

# Annual Marine Cargo Insurance

Policy Wording  
incorporating Institute Clauses



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# Welcome to Zurich

## 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 insurance provider with a global network of subsidiaries and offices. With about 60,000 employees, the Zurich Insurance Group delivers a wide range of general insurance and life insurance products and services for individuals, small businesses, and mid-sized and large companies, including multinational corporations, in more than 170 countries.

## 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 a contract of general insurance with us, you have a duty under the Insurance Contracts Act 1984 (Cth) to disclose to us every matter you know, or could reasonably be expected to know, is relevant to our decision whether to insure you and, if so, on what terms. This applies to all persons to be covered under this contract of insurance.

You have the same duty to disclose those matters to us before you renew, extend, vary or reinstate a contract of general insurance. This duty however, does not require disclosure of a matter that:

- diminishes the risk to be insured;
- is of common knowledge;
- we know or in the ordinary course of our business we ought to know;
- we indicate to you that we do not want to know.

### 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, you have an obligation to disclose to us every material circumstance which is known to you and/or which in the ordinary course of business ought to be known to you. Every circumstance is material if it would influence the judgement of a prudent insurer in fixing the premium or determining whether they 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 the 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 the policy; or
- we may treat the 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 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 changes advised by us in writing (such as an endorsement). These written changes vary or modify the above documents.

Please note, only those covers shown in the *schedule* are insured. Please keep this policy in a safe place. We reserve the right to change the terms of this product where permitted to do so by law.

# Annual Marine Cargo Insurance

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 on conditions as set out in the *schedule*.

### When the cover applies

The insurance only applies to voyages that commence during the *period of insurance* specified in the *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, the *schedule* and attachments and any clauses referred to in the *schedule*, all of which are to be read together.

2.1.1 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.

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

### 2.2 Basis of valuation

2.2.1 For shipments involving imports or exports the *subject matter insured* is agreed to be valued as stated in the *schedule*.

2.2.2 For transits commencing and terminating within the same country:

- (a) when stated as invoice value in the *schedule* the agreed value is the invoice cost or value, plus any costs incidental to the insured transit that are not covered by the invoice; or
- (b) if there is no invoice, the value is the market value or the cost, at the time of the commencement of the insured transit, of replacing the *subject matter insured* with similar goods of the same age and condition.

### 2.3 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 the *schedule*.

## 3. Definitions

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

### 3.1 Insured, You, Your, Assured

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

### 3.2 Period of insurance

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

### 3.3 Schedule

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

### 3.4 Subject matter insured

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

### 3.5 Terrorism

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

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

3.5.2 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.

## 4. Additional clauses

### 4.1 Accumulation

The limit of liability stated in the *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 the *schedule*; or

4.1.2 AUD \$10,000,000,

whichever is the lesser.

### 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 30 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 Airfreight replacement (Imports only)

If loss or damage occurs, to the *subject matter insured* while being imported, which is recoverable under this policy, we will pay the cost of either returning the *subject matter insured* to the manufacturer for repair and return or replacing the *subject matter insured* or parts from the supplier by air, whether or not the *subject matter insured* was originally sent by air. Claims made under this clause are subject to a limit of \$50,000 any one loss or occurrence in addition to the sum insured.

### 4.4 Brands

We will not sell or dispose of salvaged branded goods without *your* consent. If *you* do not give *your* consent we may retain the goods and their reasonable salvaged value will be deducted from the amount payable in respect of the claim.

#### 4.5 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:

- 4.5.1 the vessel not being certified in accordance with the ISM code; or
- 4.5.2 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 the policy.

#### 4.6 Containers

This policy will cover *your* legal liability for physical loss of or damage to shipping containers and/or flatracks in *your* care, custody and control to a limit of \$25,000 any one loss or occurrence in addition to the sum insured.

#### 4.7 Container demurrage charges

This policy will cover demurrage charges and/or late penalties assessed against *you* for the late return of containers when they are retained by *you* on our instruction for inspection following a claim to a maximum of \$50,000 any one loss or occurrence in addition to the sum insured.

The period for which we will be liable begins at the time we instruct *you* to retain the containers and finishes at the time our surveyor instructs *you* to return the containers.

#### 4.8 Debris

This policy covers the cost of removal and disposal of damaged, deteriorated or contaminated *subject matter insured* and of cleaning and decontamination to a limit of up to \$50,000 any one loss or occurrence in addition to the sum insured.

#### 4.9 Deck cargo

If the *subject matter insured* is shipped on deck of vessels other than in general purpose I.S.O fully enclosed containers it is insured according to the conditions stated in the *schedule* but excluding loss, damage or expense caused by or arising from rust, oxidisation, discolouration, fresh water or sea water unless as a result of a peril insured by the Institute Cargo Clauses (B) with sub clause 1.2.3 deleted.

#### 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 Difference in coverage

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:

- 4.11.1 *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;
- 4.11.2 *you* should give to us all rights and remedies in respect of any recourse *you* may have for such loss or damage; and
- 4.11.3 *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.



#### **4.12 Duty clause (Imports only)**

This policy covers the increased value of *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:

- 4.12.1 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;
- 4.12.2 for General Average;
- 4.12.3 in respect of duty waived by customs authorities at destination on shipments arriving damaged by a peril covered under this policy; or
- 4.12.4 in cases where no duty or landing charges are paid.

#### **4.13 Exhibition/demonstration**

This policy is extended to include:

- 4.13.1 *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 \$200,000 any one loss or occurrence in addition to the sum insured;
- 4.13.2 incurred expenses arising from the failure of the exhibitor to exhibit the goods as a direct result of loss or damage recoverable under Clause 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 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 the *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 FOB Pre-shipment (imports only - not available for bulk cargo)**

Notwithstanding the provisions of the contract of sale, where the *subject matter insured* is purchased, for import, on an FOB, CFR or similar basis, provided such *subject matter insured* is not bulk cargo, this insurance attaches from the time the *subject matter insured* is first moved in the warehouse or at the place of storage (at the place named in the contract of insurance) for the purpose of immediate loading into or onto the carrying vehicle or other conveyance for the commencement of transit.

In the event of payment under this policy, we are entitled to subrogation of *your* rights of recourse against the sellers. *You* must not disclose the existence of this clause to the seller or any other interested party.

#### **4.15 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.

#### **4.16 Hotel/Motel (transits within Australia and New Zealand only)**

In the event *you* are obliged to stay overnight in a hotel/motel anywhere within Australia or New Zealand, the *subject matter insured* remains covered provided it is in a vehicle which is locked and parked within the hotel/motel complex and not in the street.

#### **4.17 Labels**

In the event of loss or damage to labels or wrappers caused by an insured peril, we will not be liable for more than the cost of new labels, capsules or wrappers and the cost of re-labelling and repacking but only up to the insured value of the *subject matter insured*.

#### **4.18 Over-carried**

Should any *subject matter insured* be over-carried, this policy extends to cover such interest until return to port of destination, subject to any additional premium we may require.

#### **4.19 Packers**

The insurance applies while the *subject matter insured* is in transit to or from packers' premises and while there for packing up to a maximum of 30 days.

#### **4.20 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*.

#### **4.21 Re-consigned or re-shipped**

Subject to the terms and conditions of this policy where the *subject matter insured* has been insured to a named port and is re-consigned or re-shipped direct from the wharf to ports within Australia and/or New Zealand, the insurance continues until final destination without payment of extra premium or prior notification.

#### **4.22 Sealed containers**

Claims for theft, shortage or non-delivery of a whole package or item shipped in a container will not be invalidated solely because the seals appear intact on delivery, provided we are given:

4.22.1 documentary evidence the package or item was loaded into the container; and

4.22.2 a copy of the discharge tally sheet or claused delivery notes,

to substantiate the loss.

#### **4.23 Sellers interest (exports only)**

This extension will only apply to *subject matter insured* that is exported if, under a contract of sale, *you* do not have a responsibility to arrange insurance up to final destination and *you* make a provisional declaration of all such exports of *subject matter insured* within the voyage range of this policy at the commencement of each *period of insurance* for which sellers interest premium is charged.

4.23.1 Full cover will apply if title reverts to *you* because the buyer fails to:

(a) accept the *subject matter insured*;

(b) take up the documents of title; or

(c) pay for the *subject matter insured*,

and *you* exercise a right or lien to interrupt the transit and/or suspend the contract of sale in order to protect *your* interests.

4.23.2 Cover will remain in force until either:

(a) the *subject matter 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) 60 days from the arrival of the overseas vessel at the port of discharge,

whichever first occurs.

