



**MARINE**  
**PROTECT**

**TERMINAL  
OPERATORS &  
STEVEDORES  
LIABILITY  
INSURANCE  
POLICY**

This is an important document. If you cannot read and understand English please use an interpreter to explain this document before you enter into this contract of insurance.

Insurance products are provided by National Transport Insurance, a joint venture of the insurers Insurance Australia Limited trading as CGU Insurance ABN 11 000 016 722 AFSL 227681 and AAI Limited Trading as Vero Insurance ABN 48 005 297 807 AFSL 230859 each holding a 50% share.

National Transport Insurance is administered on behalf of the insurers by its manager NTI Limited ABN 84 000 746 109 AFSL 237246.

NTI277 (01/12/2020)

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# INTRODUCTION

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## Important Things You Should Know

Welcome to National Transport Insurance.

Please ensure You read this document thoroughly before You enter into this contract of insurance.

You must also ensure that all details as shown in Your Policy Schedule are correct. Let Us know immediately if You need any changes.

If You do not understand any part of the Policy, please ask Us to explain it to You or contact Your insurance broker or Our authorised representative for an explanation.

To properly understand the significant features, benefits and risks of this insurance You need to carefully read:

- about the available type of Cover, benefits and exclusions in the Policy (the standard Cover provided can be affected by the following);
- the rest of this "Introduction" Section - this sets out the basis on which We insure You, the duty of disclosure You need to meet before We insure You, Our privacy information, Our dispute resolution procedures and other important information;
- the "Definitions" - this sets out what We mean by certain words used in the Policy. These words begin with a capital letter throughout this document;
- the "General Conditions" and "Claims Responsibilities" sections - these set out certain general rights and obligations that You and We have and other Cover restrictions;
- the "Exclusions" set out the general exclusions and limitations that apply to the Cover and benefits;
- all of the documents that make up the Policy, including the Policy Schedule and any Endorsements or other written changes to the Cover We issue You with - these contain specific details relevant to You and can affect the Cover. Your Policy Schedule may also specify Policy Excesses and other limitations on Your Cover.

Headings are provided for reference only and do not form part of Your Policy for interpretation purposes.

## Insurers

Insurance products are provided by National Transport Insurance, a joint venture of the insurers Insurance Australia Limited trading as CGU Insurance ABN 11 000 016 722 AFSL 227681 and AAI Limited Trading as Vero Insurance ABN 48 005 297 807 AFSL 230859 each holding a 50% share.

'We', 'Us', 'Our', 'NTI' means National Transport Insurance, administered on behalf of the Insurers by its manager NTI Limited ABN 84 000 746 109 AFSL 237246.

## National Transport Insurance (NTI)

Marine Protect is powered by NTI, Australia's specialist insurer with over 40 years of experience in the insurance industry. With an award winning claims service, You can count on NTI to protect You and Your business. Two of Australia's leading general insurers - Insurance Australia Limited trading as CGU Insurance and AAI Limited trading as Vero Insurance, back NTI - so You can rest assured that You are in safe hands.

# INTRODUCTION

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## Features

The table below is summary of some of the major Coverage benefits available in the Policy.

Exclusions, limits and conditions apply so please refer to the full Policy wording in the following pages for full details.

Terminal Operators and Stevedores Liability Insurance Policy	
<b>Cover</b>	Cover for Your liability to third parties for Personal Injury or Property as a result of an Occurrence in connection with Your Terminal Operators & Stevedoring Activities.
<b>Territorial Limits</b>	Anywhere in Australia
<b>Automatic Extensions</b>	Various Automatic Extensions of Cover provided including but not limited to: Removal of Wreck / Debris, Fines and Penalties and Delay in Handling, Misdirection and Wrongful Delivery
<b>Optional Extensions of Cover</b>	Optional Extensions of Cover provided for an additional Premium: Your Works

## Your duty of disclosure

Before You enter into an insurance contract, You have a duty under the Insurance Contracts Act 1984 (ICA) s.21 and the Marine Insurance Act 1909 (MIA) s. 24,25 and 26 (whichever is applicable) to tell Us pursuant to the ICA: anything that You know, or could reasonably be expected to know, which may be relevant to Our decision to insure You and on what terms, or, pursuant to the MIA: every material circumstance which is known to You or which ought to be known to You which would influence Us in fixing the premium or determining whether to accept the risk.

