period war and/or strikes cover has been in force to enable the applicable war and/or strikes premium due for the period to be calculated and the *premium* prepaid for these risks to be adjusted.

## 8.7 CERTIFICATES OF INSURANCE

When *you*, or a third party on *your* behalf, are provided with the facility to self-issue certificates of insurance, any certificate issued must strictly conform to the terms, conditions and limits of this policy. *You* agree to indemnify *us* for any claim which *we* are required to pay because of a certificate being issued that does not conform to the terms, conditions and limitations of this policy.

## 8.8 CHANGING THIS POLICY

*You* must give *us* immediate notice if there is any material change in the circumstances or nature of the risks covered by this policy. No claim arising after the change shall be payable unless *we* have agreed to the change in writing.

## 8.9 NOTICES

Any notice *we* give *you* will be in writing, and it will be effective:

- (a) if it is delivered to *you* personally, or
- (b) if it is delivered or posted to *your* address last known to *us*.

It is important for *you* to tell *us* of any change of address as soon as possible.

## 8.10 PLURALS AND TITLES

The proposal, this policy, *your schedule* and any endorsements are one contract in which, unless the context otherwise requires:

- 8.10.1** headings are descriptive only, not an aid to interpretation;
- 8.10.2** singular includes the plural, and vice versa; and
- 8.10.3** the male includes the female and neuter.

## 8.11 REASONABLE CARE

*You* must take reasonable care to prevent loss, destruction, damage or death covered by this policy.

## 8.12 TRADE AND ECONOMIC SANCTIONS REGULATION

Notwithstanding any other terms or conditions under this policy, *we* shall not be deemed to provide coverage and will not make any payments nor provide any service or benefit to any *insured* or any other party to the extent that such cover, payment, service, benefit and/or any business or activity of the *insured* would violate any applicable trade or economic sanctions, law or regulation.

### 8.13 THIRD PARTIES

If anyone else is entitled to make a claim under this policy, that person and/or entity must also comply with its terms.

### 8.14 VARIATION OF WAR AND STRIKES RATES

We have the right to vary the war and strikes rate for a country or area by giving you 7 days' notice, (48 hours for strikes risks on shipments to or from the USA) of the amendment in accordance with the 'Institute War Cancellation Clause (Cargo)'.

The amended rate will apply from the end of the period of notice that begins at midnight of the day that the notice is issued by *us*. It will not apply to transits where cover under this policy has attached before the amended rate applies.

*Our* rights to cancel cover for war and strikes risks to a country or area or entirely are not prejudiced by prepayment of the war and strikes *premium*.





## NOTES

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[www.proteusinsurance.com.au](http://www.proteusinsurance.com.au)

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