4.23.3 We will not pay for loss or damage to the *subject matter insured*:

- (a) unless immediate notice is given to us when a contingency in 4.23.1 (a), 4.23.1 (b) and/or 4.23.1 (c) above occurs;
- (b) if the existence of this extension is disclosed to the buyer, its insurers or any other interested party;
- (c) if this extension or any interest in the *subject matter insured* is assigned;
- (d) if the loss is recoverable from credit insurers;
- (e) arising from government action and/or regulations preventing transfer of currency; or
- (f) if *you* have not declared to us all exports of the *subject matter insured* within the voyage range of this policy where *you* do not have a contractual responsibility to arrange or provide insurance up to the final destination.

This extension is not a double insurance. *You* must use all reasonable and usual care, skill and forethought and take all practical measures which may be required by us to prevent or minimise loss and to enforce the contract of sale.

When a claim is paid under this extension we are entitled to exercise our right of subrogation as outlined in 6.5 'Rights of subrogation'.

#### **4.24 Shut out**

In the event of *the subject matter insured* being 'shut out' from a vessel, this policy extends to cover the *subject matter insured* while waiting on the wharf, quay or pier or for the transfer to and whilst at another wharf, quay or pier and onforwarding by another vessel, subject to *you* notifying us as soon as *you* become aware of such event.

#### **4.25 Sorting charges**

This policy will cover costs incurred by *you* if *you* are instructed to separate shipping packages to ascertain the cause of loss or damage to the *subject matter insured*. These costs will be paid by us whether or not a claim under the policy is paid.

#### **4.26 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 \$25,000 whichever is lesser any one loss or occurrence in addition to the sum insured.

This extension is subject to an excess of 10 per cent of the amount recoverable for claims made under this extension.

## 5. Exclusions

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

### 5.1 Demonstration, use or testing, return from exhibition

Notwithstanding anything to the contrary in 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.

### 5.2 Information technology hazards

This insurance 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:

- 5.2.1 theft of equipment;
- 5.2.2 collision;
- 5.2.3 sinking, grounding or stranding of the carrying vessel;
- 5.2.4 overturning or derailment of land conveyance;
- 5.2.5 jettison or washing overboard;
- 5.2.6 fire, lightning, explosion;
- 5.2.7 aircraft or vehicle impact;
- 5.2.8 falling objects;
- 5.2.9 windstorm, hail, tornado, cyclone, hurricane, earthquake, volcano, tsunami, flood, freeze or weight of snow.

### 5.3 Institute Radioactive Contamination, Chemical, Biological, Bio-chemical and Electromagnetic Weapons Exclusion Clauses - USA/Canada endorsement

When the *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 the 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.

### 5.4 ISM

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:

- 5.4.1 the vessel was not certified in accordance with the ISM Code; or
- 5.4.2 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.

## 5.5 Mechanical or electronic derangement

This policy excludes mechanical, electrical or electronic breakdown or malfunction where there is no external evidence that an insured event has occurred.

## 5.6 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 the policy covers loss of or damage to the *subject matter insured* caused by any act of *terrorism* cover will terminate either:

- 5.6.1 as per the transit clauses contained within the contract of insurance;
- 5.6.2 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;
- 5.6.3 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;
- 5.6.4 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;
- 5.6.5 in respect of marine transits, on the expiry of 60 days after the completion of discharge overseas of the *subject matter insured* from the overseas vessel at the final port of discharge; or
- 5.6.6 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 5.6.1 to 5.6.6 above.

## 5.7 Terrorism

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

- 5.7.1 *terrorism*; and/or
- 5.7.2 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 5.6.

## 6. Claims conditions

### 6.1 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:

- 6.1.1 claim immediately on the carriers, port authorities or other bailees for any missing packages;
- 6.1.2 in no circumstances, other than under written protest, give clean receipts where goods are in damaged or doubtful condition;
- 6.1.3 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;

- 6.1.4 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;
- 6.1.5 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
- 6.1.6 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;
- 6.1.7 not authorise any repairs to the *subject matter insured* without our consent.

## 6.2 Claims settlement

In the event of a claim, we have the option of settling *your* loss by payment, repair, reinstatement or replacement.

### 6.2.1 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.

### 6.2.2 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.

## 6.3 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 the *schedule* or elsewhere in the policy wording.

## 6.4 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.

## 6.5 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. General conditions

### 7.1 Applicable legislation

To the extent that this policy covers risks governed by the Marine Insurance Act 1909 the 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.

### 7.2 Australian law and jurisdiction

This policy is subject to Australian law and jurisdiction.

### 7.3 Cancellation

7.3.1 *You* may cancel this policy at any time by notifying us in writing.

7.3.2 When the policy is subject to the Marine Insurance Act 1909, we may cancel this policy at any time by giving *you* 30 days notice in writing of the date from which cancellation is to take effect. The notification may be delivered personally or posted by certified mail to *you* at the address last notified to us. Proof of mailing will be sufficient proof of notification.

7.3.3 When the policy is subject to the Insurance Contracts Act 1984, we may cancel the policy subject to the provisions of that Act.

7.3.4 Cancellation will not apply to risks which have attached before the cancellation becomes effective.

7.3.5 Within 30 days of the effective date of cancellation *you* must advise us of the actual figures for the period the policy has been in force to enable us to calculate the premium due for this period. The difference between this premium and the deposit premium will either be paid by or allowed to *you* but subject to retention by us of 75 per cent of the proportionate part of the original estimated annual premium for the policy has been in force.

### 7.4 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.

### 7.5 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.

### 7.6 Notification of material change

*You* must notify us as soon as possible of any material change in the risk covered by this policy.

### 7.7 Plurals and titles

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

7.7.1 headings are descriptive only, not an aid to interpretation;

7.7.2 singular includes the plural, and vice versa; and

7.7.3 the male includes the female and neuter.

## **7.8 Premium and adjustments**

You must pay us the deposit premium stated in the *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.

7.8.1 If the adjusted premium is higher than the deposit premium stated in the *schedule* you must pay us the difference unless the deposit premium is less than \$25,000 and the variation between estimated and actual figures for the period is less than 10 per cent when no difference in premium is payable.

7.8.2 If the adjusted premium is lower than the premium stated in the *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 estimated annual premium the deposit premium was based on.

## **7.9 Reasonable care**

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

## **7.10 Sanctions regulation**

Notwithstanding any other terms or conditions under this policy, Zurich 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.

## **7.11 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.

## **7.12 Transfer**

For shipments involving imports and/or exports, this policy permits transfer of the insurance by you or any assignee to another person and/or entity.

For transits commencing and terminating within the same country, you may only transfer a right under this policy with our written consent.

## **7.13 Variation of war and strikes rates**

Our right to cancel insurance of war and/or strikes risks or to increase the war and/or strikes rates or to change the conditions of insurance are not prejudiced by the war and strikes premium under this policy having been prepaid at the rates current at the commencement of each *period of insurance*.

We have the right to apply higher rates on, or to charge on a 'hold covered' basis, voyages or flights to specific countries or areas. Any additional premium will be calculated by applying the difference between prepaid and amended war and/or strikes rates to actual declared figures for the period/s applicable or, if not declared, on a pro-rata to annual premium basis for the annual period concerned.



## Risks covered

### Risks

1. This insurance covers all risks of loss of or damage to the subject-matter insured except as excluded by the provisions of Clauses 4, 5, 6 and 7 below.

### General Average

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

### 'Both to Blame Collision Clause'

3. This insurance indemnifies the Assured, in respect of any risk insured herein, against liability incurred under any Both to Blame Collision Clause in the contract of carriage. In the event of any claim by carriers under the said Clause, the Assured agree to notify the Insurers who shall have the right, at their own cost and expense, to defend the Assured against such claim.