You have this duty until We agree to insure You. You have the same duty before You renew, extend, vary or reinstate an insurance contract.

You do not need to tell us anything that:

- reduces the risk We insure You for; or
- is common knowledge; or
- We know or should know as an insurer; or
- We waive your duty to tell Us about..

## If you do not tell us something

Where the Insurance Contract Acts applies: if You do not tell us anything You are required to, We may cancel Your contract or reduce the amount We will pay you if You make a claim, or both.

If Your failure to tell Us is fraudulent, We may refuse to pay a claim and treat the contract as if it never existed.

Where the Marine Insurance Act 1909 applies: if You fail to comply with Your duty of disclosure, We may avoid the contract from its beginning.

## Who must tell Us?

Everyone who is insured under the Policy is required to comply with the duty of disclosure, including Your broker or Your agent.

# INTRODUCTION

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## Privacy policy

We are committed to safeguarding Your privacy. In complying with the Australian Privacy Principles We will collect and use Your personal information:

- Only for the purpose of providing and administering Our products and services, including keeping You up to date with Our products and services;
- Only for the purpose for which it was collected, which may include disclosing it to third parties with whom We have arrangements to protect Your Privacy.

You may choose not to provide this information; however, NTI may not be able to process Your request.

We will take all reasonable steps to make sure that personal information that We hold about You is accurate, complete, and up to date and that it is protected from misuse, loss or unauthorised access, modification or disclosure. If any information is inaccurate You must contact Us to update Your records. You can request access to Your personal information, by phoning or writing to Us. Information security protocols are in place to minimise the risk of unauthorised access to Your personal information.

In special circumstances, We may decline to release the information but We will not do so unreasonably. In these circumstances, We will give You reasons and You will have the right to request Us to review Our decision using Our complaints handling procedures. We will provide Our reasons in writing upon request.

If You need to make a complaint regarding how We handle Your personal information or make a complaint about a privacy breach You can do so by phoning Us on (07) 3292 9800 or by writing to PO Box 13550 George Street QLD 4003.

A copy of NTI's Privacy Policy Statement and Privacy Complaint process can be obtained by visiting NTI's website at [www.nti.com.au](http://www.nti.com.au).

## Resolving Your Complaints

### What You do and who You contact if You have a complaint or dispute involving Us:

If You have a complaint about Your insurance policy, decisions on Your claims or any of the services You have received from Us or one of Our representatives, You may access Our Complaints process.

The first step is to contact Your closest NTI office or You can contact Us by calling 1300 308 080. Your call will be directed to an appropriate person who can assist You. NTI's details can also be obtained by visiting [www.nti.com.au](http://www.nti.com.au) and a brochure on Our Dispute Resolution System is available from all NTI offices.

### Complaints

Once You contact Us, Our staff will help You in every way they can.

We will acknowledge receipt of Your complaint promptly or as soon as practicable. We will communicate Our response taking into consideration Your preferences of communicating with Us.

If You are not satisfied with the outcome, Your complaint will be referred to the staff member's supervisor who will deal with Your complaint promptly.

### Internal Dispute Resolution

If You are still not satisfied Your complaint can be handled through Our Internal Dispute Resolution service by a different employee who has appropriate experience, knowledge and authority to conduct a full review. We will provide You with details of Our dispute service and will refer You to a Supervisor or Manager to manage Your complaint. Your complaint will then be treated as a dispute.

We have 30 calendar days to respond from the date that Your complaint is received. Our response will include:

- a. reasons for Our decision;
- b. information about how to access Our External Disputes Resolution (EDR) Scheme; and
- c. notify You of the time frame within which You must register Your dispute with the EDR Scheme, (usually within two years of Our final decision).

# INTRODUCTION

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## External Dispute Resolution

Our Internal Dispute Resolution Service is designed to seek to resolve any complaints or disputes that may arise. However, if We are unable to resolve Your dispute to Your satisfaction within 30 days, We will inform You of the reasons for the delay and that You can take Your dispute to Our EDR scheme, administered by the Australian Financial Complaints Authority (AFCA), even if We are still considering it (and provided Your dispute is within AFCA Terms of Reference). We are a member of AFCA which is an ASIC approved external dispute resolution scheme and it may be able to resolve Your dispute. You may be entitled to assistance from the AFCA, however this is subject to the claim circumstances and the AFCA eligibility criteria.