## Exclusions

4. In no case shall this insurance cover
  - 4.1 loss damage or expense attributable to wilful misconduct of the Assured
  - 4.2 ordinary leakage, ordinary loss in weight or volume, or ordinary wear and tear of the subject-matter insured
  - 4.3 loss damage or expense caused by insufficiency or unsuitability of packing or preparation of the subject matter insured to withstand the ordinary incidents of the insured transit where such packing or preparation is carried out by the Assured or their employees or prior to the attachment of this insurance (for the purpose of these Clauses 'packing' shall be deemed to include stowage in a container and 'employees' shall not include independent contractors)
  - 4.4 loss damage or expense caused by inherent vice or nature of the subject-matter insured
  - 4.5 loss damage or expense caused by delay, even though the delay be caused by a risk insured against (except expenses payable under Clause 2 above)
  - 4.6 loss damage or expense caused by insolvency or financial default of the owners managers charterers or operators of the vessel where, at the time of loading of the subject-matter insured on board the vessel, the Assured are aware, or in the ordinary course of business should be aware, that such insolvency or financial default could prevent the normal prosecution of the voyage  

This exclusion shall not apply where the contract of insurance has been assigned to the party claiming hereunder who has bought or agreed to buy the subject-matter insured in good faith under a binding contract.
  - 4.7 loss damage or expense directly or indirectly caused by or arising from the use of any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.
5. 5.1 In no case shall this insurance cover loss damage or expense arising from
  - 5.1.1 unseaworthiness of vessel or craft or unfitness of vessel or craft for the safe carriage of the subject-matter insured, where the Assured are privy to such unseaworthiness or unfitness, at the time the subject-matter insured is loaded therein
  - 5.1.2 unfitness of container or conveyance for the safe carriage of the subject-matter insured, where loading therein or thereon is carried out prior to attachment of this insurance or by the Assured or their employees and they are privy to such unfitness at the time of loading.
- 5.2 Exclusion 5.1.1 above shall not apply where the contract of 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.
- 5.3 The Insurers waive any breach of the implied warranties of seaworthiness of the ship and fitness of the ship to carry the subject-matter insured to destination.

- 6. In no case shall this insurance cover loss damage or expense caused by
  - 6.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power
  - 6.2 capture seizure arrest restraint or detainment (piracy excepted), and the consequences thereof or any attempt thereat
  - 6.3 derelict mines torpedoes bombs or other derelict weapons of war.
- 7. In no case shall this insurance cover loss damage or expense
  - 7.1 caused by strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions
  - 7.2 resulting from strikes, lock-outs, labour disturbances, riots or civil commotions
  - 7.3 caused by any act of terrorism being an act of any person acting on behalf of, or in connection with, any organisation which carries out activities directed towards the overthrowing or influencing, by force or violence, of any government whether or not legally constituted
  - 7.4 caused by any person acting from a political, ideological or religious motive.

## Duration

### Transit Clause

- 8. 8.1 Subject to Clause 11 on page 18, this insurance attaches from the time the subject-matter insured is first moved in the warehouse or at the place of storage (at the place named in the contract of insurance) for the purpose of the immediate loading into or onto the carrying vehicle or other conveyance for the commencement of transit,
 

continues during the ordinary course of transit

and terminates either

  - 8.1.1 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
  - 8.1.2 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 the Assured or their employees elect to use either for storage other than in the ordinary course of transit or for allocation or distribution
  - 8.1.3 when the Assured or their employees elect to use any carrying vehicle or other conveyance or any container for storage other than in the ordinary course of transit

or

  - 8.1.4 on the expiry of 60 days after completion of discharge overseaside of the subject-matter insured from the overseas vessel at the final port of discharge,

whichever shall first occur.
- 8.2 If, after discharge overseaside from the overseas vessel at the final port of discharge, but prior to termination of this insurance, the subject-matter insured is to be forwarded to a destination other than that to which it is insured, this insurance, whilst remaining subject to termination as provided in Clauses 8.1.1 to 8.1.4, shall not extend beyond the time the subject-matter insured is first moved for the purpose of the commencement of transit to such other destination.
- 8.3 This insurance shall remain in force (subject to termination as provided for in Clauses 8.1.1 to 8.1.4 above and to the provisions of Clause 9 on page 18) during delay beyond the control of the Assured, any deviation, forced discharge, reshipment or transshipment and during any variation of the adventure arising from the exercise of a liberty granted to carriers under the contract of carriage.

### **Termination of Contract of Carriage**

9. If owing to circumstances beyond the control of the Assured either the contract of carriage is terminated at a port or place other than the destination named therein or the transit is otherwise terminated before unloading of the subject-matter insured as provided for in Clause 8 on page 17, then this insurance shall also terminate *unless prompt notice is given to the Insurers and continuation of cover is requested when this insurance shall remain in force, subject to an additional premium if required by the Insurers, either*
- 9.1 until the subject-matter insured is sold and delivered at such port or place, or, unless otherwise specially agreed, until the expiry of 60 days after arrival of the subject-matter insured at such port or place, whichever shall first occur;
- or
- 9.2 if the subject-matter insured is forwarded within the said period of 60 days (or any agreed extension thereof) to the destination named in the contract of insurance or to any other destination, until terminated in accordance with the provisions of Clause 8 on page 17.

### **Change of Voyage**

10. 10.1 Where, after attachment of this insurance, the destination is changed by the Assured, this must be notified promptly to Insurers for rates and terms to be agreed. *Should a loss occur prior to such agreement being obtained cover may be provided but only if cover would have been available at a reasonable commercial market rate on reasonable market terms.*
- 10.2 Where the subject-matter insured commences the transit contemplated by this insurance (in accordance with Clause 8.1), but, without the knowledge of the Assured or their employees the ship sails for another destination, this insurance will nevertheless be deemed to have attached at commencement of such transit.

## **Claims**

### **Insurable Interest**

11. 11.1 In order to recover under this insurance the Assured must have an insurable interest in the subject matter insured at the time of the loss.
- 11.2 Subject to Clause 11.1 above, the Assured shall be entitled to recover for insured loss occurring during the period covered by this insurance, notwithstanding that the loss occurred before the contract of insurance was concluded, unless the Assured were aware of the loss and the Insurers were not.

### **Forwarding Charges**

12. Where, as a result of the operation of a risk covered by this insurance, the insured transit is terminated at a port or place other than that to which the subject-matter insured is covered under this insurance, the Insurers will reimburse the Assured 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.

This Clause 12, which does not apply to general average or salvage charges, shall be subject to the exclusions contained in Clauses 4, 5, 6 and 7 from page 16, and shall not include charges arising from the fault negligence insolvency or financial default of the Assured or their employees.

### **Constructive Total Loss**

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

### **Increased Value**

- 14.** 14.1 If any Increased Value insurance is effected by the Assured on the subject-matter insured under this insurance the agreed value of the subject-matter insured shall be deemed to be increased to the total amount insured under this insurance and all Increased Value insurances covering the loss, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured.

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

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

The agreed value of the subject-matter insured shall be deemed to be equal to the total amount insured under the primary insurance and all Increased Value insurances covering the loss and effected on the subject-matter insured by the Assured, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured.

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

### **Benefit of insurance**

- 15.** This insurance

15.1 covers the Assured which includes the person claiming indemnity either as the person by or on whose behalf the contract of insurance was effected or as an assignee

15.2 shall not extend to or otherwise benefit the carrier or other bailee.

### **Minimising losses**

#### **Duty of Assured**

- 16.** It is the duty of the Assured and their employees and agents in respect of loss recoverable hereunder

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

16.2 to ensure that all rights against carriers, bailees or other third parties are properly preserved and exercised  
and the Insurers will, in addition to any loss recoverable hereunder, reimburse the Assured for any charges properly and reasonably incurred in pursuance of these duties.

#### **Waiver**

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

### **Avoidance of delay**

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

### **Law and Practice**

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

Note: where a continuation of cover is requested under Clause 9, or a change of destination is notified under Clause 10, there is an obligation to give prompt notice to the Insurers and the right to such cover is dependent upon compliance with this obligation.

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01/01/2009

# Institute War Clauses (Cargo)

1/1/09

## Risks covered

### Risks

1. This insurance covers, except as excluded by the provisions of Clauses 3 and 4 below, loss of or damage to the subject-matter insured caused by
  - 1.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power
  - 1.2 capture seizure arrest restraint or detention, arising from risks covered under 1.1 above, and the consequences thereof or any attempt thereat
  - 1.3 derelict mines torpedoes bombs or other derelict weapons of war.

### General Average

2. This insurance covers general average and salvage charges, adjusted or determined according to the contract of carriage and/or the governing law and practice, incurred to avoid or in connection with the avoidance of loss from a risk covered under these Clauses.