Before the end of that 30 day period We will inform You that You have this right and details of how to access Our EDR Scheme.

AFCA is responsible for monitoring compliance with the General Insurance Code of Practice. It is available to customers and third parties who fall within its Terms of Reference and is an impartial body that is completely independent of Us. AFCA will initially determine whether Your dispute falls within its Terms of Reference and will notify You whether it may proceed to review Your dispute.

Your dispute must be lodged with AFCA within two years of the date of Our final decision.

Where AFCA Terms of Reference do not extend to Your dispute We will advise You to seek independent legal advice or give You information about other external dispute resolution options, if any, that are available to You.

The contact details for AFCA are:

**Australian Financial Complaints Authority**  
National Toll Free number 1800 931 678  
GPO Box 3 Melbourne VIC 3001  
Email: [info@afca.org.au](mailto:info@afca.org.au) Web: [www.afca.org.au](http://www.afca.org.au)

A brochure on Our Dispute Resolution Service is available from all NTI offices which includes information about the IDR and EDR Services.

## General Insurance Code of Practice

We are committed to raising standards of service to Our customers. This Code sets out the minimum standards We will uphold in the services We provide to You and is a practical demonstration of Our commitment to providing a high level of service to Our customers.

If You are interested in obtaining more information about this important industry initiative, You can contact the Insurance Council of Australia or access the Code directly at: [www.codeofpractice.com.au](http://www.codeofpractice.com.au).

The Code aims to:

- describe standards of good practice and service to be met by participating insurers; promote disclosure of information relevant and useful to consumers so as to allow them to make an informed choice and compare one product with another;
- facilitate the education of consumers about their rights and obligations with insurance contracts;
- promote informed and effective relationships between consumers, insurers and authorised representatives; and
- ensure insurers have fair procedures for resolution of disputes between consumers and insurers or consumers and authorised representatives.

More information about the Code can be obtained from Us direct or Our website [www.nti.com.au](http://www.nti.com.au) or contacting the Insurance Council of Australia ("ICA") directly (the ICA has an office in most capital cities) or via their website at [www.insurancecouncil.com.au](http://www.insurancecouncil.com.au).

# DEFINITIONS THAT APPLY TO THIS POLICY

Except where the context otherwise requires it, when reading this document:

- a. In this Policy, certain words have special meanings. They have the same meanings wherever they appear.
- b. the singular includes the plural and the plural includes the singular;
- c. if a word or phrase is defined, its other grammatical forms have a corresponding meaning; and
- d. words importing a gender include every other gender.

Word	Meaning
<b>Aircraft</b>	means any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space, or without contact with the ground or water.
<b>Cover</b>	means the benefit and protection provided by this Policy and specified in Your Policy Schedule.
<b>Contractor</b>	Includes subcontractor and means any person (who is not an Employee) engaged: <ol style="list-style-type: none"> <li>a. in any aspect of Your Terminal Operators &amp; Stevedoring Activities;</li> <li>b. in any aspect of Your Terminal Operators &amp; Stevedoring Activities whilst employed by an employment agency, placement agency, labour hire company or any other company or person whose business is or includes the supply and/or provision of labour.</li> </ol>
<b>Employee</b>	means any person engaged in Your Terminal Operators & Stevedoring Activities under a contract of service or apprenticeship (other than as specified under clause 2. of Definition of You, Your, Insured).
<b>Excess</b>	means the amount specified in Your Policy Schedule You must pay as the first part of any claim unless otherwise stated under the provisions of any applicable product.
<b>Financial Loss</b>	means financial or economic loss (including demurrage, loss of freight, loss of time or loss of charter of any commercially registered Vessel, not owned, leased, rented, chartered or hired by You) of a third party.
<b>GST</b>	has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999.
<b>Headings</b>	when used in Your Policy, are purely descriptive in nature and are not intended to be used for interpretative purposes.
<b>Health Hazard</b>	means any product, compound, derivation, phenomenon, process or formula, including waste, by-product, noise, smell or vibration, whether or not produced, processed or manufactured by You, which, whether by ingestion, inhalation, absorption or in any other manner causes illness, disease, incapacity or death of any person consequent upon his or her exposure to it, over any period of time, whether continuous or intermittent.
<b>Input Tax Credit</b>	has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999.
<b>Insurance Proposal</b>	means the particulars of insurance completed by You, as Your application for insurance, and submitted to Us either in writing or electronically on which We rely to determine whether to provide You with a Policy, and if so, upon what terms and conditions.
<b>Limit of Indemnity</b>	means the amount specified in Your Policy Schedule, which is the maximum amount payable by Us in respect of all types of claims under all parts of the Policy for any one loss or series of losses due to or arising out of one Occurrence, and which is inclusive of all Optional Extensions for which Cover is provided under the Policy and subject to any Sub-Limit of Indemnity and the application of any Excess.



# DEFINITIONS THAT APPLY TO THIS POLICY

Word	Meaning
<b>Mobile Plant</b>	<p>means:</p> <ul style="list-style-type: none"> <li>a. a backhoe, bulldozer, endloader, forklift, industrial crane or hoist, other mobile machinery/ equipment, agricultural implement; or</li> <li>b. a non-motorised machine or implement, and is not a Motor Vehicle.</li> </ul>
<b>Motor Vehicle</b>	<p>means:</p> <ul style="list-style-type: none"> <li>a. any type of machine designed for use on land only, but not a tramway vehicle, locomotive and rolling stock (but this does not exclude a road going Motor Vehicle with 'wind down' rail wheels that may traverse railway lines); or</li> <li>b. a trailer,</li> </ul> <p>and is not Mobile Plant.</p>
<b>National Transport Insurance (NTI)</b>	<p>means National Transport Insurance, a joint venture of the insurers Insurance Australia Limited trading as CGU Insurance ABN 11 000 016 722 AFSL 227681 and AAI Limited Trading as Vero Insurance ABN 48 005 297 807 AFSL 230859 each holding a 50% share.</p>
<b>Occurrence</b>	<p>means any event, including continuous or repeated exposure to substantially the same general conditions, which results in Personal Injury or Property Damage neither expected nor intended by You. All events of a series consequence on or attributable to one source or original cause will be deemed one Occurrence.</p>
<b>Optional Extension</b>	<p>means benefit/s shown under the heading 'Optional Extensions of Cover to this Policy' which are only provided by this Policy if:</p> <ul style="list-style-type: none"> <li>a. You have specifically requested the benefit; and</li> <li>b. We have agreed to provide the benefit; and</li> <li>c. You have paid any additional premium; and</li> <li>d. the benefit/s are noted as being Covered in the Policy Schedule.</li> </ul> <p>Otherwise, such Cover is excluded.</p>
<b>Period of Insurance</b>	<p>means the period between and includes the dates in Your Policy Schedule shown as 'Insured From/To' during which We provide insurance under Your Policy.</p> <p>Your Policy expires on the date specified in Your Policy Schedule as the 'to' date at 4.00pm Local Standard Time (L.S.T.) of the State or Territory within the Commonwealth of Australia in which Our office issuing Your Policy is located.</p>
<b>Personal Injury</b>	<p>means:</p> <ul style="list-style-type: none"> <li>a. bodily injury, death, sickness, disability, disease, shock, fright, mental injury, mental anguish or loss of consortium resulting from any of them; and</li> <li>b. <ul style="list-style-type: none"> <li>i. false arrest, false imprisonment, malicious prosecution, wrongful eviction, wrongful detention and humiliation;</li> <li>ii. libel, slander, defamation of character;</li> <li>iii. invasion of right of privacy;</li> <li>iv. wrongful entry or wrongful eviction or other invasion of the right of private occupancy; or,</li> <li>v. assault and battery committed by You for the purpose of preventing or eliminating danger to persons or property to the extent permitted by law.</li> </ul> </li> </ul>