## Exclusions

3. In no case shall this insurance cover
  - 3.1 loss damage or expense attributable to wilful misconduct of the Assured
  - 3.2 ordinary leakage, ordinary loss in weight or volume, or ordinary wear and tear of the subject-matter insured
  - 3.3 loss damage or expense caused by insufficiency or unsuitability of packing or preparation of the subject-matter insured to withstand the ordinary incidents of the insured transit where such packing or preparation is carried out by the Assured or their employees or prior to the attachment of this insurance (for the purpose of these Clauses 'packing' shall be deemed to include stowage in a container and 'employees' shall not include independent contractors)
  - 3.4 loss damage or expense caused by inherent vice or nature of the subject-matter insured
  - 3.5 loss damage or expense caused by delay, even though the delay be caused by a risk insured against (except expenses payable under Clause 2 above)
  - 3.6 loss damage or expense caused by insolvency or financial default of the owners managers charterers or operators of the vessel where, at the time of loading of the subject-matter insured on board the vessel, the Assured are aware, or in the ordinary course of business should be aware, that such insolvency or financial default could prevent the normal prosecution of the voyage  

This exclusion shall not apply where the contract of 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.
  - 3.7 any claim based upon loss of or frustration of the voyage or adventure
  - 3.8 loss damage or expense directly or indirectly caused by or arising from any hostile use of any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.
4. 4.1 In no case shall this insurance cover loss damage or expense arising from
  - 4.1.1 unseaworthiness of vessel or craft or unfitness of vessel or craft for the safe carriage of the subject-matter insured, where the Assured are privy to such unseaworthiness or unfitness, at the time the subject-matter insured is loaded therein
  - 4.1.2 unfitness of container or conveyance for the safe carriage of the subject-matter insured, where loading therein or thereon is carried out prior to attachment of this insurance or by the Assured or their employees and they are privy to such unfitness at the time of loading

- 4.2 Exclusion 4.1.1 on page 20 shall not apply where the contract of 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
- 4.3 The Insurers waive any breach of the implied warranties of seaworthiness of the ship and fitness of the ship to carry the subject-matter insured to destination.

## Duration

### Transit Clause

5. 5.1 This insurance
  - 5.1.1 attaches only as the subject-matter insured and as to any part as that part is loaded on an oversea vessel; and
  - 5.1.2 terminates, subject to 5.2 and 5.3 below, either as the subject-matter insured and as to any part as that part is discharged from an oversea vessel at the final port or place of discharge  
or  
on expiry of 15 days counting from midnight of the day of arrival of the vessel at the final port or place of discharge, whichever shall first occur; nevertheless, *subject to prompt notice to the Insurers and to an additional premium*, such insurance
  - 5.1.3 reattaches when, without having discharged the subject-matter insured at the final port or place of discharge, the vessel sails therefrom  
and
  - 5.1.4 terminates, subject to 5.2 and 5.3 below, either as the subject-matter insured and as to any part as that part is thereafter discharged from the vessel at the final (or substituted) port or place of discharge  
or  
on expiry of 15 days counting from midnight of the day of re-arrival of the vessel at the final port or place of discharge or arrival of the vessel at a substituted port or place of discharge, whichever shall first occur.
- 5.2 If during the insured voyage the oversea vessel arrives at an intermediate port or place to discharge the subject-matter insured for on-carriage by oversea vessel or by aircraft, or the subject-matter insured is discharged from the vessel at a port or place of refuge, then, subject to 5.3 below and to an additional premium if required, this insurance continues until the expiry of 15 days counting from midnight of the day of arrival of the vessel at such port or place, but thereafter reattaches as the subject-matter insured and as to any part as that part is loaded on an on-carrying oversea vessel or aircraft. During the period of 15 days the insurance remains in force after discharge only whilst the subject-matter insured and as to any part as that part is at such port or place. If the subject-matter insured is oncarried within the said period of 15 days or if the insurance reattaches as provided in this Clause 5.2
  - 5.2.1 where the on-carriage is by oversea vessel this insurance continues subject to the terms of these Clauses  
or
  - 5.2.2 where the on-carriage is by aircraft, the current Institute War Clauses (Air Cargo) (excluding sendings by Post) shall be deemed to form part of the contract of insurance and shall apply to the on-carriage by air.
- 5.3 If the voyage in the contract of carriage is terminated at a port or place other than the destination agreed therein, such port or place shall be deemed the final port of discharge and this insurance terminates in accordance with 5.1.2. If the subject-matter insured is subsequently reshipped to the original or any other destination, then *provided notice is given to the Insurers before the commencement of such further transit and subject to an additional premium*, this insurance reattaches
  - 5.3.1 in the case of the subject-matter insured having been discharged, as the subject-matter insured and as to any part as that part is loaded on the on-carrying vessel for the voyage

5.3.2 in the case of the subject-matter not having been discharged, when the vessel sails from such deemed final port of discharge

thereafter this insurance terminates in accordance with 5.1.4.

5.4 The insurance against the risks of mines and derelict torpedoes, floating or submerged, is extended whilst the subject-matter insured or any part thereof is on craft whilst in transit to or from the overseas vessel, but in no case beyond the expiry of

60 days after discharge from the overseas vessel unless otherwise specially agreed by the Insurers.

5.5 *Subject to prompt notice to Insurers, and to an additional premium if required*, this insurance shall remain in force within the provisions of these Clauses during any deviation, or any variation of the adventure arising from the exercise of a liberty granted to carriers under the contract of carriage.

(For the purpose of Clause 5 'arrival' shall be deemed to mean that the vessel is anchored, moored or otherwise secured at a berth or place within the Harbour Authority area. If such a berth or place is not available, arrival is deemed to have occurred when the vessel first anchors, moors or otherwise secures either at or off the intended port or place of discharge 'overseas vessel' shall be deemed to mean a vessel carrying the subject-matter from one port or place to another where such voyage involves a sea passage by that vessel.)

#### **Change of Voyage**

6. 6.1 Where, after attachment of this insurance, the destination is changed by the Assured, *this must be notified promptly to Insurers for rates and terms to be agreed. Should a loss occur prior to such agreement being obtained cover may be provided but only if cover would have been available at a reasonable commercial market rate on reasonable market terms.*

6.2 Where the subject-matter insured commences the transit contemplated by this insurance (in accordance with Clause 5.1), but, without the knowledge of the Assured or their employees the ship sails for another destination, this insurance will nevertheless be deemed to have attached at commencement of such transit.

7. **Anything contained in this contract which is inconsistent with Clauses 3.7, 3.8 or 5 shall, to the extent of such inconsistency, be null and void.**

## **Claims**

#### **Insurable Interest**

8. 8.1 In order to recover under this insurance the Assured must have an insurable interest in the subject-matter insured at the time of the loss.

8.2 Subject to Clause 8.1 above, the Assured shall be entitled to recover for insured loss occurring during the period covered by this insurance, notwithstanding that the loss occurred before the contract of insurance was concluded, unless the Assured were aware of the loss and the Insurers were not.

#### **Increased Value**

9. 9.1 If any Increased Value insurance is effected by the Assured on the subject-matter insured under this insurance the agreed value of the subject-matter insured shall be deemed to be increased to the total amount insured under this insurance and all Increased Value insurances covering the loss, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured.

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

9.2 Where this insurance is on Increased Value the following Clause shall apply:

The agreed value of the subject-matter insured shall be deemed to be equal to the total amount insured under the primary insurance and all Increased Value insurances covering the loss and effected on the subject-matter insured by the Assured, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured. In the event of claim the Assured shall provide the Insurers with evidence of the amounts insured under all other insurances.

## **Benefit of insurance**

### **10.** This insurance

10.1 covers the Assured which includes the person claiming indemnity either as the person by or on whose behalf the contract of insurance was effected or as an assignee

10.2 shall not extend to or otherwise benefit the carrier or other bailee.

## **Minimising losses**

### **Duty of Assured**

#### **11.** It is the duty of the Assured and their employees and agents in respect of loss recoverable hereunder

11.1 to take such measures as may be reasonable for the purpose of averting or minimising such loss  
and

11.2 to ensure that all rights against carriers, bailees or other third parties are properly preserved and exercised  
and the Insurers will, in addition to any loss recoverable hereunder, reimburse the Assured for any charges properly and reasonably incurred in pursuance of these duties.

### **Waiver**

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

## **Avoidance of delay**

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

## **Law and Practice**

#### **14.** This insurance is subject to English law and practice.

Note: where a reattachment of cover is requested under Clause 5, or a change of destination is notified under Clause 6, there is an obligation to give prompt notice to the Insurers and the right to such cover is dependent upon compliance with this obligation.

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# Institute Strikes Clauses (Cargo)

1/1/09

## Risks covered

### Risks

1. This insurance covers, except as excluded by the provisions of Clauses 3 and 4 below, loss of or damage to the subject-matter insured caused by
  - 1.1 strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions
  - 1.2 any act of terrorism being an act of any person acting on behalf of, or in connection with, any organisation which carries out activities directed towards the overthrowing or influencing, by force or violence, of any government whether or not legally constituted
  - 1.3 any person acting from a political, ideological or religious motive.

### General Average

2. This insurance covers general average and salvage charges, adjusted or determined according to the contract of carriage and/or the governing law and practice, incurred to avoid or in connection with the avoidance of loss from a risk covered under these clauses.

## Exclusions

3. In no case shall this insurance cover
  - 3.1 loss damage or expense attributable to wilful misconduct of the Assured
  - 3.2 ordinary leakage, ordinary loss in weight or volume, or ordinary wear and tear of the subject-matter insured
  - 3.3 loss damage or expense caused by insufficiency or unsuitability of packing or preparation of the subject-matter insured to withstand the ordinary incidents of the insured transit where such packing or preparation is carried out by the Assured or their employees or prior to the attachment of this insurance (for the purpose of this Clause 3.3 'packing' shall be deemed to include stowage in a container and 'employees' shall not include independent contractors)
  - 3.4 loss damage or expense caused by inherent vice or nature of the subject-matter insured
  - 3.5 loss damage or expense caused by delay, even though the delay be caused by a risk insured against (except expenses payable under Clause 2 above)
  - 3.6 loss damage or expense caused by insolvency or financial default of the owners managers charterers or operators of the vessel where, at the time of loading of the subject-matter insured on board the vessel, the Assured are aware, or in the ordinary course of business should be aware, that such insolvency or financial default could prevent the normal prosecution of the voyage  

This exclusion shall not apply where the contract of 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
  - 3.7 loss damage or expense arising from the absence shortage or withholding of labour of any description whatsoever resulting from any strike, lockout, labour disturbance, riot or civil commotion
  - 3.8 any claim based upon loss of or frustration of the voyage or adventure
  - 3.9 loss damage or expense directly or indirectly caused by or arising from the use of any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
  - 3.10 loss damage or expense caused by war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power.

4. 4.1 In no case shall this insurance cover loss damage or expense arising from
- 4.1.1 unseaworthiness of vessel or craft or unfitness of vessel or craft for the safe carriage of the subject-matter insured, where the Assured are privy to such unseaworthiness or unfitness, at the time the subject-matter insured is loaded therein
  - 4.1.2 unfitness of container or conveyance for the safe carriage of the subject-matter insured, where loading therein or thereon is carried out prior to attachment of this insurance or by the Assured or their employees and they are privy to such unfitness at the time of loading.
- 4.2 Exclusion 4.1.1 above shall not apply where the contract of 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.
- 4.3 The Insurers waive any breach of the implied warranties of seaworthiness of the ship and fitness of the ship to carry the subject-matter insured to destination.

## Duration

### Transit Clause

5. 5.1 Subject to Clause 8 on page 26, this insurance attaches from the time the subject-matter insured is first moved in the warehouse or at the place of storage (at the place named in the contract of insurance) for the purpose of the immediate loading into or onto the carrying vehicle or other conveyance for the termination of transit continues during the ordinary course of transit and terminates either
- 5.1.1 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
  - 5.1.2 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 the Assured or their employees elect to use either for storage other than in the ordinary course of transit or for allocation or distribution
- or
- 5.1.3 when the Assured or their employees elect to use any carrying vehicle or other conveyance or any container for storage other than in the ordinary course of transit
- or
- 5.1.4 on the expiry of 60 days after completion of discharge overseaside of the subject-matter insured from the overseas vessel at the final port of discharge
- whichever shall first occur.
- 5.2 If, after discharge overseaside from the overseas vessel at the final port of discharge, but prior to termination of this insurance, the subject-matter insured is to be forwarded to a destination other than that to which it is insured, this insurance, whilst remaining subject to termination as provided in Clauses 5.1.1 to 5.1.4, shall not extend beyond the time the subject-matter insured is first moved for the purpose of the commencement of transit to such other destination.
- 5.3 This insurance shall remain in force (subject to termination as provided for in Clauses 5.1.1 to 5.1.4 above and to the provisions of Clause 6 on page 26) during delay beyond the control of the Assured, any deviation, forced discharge, reshipment or transshipment and during any variation of the adventure arising from the exercise of a liberty granted to carriers under the contract of carriage.

### Termination of Contract of Carriage

6. If owing to circumstances beyond the control of the Assured either the contract of carriage is terminated at a port or place other than the destination named therein or the transit is otherwise terminated before unloading of the subject-matter insured as provided for in Clause 5 on page 25, then this insurance shall also terminate *unless prompt notice is given to the Insurers and continuation of cover is requested when this insurance shall remain in force, subject to an additional premium if required by the Insurers, either*
- 6.1 until the subject-matter insured is sold and delivered at such port or place, or, unless otherwise specially agreed, until the expiry of 60 days after arrival of the subject-matter insured at such port or place, whichever shall first occur;
- or
- 6.2 if the subject-matter insured is forwarded within the said period of 60 days (or any agreed extension thereof) to the destination named in the contract of insurance or to any other destination, until terminated in accordance with the provisions of Clause 5 on page 25.

### Change of Voyage

7. 7.1 Where, after attachment of this insurance, the destination is changed by the Assured, *this must be notified promptly to Insurers for rates and terms to be agreed. Should a loss occur prior to such agreement being obtained cover may be provided but only if cover would have been available at a reasonable commercial market rate on reasonable market terms.*
- 7.2 Where the subject-matter insured commences the transit contemplated by this insurance (in accordance with Clause 5.1), but, without the knowledge of the Assured or their employees the ship sails for another destination, this insurance will nevertheless be deemed to have attached at commencement of such transit.

## Claims

### Insurable Interest

8. 8.1 In order to recover under this insurance the Assured must have an insurable interest in the subject-matter insured at the time of the loss.
- 8.2 Subject to Clause 8.1 above, the Assured shall be entitled to recover for insured loss occurring during the period covered by this insurance, notwithstanding that the loss occurred before the contract of insurance was concluded, unless the Assured were aware of the loss and the Insurers were not.

### Increased Value

9. 9.1 If any Increased Value insurance is effected by the Assured on the subject-matter insured under this insurance the agreed value of the subject-matter insured shall be deemed to be increased to the total amount insured under this insurance and all Increased Value insurances covering the loss, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured.

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

- 9.2 **Where this insurance is on Increased Value the following Clause shall apply:**

The agreed value of the subject-matter insured shall be deemed to be equal to the total amount insured under the primary insurance and all Increased Value insurances covering the loss and effected on the subject-matter insured by the Assured, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured.

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

## **Benefit of insurance**

### **10.** This insurance

10.1 covers the Assured which includes the person claiming indemnity either as the person by or on whose behalf the contract of insurance was effected or as an assignee

10.2 shall not extend to or otherwise benefit the carrier or other bailee.

## **Minimising losses**

### **Duty of Assured**

#### **11.** It is the duty of the Assured and their employees and agents in respect of loss recoverable hereunder

11.1 to take such measures as may be reasonable for the purpose of averting or minimising such loss  
and

11.2 to ensure that all rights against carriers, bailees or other third parties are properly preserved and exercised and the Insurers will, in addition to any loss recoverable hereunder, reimburse the Assured for any charges properly and reasonably incurred in pursuance of these duties.

### **Waiver**

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

## **Avoidance of delay**

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

## **Law and Practice**

#### **14.** This insurance is subject to English law and practice.

Note: where a continuation of cover is requested under Clause 6, or a change of destination is notified under Clause 7, there is an obligation to give prompt notice to the Insurers and the right to such cover is dependent upon compliance with this obligation.

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# Institute Replacement Clause

1/12/08

In the event of loss of or damage to any part(s) of an insured machine or other manufactured item consisting of more than one part caused by a peril covered by this insurance, the sum recoverable shall not exceed the cost of replacement or repair of such part(s) plus labour for (re)fitting and carriage costs. Duty incurred in the provision of replacement or repaired part(s) shall also be recoverable provided that the full duty payable on the insured machine or manufactured item is included in the amount insured.

The total liability of Insurers shall in no event exceed the amount insured of the machine or manufactured item.