# DEFINITIONS THAT APPLY TO THIS POLICY

Word	Meaning
<b>Policy</b>	means this document, Your Policy Schedule, the Insurance Proposal, any declarations and statements You make to Us and any other notice We give You in writing, all to be read together.
<b>Policy Schedule</b>	means the most current insurance details and attachments to them, issued to You by Us. It sets out Your Policy number, the Policy applying, Excess and any special conditions, endorsements and limits which apply to Your Policy.
<b>Pollution</b>	means the discharge, dispersal, release or escape of smoke, vapours, soot, fumes, acids, alkalis, toxic chemicals, toxic liquids, toxic gases, waste materials or other irritants, contaminants or pollutants into or upon any property, land, the atmosphere or any water course or body of water (including ground water).  Pollution does not include radioactive material, a Health Hazard or asbestos.
<b>Premium</b>	The amount payable by You for this insurance. This does not include any government charges, taxes or duties.
<b>Premises</b>	means the owned or leased area for which You have jurisdiction and/or control, and from where you perform the Terminal Operator & Stevedoring Activities as specified in the Policy Schedule.
<b>Products</b>	means any goods or property (including any components, packaging or container) described in Your Policy Schedule (after they have ceased to be in Your possession or under Your control) manufactured, grown, extracted, produced, processed, assembled, constructed, erected, installed, repaired, serviced, treated, sold, supplied or distributed in or from Australia or its external territories by You, or are deemed by Australian law to have manufactured, in the course of the Business, and includes directions, markings, instructions, warnings or given or omitted advice in connection with such Products, but does not include the design, formula or specification of such Products.
<b>Product Liability</b>	means Personal Injury or Property Damage:  a. caused by any defect, or the harmful nature of any of Your Products, or  b. resulting from any defect or deficiency in any direction or advice given at any time or intended to be given by You concerning the use or storage of Your Products.
<b>Property Damage</b>	means physical damage to or loss or destruction of tangible property including Financial Loss resulting from such damage, loss or destruction.
<b>Proposal</b>	means the particulars of insurance completed by You, as Your application for insurance, and submitted to Us either in writing or electronically on which We rely to determine whether to provide You with a Policy, and if so, upon what terms and conditions.
<b>Public Liability</b>	means liability Covered by this Policy but does not include Products Liability.
<b>Reconstruction and Conversion Activities</b>	means the alteration or rebuilding of any Vessel which entails a change in the dimension, tonnage or type of the Vessel.
<b>Ship Building Activities</b>	means the construction and/or assembling of any Vessel by You.  This description includes any Reconstruction and Conversion Activities.

# DEFINITIONS THAT APPLY TO THIS POLICY

Word	Meaning
<b>Ship Repairing Activities</b>	<p>means the repair, servicing and/or maintenance of any Vessel or of any part of a Vessel by You and including Your activities as:</p> <ul style="list-style-type: none"> <li>a. operator of a slipway, travel lift, forklift, dry dock or floating dock; and</li> <li>b. provider of hardstand cradles</li> </ul> <p>in connection with Your Ship Repairing Activities.</p> <p>This description does not include any Reconstruction and Conversion Activities or Ship Building Activities.</p>
<b>Specialist Operations</b>	Drilling, blasting, core sampling, dredging and/or depositing of spoil, pile driving, cable or pipe laying, or professional oil spill response.
<b>Sub Limit of Indemnity</b>	means the maximum amount we will pay under a particular part of Your Policy, and will either be specified in the Policy Schedule or within the Policy Wording in respect of that Cover.
<b>Terminal Operators &amp; Stevedore</b>	means Your activities specified in the Policy Schedule as Terminal Operators & Stevedore Activities, performed within the Territorial Scope including the services of any of Your canteen, social club, welfare organisation, first aid services or fire service.
<b>Territorial Limits</b>	means anywhere in the Commonwealth of Australia.
<b>Terrorism</b>	means an act, including but not limited to the use of force or violence (or the threat of force or violence), of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or governments(s), committed for political, religious, ideological ethnic or similar purposes including the intention to influence any government and/or to put the public, or any Section of the public in fear.
<b>Third Party Property</b>	means any tangible property not owned, leased, rented, hired, chartered or held on consignment by You.
<b>Use As A Tool Of Trade</b>	<p>means use for excavating, digging, grading, scraping, drilling, lifting, pumping, spraying, vacuuming, suction, or like circumstance.</p> <p>It does not include:</p> <ul style="list-style-type: none"> <li>a. transit on a designated road to or from a work site; or</li> <li>b. use for road transport or road haulage.</li> </ul>
<b>Vessel</b>	means any ship, boat, watercraft, or other description of Vessel or structure which is a private pleasure craft or commercial vessel used or intended to be used for navigation on, under or in water and which is not owned, leased, rented, chartered or hired by You.
<b>We/Our/ Ours/Us/ NTI</b>	means National Transport Insurance, administered on behalf of the Insurers by its manager NTI Limited: ABN 84 000 746 109; AFSL 237246.
<b>Wreck</b>	means any Third Party Property which is wrecked, disabled, destroyed (or abandoned) as a direct result of an Occurrence during Your Terminal Operators & Stevedoring Activities.