**CL372**

# Institute Classification Clause

1/1/2001

## Qualifying vessels

1. This insurance and the marine transit rates as agreed in the policy or open cover apply only to cargoes and/or interests carried by mechanically self-propelled vessels of steel construction classed with a Classification Society which is:
  - 1.1 a Member or Associate Member of the International Association of Classification Societies (IACS\*)  
or
  - 1.2 a National Flag Society as defined in Clause 4 below, but only where the vessel is engaged exclusively in the coastal trading of that nation (including trading on an Inter-island route within an archipelago of which the nation forms part)

Cargoes and/or interests carried by vessels not classed as above must be notified promptly to underwriters for rates and conditions to be agreed. **Should a loss occur prior to such agreement being obtained cover may be provided but only if cover would have been available at a reasonable commercial market rate on reasonable commercial market terms.**

## Age limitations

2. Cargoes and/or interests carried by Qualifying vessels (as defined above) which exceed the following age limits will be insured on the policy or open cover conditions **subject to an additional premium to be agreed.**
  - bulk or combination carriers over 10 years of age  
or  
other vessels over 15 years of age unless they
    - 2.1 have been used for the carriage of general cargo on an established and regular pattern of trading between a range of specified ports, and do not exceed 25 years of age  
or
    - 2.2 were constructed as containerships, vehicle carriers or open hatch gantry crane vessels (OGGCs) and have been continuously used as such on an established and regular pattern of trading between a range of specified ports, and do not exceed 30 years of age.

## Craft Clause

3. The requirements of this Clause do not apply to any craft used to load or unload the vessel within the port area.

## National Flag Society

4. A National Flag Society is a Classification Society which is domiciled in the same country as the owner of the vessel in question which must operate under the flag of that country.

## Prompt notice

5. **Where this insurance requires the assured to give prompt notice to the Underwriters, the right to cover is dependent upon compliance with that obligation.**

## Law and Practice

6. This insurance is subject to English law and practice

# Institute Cargo Clauses (Air)

1/1/09

## (excluding sending by Post)

### Risk covered

#### Risks

1. This insurance covers all risks of loss of or damage to the subject-matter insured except as excluded by the provisions of Clauses 3, 4 and 5 below.

#### Salvage Charges

2. This insurance covers salvage charges incurred to avoid or in connection with the avoidance of loss from any cause except those excluded in Clauses 3, 4 and 5 below.

### Exclusions

3. In no case shall this insurance cover:
  - 3.1 loss damage or expense attributable to wilful misconduct of the Assured
  - 3.2 ordinary leakage, ordinary loss in weight or volume, or ordinary wear and tear of the subject-matter insured
  - 3.3 loss damage or expense caused by insufficiency or unsuitability of packing or preparation of the subject-matter insured to withstand the ordinary incidents of the insured transit where such packing or preparation is carried out by the Assured or their employees or prior to the attachment of this insurance (for the purpose of these Clauses 'packing' shall be deemed to include stowage in a container and 'employees' shall not include independent contractors)
  - 3.4 loss damage or expense caused by inherent vice or nature of the subject-matter insured
  - 3.5 loss damage or expense arising from unfitness of aircraft conveyance or container for the safe carriage of the subject-matter insured, where loading therein or thereon is carried out prior to attachment of this insurance or by the Assured or their employees and they are privy to such unfitness at the time of loading. This exclusion shall not apply where the contract of 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.
  - 3.6 loss damage or expense caused by delay, even though the delay be caused by a risk insured against
  - 3.7 loss damage or expense caused by insolvency or financial default of the owners managers charterers or operators of the aircraft where, at the time of loading of the subject-matter insured on board the aircraft, the Assured are aware, or in the ordinary course of business should be aware, that such insolvency or financial default could prevent the normal prosecution of the transit This exclusion shall not apply where the contract of 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
  - 3.8 loss damage or expense directly or indirectly caused by or arising from the use of any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.
4. In no case shall this insurance cover loss damage or expense caused by:
  - 4.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power
  - 4.2 capture seizure arrest restraint or detainment (piracy excepted), and the consequences thereof or any attempt thereat
  - 4.3 derelict mines torpedoes bombs or other derelict weapons of war.
5. In no case shall this insurance cover loss damage or expense:
  - 5.1 caused by strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions
  - 5.2 resulting from strikes, lock-outs, labour disturbances, riots or civil commotions
  - 5.3 caused by any act of terrorism being an act of any person acting on behalf of, or in connection with, any organisation which carries out activities directed towards the overthrowing or influencing, by force or violence, of any government whether or not legally constituted
  - 5.4 caused by any person acting from a political, ideological or religious motive.

## Duration

### Transit Clause

6. 6.1 Subject to Clause 9 on page 32, this insurance attaches from the time the subject-matter insured is first moved in the warehouse, premises or at the place of storage (at the place named in the contract of insurance) for the purpose of the immediate loading into or onto the carrying vehicle or other conveyance for the commencement of transit
- continues during the ordinary course of transit
- and terminates either:
- 6.1.1 on completion of unloading from the carrying vehicle or other conveyance in or at the final warehouse, premises or place of storage at the destination named in the contract of insurance
  - 6.1.2 on completion of unloading from the carrying vehicle or other conveyance in or at any other warehouse, premises or place of storage, whether prior to or at the destination named in the contract of insurance, which the Assured or their employees elect to use either for storage other than in the ordinary course of transit or for allocation or distribution
  - or
  - 6.1.3 when the Assured or their employees elect to use any carrying vehicle or other conveyance or any container for storage other than in the ordinary course of transit
  - or
  - 6.1.4 on the expiry of 30 days after completion of unloading of the subject-matter insured from the aircraft at the final place of discharge
- whichever shall first occur.
- 6.2 If, after unloading from the aircraft at the final place of discharge, but prior to termination of this insurance, the subject-matter insured is to be forwarded to a destination other than that to which it is insured, this insurance, whilst remaining subject to termination as provided in Clauses 6.1.1 to 6.1.4, shall not extend beyond the time the subject-matter insured is first moved for the purpose of the commencement of transit to such other destination.
- 6.3 This insurance shall remain in force (subject to termination as provided for in Clauses 6.1.1 to 6.1.4 above and to the provisions of Clause 7 below) during delay beyond the control of the Assured, any deviation, forced discharge, reshipment or transshipment and during any variation of the adventure arising from the exercise of a liberty granted to the air carriers under the contract of carriage.

### Termination of Contract of Carriage

7. If owing to circumstances beyond the control of the Assured either the contract of carriage is terminated at a place other than the destination named therein or the transit is otherwise terminated before unloading of the subject-matter insured as provided for in Clause 6 above, then this insurance shall also terminate *unless prompt notice is given to the Insurers and continuation of cover is requested when this insurance shall remain in force, subject to an additional premium if required by the Insurers, either*
- 7.1 until the subject-matter insured is sold and delivered at such place, or, unless otherwise specially agreed, until the expiry of 30 days after arrival of the subject-matter insured at such place, whichever shall first occur
  - or
  - 7.2 if the subject-matter insured is forwarded within the said period of 30 days (or any agreed extension thereof) to the destination named in the contract of insurance or to any other destination, until terminated in accordance with the provisions of Clause 6 above.



### **Change of Transit**

8. 8.1 Where, after attachment of this insurance, the destination is changed by the Assured, *this must be notified promptly to Insurers for rates and terms to be agreed. Should a loss occur prior to such agreement being obtained cover may be provided but only if cover would have been available at a reasonable commercial market rate on reasonable market terms.*
- 8.2 Where the subject-matter insured commences the transit contemplated by this insurance (in accordance with Clause 6.1), but, without the knowledge of the Assured or their employees the aircraft leaves for another destination, this insurance will nevertheless be deemed to have attached at commencement of such transit.

## **Claims**

### **Insurable Interest**

9. 9.1 In order to recover under this insurance the Assured must have an insurable interest in the subject-matter insured at the time of the loss
- 9.2 Subject to Clause 9.1 above, the Assured shall be entitled to recover for insured loss occurring during the period covered by this insurance, notwithstanding that the loss occurred before the contract of insurance was concluded, unless the Assured were aware of the loss and the Insurers were not.

### **Forwarding Charges**

10. Where, as a result of the operation of a risk covered by this insurance, the insured transit is terminated at a place other than that to which the subject-matter insured is covered under this insurance, the Insurers will reimburse the Assured 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.

This Clause 10, which does not apply to salvage charges, shall be subject to the exclusions contained in Clauses 3, 4 and 5 from page 30, and shall not include charges arising from the fault negligence insolvency or financial default of the Assured or their employees.

### **Constructive Total Loss**

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

### **Increased Value**

12. 12.1 If any Increased Value insurance is effected by the Assured on the subject-matter insured under this insurance the agreed value of the subject-matter insured shall be deemed to be increased to the total amount insured under this insurance and all Increased Value insurances covering the loss, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured.

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

#### **12.2 Where this insurance is on Increased Value the following Clause shall apply:**

The agreed value of the subject-matter insured shall be deemed to be equal to the total amount insured under the primary insurance and all Increased Value insurances covering the loss and effected on the subject-matter insured by the Assured, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured.

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

## **Benefit of insurance**

### **13.** This insurance

13.1 covers the Assured which includes the person claiming indemnity either as the person by or on whose behalf the contract of insurance was effected or as an assignee

13.2 shall not extend to or otherwise benefit the carrier or other bailee.

## **Minimising losses**

### **Duty of Assured**

#### **14.** It is the duty of the Assured and their employees and agents in respect of loss recoverable hereunder

14.1 to take such measures as may be reasonable for the purpose of averting or minimising such loss  
and

14.2 to ensure that all rights against carriers, bailees or other third parties are properly preserved and exercised  
and the Insurers will, in addition to any loss recoverable hereunder, reimburse the Assured for any charges properly and reasonably incurred in pursuance of these duties.

### **Waiver**

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

## **Avoidance of delay**

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

## **Law and Practice**

#### **17.** This insurance is subject to English law and practice.

Note: where a continuation of cover is requested under Clause 7, or a change of destination is notified under Clause 8, there is an obligation to give prompt notice to the Insurers and the right to such cover is dependent upon compliance with this obligation.

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# Institute War Clauses (Air Cargo)

1/1/09

## (excluding sending by Post)

### Risks covered

#### Risks

1. This insurance covers, except as excluded by the provisions of Clause 3 below, loss of or damage to the subject-matter insured caused by:
  - 1.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power
  - 1.2 capture seizure arrest restraint or detention, arising from risks covered under 1.1 above, and the consequences thereof or any attempt thereat
  - 1.3 derelict mines torpedoes bombs or other derelict weapons of war.

#### Salvage Charges

2. This insurance covers salvage charges, incurred to avoid or in connection with the avoidance of loss from any cause except those excluded in Clause 3 below.

#### Exclusions

3. In no case shall this insurance cover:
  - 3.1 loss damage or expense attributable to wilful misconduct of the Assured
  - 3.2 ordinary leakage, ordinary loss in weight or volume, or ordinary wear and tear of the subject-matter insured
  - 3.3 loss damage or expense caused by insufficiency or unsuitability of packing or preparation of the subject-matter insured to withstand the ordinary incidents of the insured transit where such packing or preparation is carried out by the Assured or their employees or prior to the attachment of this insurance (for the purpose of these Clauses 'packing' shall be deemed to include stowage in a container and 'employees' shall not include independent contractors)
  - 3.4 loss damage or expense caused by inherent vice or nature of the subject-matter insured
  - 3.5 loss damage or expense arising from unfitness of aircraft conveyance or container for the safe carriage of the subject-matter insured, where loading therein or thereon is carried out prior to attachment of this insurance or by the Assured or their employees and they are privy to such unfitness at the time of loading  

This exclusion shall not apply where the contract of 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.
  - 3.6 loss damage or expense caused by delay, even though the delay be caused by a risk insured against
  - 3.7 loss damage or expense arising from insolvency or financial default of the owners managers charterers or operators of the aircraft where, at the time of loading of the subject-matter insured on board the aircraft, the Assured are aware, or in the ordinary course of business should be aware, that such insolvency or financial default could prevent the normal prosecution of the transit  

This exclusion shall not apply where the contract of 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.
  - 3.8 any claim based upon loss of or frustration of the transit or adventure
  - 3.9 loss damage or expense directly or indirectly caused by or arising from any hostile use of any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

## Duration

### Transit Clause

4. 4.1 This insurance
- 4.1.1 attaches only as the subject-matter insured and as to any part as that part is loaded on the aircraft for the commencement of the air transit insured;  
and
  - 4.1.2 terminates, subject to 4.2 and 4.3 below, either as the subject-matter insured and as to any part as that part is discharged from the aircraft at the final place of discharge;  
or  
on expiry of 15 days counting from midnight of the day of arrival of the aircraft at the final place of discharge whichever shall first occur;  
nevertheless,  
*subject to prompt notice to the Insurers and to an additional premium*, such insurance
  - 4.1.3 reattaches when, without having discharged the subject-matter insured at the final place of discharge, the aircraft departs therefrom;  
and
  - 4.1.4 terminates, subject to 4.2 and 4.3 below, either as the subject-matter insured and as to any part as that part is thereafter discharged from the aircraft at a substituted place of discharge, whichever shall first occur.
- 4.2 If during the insured transit the aircraft arrives at an intermediate place to discharge the subject-matter insured for on-carriage by aircraft or oversea vessel, then, subject to 4.3 below and to an additional premium if required, this insurance continues until the expiry of 15 days counting from midnight of the day of arrival of the aircraft at such place, but thereafter reattaches as the subject-matter insured and as to any part as that part is loaded on an on-carrying aircraft or oversea vessel. During the period of 15 days the insurance remains in force after discharge only whilst the subject-matter insured and as to any part as that part is at such intermediate place. If the subject-matter insured is on-carried within the said period of 15 days or if the insurance reattaches as provided in this Clause 4.2
- 4.2.1 where the on-carriage is by aircraft this insurance continues subject to the terms of these Clauses  
or
  - 4.2.2 where the on-carriage is by oversea vessel, the current Institute War Clauses (Cargo) shall be deemed to form part of the contract of insurance and shall apply to the on-carriage by sea.
- 4.3 If the air transit in the contract of carriage is terminated at a place other than the destination agreed therein, that place shall be deemed to be the final place of discharge and this insurance terminates in accordance with 4.1.2. If the subject-matter insured is subsequently consigned to the original or any other destination, then, *provided notice is given to the Insurers before the commencement of such further transit and subject to an additional premium*, this insurance reattaches
- 4.3.1 in the case of the subject-matter insured having been discharged, as the subject-matter insured and as to any part as that part is loaded on the on-carrying aircraft for the transit
  - 4.3.2 in the case of the subject-matter insured not having been discharged, when the aircraft departs from such deemed final place of discharge
- thereafter this insurance terminates in accordance with 4.1.4.

4.4 *Subject to prompt notice to Insurers, and to an additional premium if required, this insurance shall remain in force within the provisions of these Clauses during any deviation, or any variation of the adventure arising from the exercise of a liberty granted to the air carriers under the contract of carriage.*

(For the purpose of Clause 4 'oversea vessel' shall be deemed to mean a vessel carrying the subject-matter from one port or place to another where such voyage involves a sea passage by that vessel.)

### **Change of Transit**

5. 5.1 Where, after attachment of this insurance, the destination is changed by the Assured, this must be notified promptly to Insurers for rates and terms to be agreed. *Should a loss occur prior to such agreement being obtained cover may be provided but only if cover would have been available at a reasonable commercial market rate on reasonable market terms.*

5.2 Where the subject-matter insured commences the transit contemplated by this insurance (in accordance with Clause 4.1), but, without the knowledge of the Assured or their employees the aircraft leaves for another destination, this insurance will nevertheless be deemed to have attached at commencement of such transit.

6. **Anything contained in this contract which is inconsistent with Clauses 3.8, 3.9 or 4 shall, to the extent of such inconsistency, be null and void.**

### **Claims**

#### **Insurable Interest**

7. 7.1 In order to recover under this insurance the Assured must have an insurable interest in the subject-matter insured at the time of the loss.

7.2 Subject to Clause 7.1 above, the Assured shall be entitled to recover for insured loss occurring during the period covered by this insurance, notwithstanding that the loss occurred before the contract of insurance was concluded, unless the Assured were aware of the loss and the Insurers were not.

#### **Increased Value**

8. 8.1 If any Increased Value insurance is effected by the Assured on the subject-matter insured under this insurance the agreed value of the subject-matter insured shall be deemed to be increased to the total amount insured under this insurance and all Increased Value insurances covering the loss, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured.

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

8.2 **Where this insurance is on Increased Value the following Clause shall apply:**

The agreed value of the subject-matter insured shall be deemed to be equal to the total amount insured under the primary insurance and all Increased Value insurances covering the loss and effected on the subject-matter insured by the Assured, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured.

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

### **Benefit of insurance**

9. This insurance

9.1 covers the Assured which includes the person claiming indemnity either as the person by or on whose behalf the contract of insurance was effected or as an assignee

9.2 shall not extend to or otherwise benefit the carrier or other bailee.

## Minimising losses

### Duty of Assured

- 10.** It is the duty of the Assured and their employees and agents in respect of loss recoverable hereunder
- 10.1 to take such measures as may be reasonable for the purpose of averting or minimising such loss
  - and
  - 10.2 to ensure that all rights against carriers, bailees or other third parties are properly preserved and exercised
- and the Insurers will, in addition to any loss recoverable hereunder, reimburse the Assured for any charges properly and reasonably incurred in pursuance of these duties.