# DEFINITIONS THAT APPLY TO THIS POLICY

Word	Meaning
<b>You/ Your/ Yours/ Insured</b>	<p>for the purposes of this policy means:</p> <ol style="list-style-type: none"><li>a. the client named in Your Policy Schedule whose place of residence or if a company, whose place of incorporation, is within Australia or its external territories;</li><li>b. all Your subsidiary companies (now or hereafter constituted) whose place of incorporation is within Australia and whose business falls within the definition of Terminal Operators &amp; Stevedoring.</li><li>c. any personal representatives in the event of the death of a client but only in respect of liability incurred by the client;</li><li>d. any office-bearer committee member or member of the client's own canteen sports social and child care facilities or welfare organisations and any member (not being a qualified medical practitioner) of the client's own fire, first aid medical or ambulance service; or</li><li>e. any director, partner, executive officer or shareholder of the client or any Employee but only for liability in respect of which the client would have been entitled to indemnity if the claim had been made against the client.</li></ol> <p>but only in respect of any liability incurred as part of Your Terminal Operators &amp; Stevedoring Activities.</p> <ol style="list-style-type: none"><li>2. any party who has entered into a contract or agreement with You for the performance of work or services in connection with Terminal Operators &amp; Stevedore Activities; but only:<ol style="list-style-type: none"><li>a. for an Occurrence for which You would be liable in the absence of the contract or agreement; and</li><li>b. to the extent that the contract or agreement requires You to indemnify the party in relation to the Occurrence.</li></ol></li></ol>
<b>Your Works</b>	<p>means the performance of construction, reconstruction, alteration, conversion or development of buildings, structures or facilities by You, or on Your behalf.</p>

# THE COVER

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## Our Agreement With You

Based on the information in Your Insurance Proposal, and the statements and declarations that You have made in support of Your application for insurance and provided that You have paid the Premium by the due date, We will indemnify You for the Cover specified in Your Policy Schedule, subject to the terms, conditions and exclusions that are set out in this Policy.

Your Policy consists of:

- a. this Policy document, which sets out the conditions of Cover, exclusions and the terms and conditions that apply to the Policy or level of Cover You have chosen;
- b. the Policy Schedule is a separate document and shows the insurance details that are relevant to Your insurance;
- c. any endorsements noted on Your Policy Schedule or otherwise notified by Us to You in writing;
- d. Your Insurance Proposal, the declarations and statements that were made when You applied for Cover from Us and every other matter which You subsequently declare or state to Us when You replace, vary, extend or reinstate Your Policy.

They are all to be read as if they are the one document.

### **Important Note: Cover Only Provided By One Policy Section:**

To the extent that Section 1 Covers any compensation, loss, damage, liability, cost or expense which is also Covered under any of the Covers under Section 2 (Additional Benefits) or Section 3 (Optional Extensions), then the claim shall not be Covered under Section 1 and shall instead be Covered only under Section 2 or Section 3 as applicable.

## Section 1 - Public liability for Terminal Operators & Stevedore Activities

### **What You are insured for under Section 1:**

#### **1. Compensation**

Subject to the Limit of Indemnity specified in Your Policy Schedule, We will indemnify You in respect of all sums which You become legally liable to pay as compensation for:

- a. Personal Injury; or,
- b. Property Damage to Third Party Property,

as a result of an Occurrence within in the Period of Insurance within the Territorial Limits and in connection with Your Terminal Operators & Stevedoring Activities, less the Excess amount specified in Your Policy Schedule as applicable to this Policy.

#### **2. Legal costs/solicitors fees/claimants costs**

In addition We will pay:

- a. all charges, expenses and legal costs incurred by Us and/or You provided that such charges, expenses and legal costs were incurred with Our written consent in the settlement or defence of any claim for compensation for which You may be liable under this Policy;
- b. Your legal costs of representation at any coroner's inquest or inquiry incurred with Our prior written consent;
- c. all charges, expenses and legal costs recoverable from You resulting from any Occurrence giving rise to legal liability under this Policy; and,
- d. all expenses incurred by You for first aid to others at the time of Personal Injury (other than payment of medical expenses which are prohibited by law).