### Waiver

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

## Avoidance of delay

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

## Law and Practice

- 13.** This insurance is subject to English law and practice.

Note: where a reattachment of cover is requested under Clause 4, or a change of destination is notified under Clause 5, there is an obligation to give prompt notice to the Insurers and the right to such cover is dependent upon compliance with this obligation.

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# Institute Strikes Clauses (Air Cargo)

1/1/09

## Risks covered

### Risks

1. This insurance covers, except as excluded by the provisions of Clause 3 below, loss of or damage to the subject-matter insured caused by
  - 1.1 strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions
  - 1.2 any act of terrorism being an act of any person acting on behalf of, or in connection with, any organisation which carries out activities directed towards the overthrowing or influencing, by force or violence, of any government whether or not legally constituted
  - 1.3 any person acting from a political, ideological or religious motive.

### Salvage Charges

2. This insurance covers salvage charges incurred to avoid or in connection with the avoidance of loss from any cause except those excluded in Clause 3 below.

## Exclusions

3. In no case shall this insurance cover
  - 3.1 loss damage or expense attributable to wilful misconduct of the Assured
  - 3.2 ordinary leakage, ordinary loss in weight or volume, or ordinary wear and tear of the subject-matter insured
  - 3.3 loss damage or expense caused by insufficiency or unsuitability of packing or preparation of the subject-matter insured to withstand the ordinary incidents of the insured transit where such packing or preparation is carried out by the Assured or their employees or prior to the attachment of this insurance (for the purpose of this Clause 3.3 'packing' shall be deemed to include stowage in a container and 'employees' shall not include independent contractors)
  - 3.4 loss damage or expense caused by inherent vice or nature of the subject-matter insured
  - 3.5 loss damage or expense arising from unfitness of aircraft conveyance or container for the safe carriage of the subject-matter insured, where loading therein or thereon is carried out prior to attachment of this insurance or by the Assured or their employees and they are privy to such unfitness at the time of loading. This exclusion shall not apply where the contract of 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.
  - 3.6 loss damage or expense caused by delay, even though the delay be caused by a risk insured against
  - 3.7 loss damage or expense caused by insolvency or financial default of the owners managers charterers or operators of the aircraft where, at the time of loading of the subject-matter insured on board the aircraft, the Assured are aware, or in the ordinary course of business should be aware, that such insolvency or financial default could prevent the normal prosecution of the transit  

This exclusion shall not apply where the contract of 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
  - 3.8 loss damage or expense arising from the absence shortage or withholding of labour of any description whatsoever resulting from any strike, lockout, labour disturbance, riot or civil commotion
  - 3.9 any claim based upon loss of or frustration of the transit or adventure
  - 3.10 loss damage or expense directly or indirectly caused by or arising from the use of any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
  - 3.11 loss damage or expense caused by war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power.

## Duration

### Transit Clause

4. 4.1 Subject to Clause 7 on page 40, this insurance attaches from the time the subject-matter insured is first moved in the warehouse, premises or at the place of storage (at the place named in the contract of insurance) for the purpose of the immediate loading into or onto the carrying vehicle or other conveyance for the commencement of transit,
- continues during the ordinary course of transit
- and terminates either
- 4.1.1 on completion of unloading from the carrying vehicle or other conveyance in or at the final warehouse, premises or place of storage at the destination named in the contract of insurance
  - 4.1.2 on completion of unloading from the carrying vehicle or other conveyance in or at any other warehouse, premises or place of storage, whether prior to or at the destination named in the contract of insurance, which the Assured or their employees elect to use either for storage other than in the ordinary course of transit or for allocation or distribution or
  - 4.1.3 when the Assured or their employees elect to use any carrying vehicle or other conveyance or any container for storage other than in the ordinary course of transit
  - or
  - 4.1.4 on the expiry of 30 days after completion of unloading of the subject-matter insured from the aircraft at the final place of discharge
- whichever shall first occur.
- 4.2 If, after unloading from the aircraft at the final place of discharge, but prior to termination of this insurance, the subject-matter insured is to be forwarded to a destination other than that to which it is insured, this insurance, whilst remaining subject to termination as provided in Clauses 4.1.1 to 4.1.4, shall not extend beyond the time the subject-matter insured is first moved for the purpose of the commencement of transit to such other destination.
- 4.3 This insurance shall remain in force (subject to termination as provided for in Clauses 4.1.1 to 4.1.4 above and to the provisions of Clause 5 below) during delay beyond the control of the Assured, any deviation, forced discharge, reshipment or transshipment and during any variation of the adventure arising from the exercise of a liberty granted to the air carriers under the contract of carriage.

### Termination of Contract of Carriage

5. If owing to circumstances beyond the control of the Assured either the contract of carriage is terminated at a place other than the destination named therein or the transit is otherwise terminated before unloading of the subject-matter insured as provided for in Clause 4 above, then this insurance shall also terminate *unless prompt notice is given to the Insurers and continuation of cover is requested when this insurance shall remain in force, subject to an additional premium if required by the Insurers, either*
- 5.1 until the subject-matter insured is sold and delivered at such place, or, unless otherwise specially agreed, until the expiry of 30 days after arrival of the subject-matter insured at such place, whichever shall first occur
  - or
  - 5.2 if the subject-matter insured is forwarded within the said period of 30 days (or any agreed extension thereof) to the destination named in the contract of insurance or to any other destination, until terminated in accordance with the provisions of Clause 4 above.



### **Change of Transit**

6. 6.1 Where, after attachment of this insurance, the destination is changed by the Assured, this must be notified promptly to Insurers for rates and terms to be agreed. *Should a loss occur prior to such agreement being obtained cover may be provided but only if cover would have been available at a reasonable commercial market rate on reasonable market terms.*
- 6.2 Where the subject-matter insured commences the transit contemplated by this insurance (in accordance with Clause 4.1), but, without the knowledge of the Assured or their employees the aircraft leaves for another destination, this insurance will nevertheless be deemed to have attached at commencement of such transit.

## **Claims**

### **Insurable Interest**

7. 7.1 In order to recover under this insurance the Assured must have an insurable interest in the subject-matter insured at the time of the loss.
- 7.2 Subject to Clause 7.1 above, the Assured shall be entitled to recover for insured loss occurring during the period covered by this insurance, notwithstanding that the loss occurred before the contract of insurance was concluded, unless the Assured were aware of the loss and the Insurers were not.

### **Increased Value**

8. 8.1 If any Increased Value insurance is effected by the Assured on the subject-matter insured under this insurance the agreed value of the subject-matter insured shall be deemed to be increased to the total amount insured under this insurance and all Increased Value insurances covering the loss, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured.

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

- 8.2 **Where this insurance is on Increased Value the following Clause shall apply:**

The agreed value of the subject-matter insured shall be deemed to be equal to the total amount insured under the primary insurance and all Increased Value insurances covering the loss and effected on the subject-matter insured by the Assured, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured.

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

### **Benefit of insurance**

9. This insurance
- 9.1 covers the Assured which includes the person claiming indemnity either as the person by or on whose behalf the contract of insurance was effected or as an assignee
- 9.2 shall not extend to or otherwise benefit the carrier or other bailee.

## Minimising losses

### Duty of Assured

- 10.** It is the duty of the Assured and their employees and agents in respect of loss recoverable hereunder
- 10.1 to take such measures as may be reasonable for the purpose of averting or minimising such loss
  - and
  - 10.2 to ensure that all rights against carriers, bailees or other third parties are properly preserved and exercised
- and the Insurers will, in addition to any loss recoverable hereunder, reimburse the Assured for any charges properly and reasonably incurred in pursuance of these duties.

### Waiver

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

## Avoidance of delay

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

## Law and Practice

- 13.** This insurance is subject to English law and practice.

Note: where a continuation of cover is requested under Clause 5, or a change of destination is notified under Clause 6, there is an obligation to give prompt notice to the Insurers and the right to such cover is dependent upon compliance with this obligation.

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# Institute, Radioactive Contamination, Chemical, Biological, Biochemical and Electromagnetic Weapons Exclusion Clause

**This Clause shall be paramount and shall override anything contained in this insurance inconsistent therewith**

1. In no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from
  - 1.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
  - 1.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof
  - 1.3 any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
  - 1.4 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
  - 1.5 any chemical, biological, bio-chemical, or electromagnetic weapon.

**CL 370**

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