All of these costs, expenses or charges must be incurred in connection with claims for compensation which if sustained would be indemnified under Section 1 of this Policy.

# THE COVER

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Provided that, in relation to any claim in respect of Personal Injury or Property Damage occurring in any country on the continent of North America or in States or Territories incorporated in or administered from or by any of those countries, Our liability to pay any of the costs, expenses or charges set out in Section 1 of this Policy will be included within the Limits of Indemnity specified in Your Policy Schedule under Section 1 of this Policy.

## Section 2 - Automatic Extensions of Cover to this Policy

**Important Note: The Cover provided by any of the following Automatic Extensions is included within the Limit of Indemnity and is not payable in addition to it.**

Subject to the Policy terms, exclusions and limitations, and either the Limit of Indemnity, or any applicable Sub Limit of Indemnity, whichever is the lesser, We will provide You with the following benefits:

### 1. Cross Liability

Where more than one person or party comprises You as defined in this Policy, each person or party will be treated as if a separate Policy had been issued to each of them. Any such person or party making a claim will be treated as though they are insured separately under this Policy. We waive all rights of subrogation or action which we may have or acquire against any such party arising out of any Occurrence in respect of which any claim is made under this Policy. Nothing contained in this clause operates to increase our Limit of Liability or any sub-Limit of Liability.

### 2. Acquired Companies

We will insure any company formed or purchased by You during the Period of Insurance, subject to the terms and exclusions and limits of liability of this Policy, provided that You:

- a. have a controlling interest in such company(s);
- b. provide details to Us of the company within thirty days of formation or purchase
- c. We agree in writing to Cover those formed or purchased companies; and
- d. You pay such additional Premium as determined by Us by the date advised to You.

### 3. Removal of Wreck / Debris

We will pay to You or on Your behalf all costs incurred with Our prior written consent in the conduct of the Terminal Operators & Stevedoring Activities during the Period of Insurance in connection with:

- a. the dredging of a new or temporary channel around any Wreck within the Premises;
- b. the removal of any debris from the Premises or disposing of cargo, insured equipment/property or Your customer's property except a ship/aircraft (or wreck) after an accident;
- c. the removal, raising, destruction or disposal of any Wreck from the Premises; or
- d. the lighting or marking of any Wreck in the Premises, provided that:
  - i. such removal is undertaken within twelve (12) months of the Occurrence;
  - ii. You are required by law (or otherwise) to maintain clear waterways within the Premises; and
  - iii. You are unable to recover the costs of such removal from Your customer, owner of the Wreck or any other party.

For c. and d. above this includes any amount You are required to expend by way of clean-up, environmental protection, Pollution prevention or other similar costs and expenses caused by the removal of the Wreck from the Premises.

The maximum amount We will pay under this Automatic Extension of Cover for any one claim or series of claims caused by or arising out of any one Wreck is the Sub Limit of Indemnity specified in Your Policy Schedule under Removal of Wreck / Debris.

# THE COVER

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## 4. Fines and Penalties

To the extent permitted by law, We will indemnify You in respect of Your liability to pay any:

- a. fine or penalty; or
- b. duty, tax or other fiscal liability,

imposed on You as a direct consequence of Your inadvertent and unintentional breach of any statutory provision relating to customs and excise or immigration or workplace safety Occurring during the Period of Insurance in the conduct of the Terminal Operators & Stevedoring Activities.

To the extent permitted by law, We will also indemnify You for any fine or penalty imposed on You which arises as a direct consequence of Your inadvertent and unintentional breach of any statutory provision relating to Pollution occurring within Your Premises, but only if the Pollution is caused by a sudden and identifiable Occurrence in the conduct of Your Terminal Operators & Stevedoring Activities which takes place in its entirety at a specific time and place.

Nothing in this Automatic Extension of Cover will create any liability for Us to pay or reimburse any punitive, exemplary, multiple or liquidated damages howsoever described.

This clause is not subject to exclusion 12. Fines and Penalties.

The maximum amount We will pay under this Automatic Extension of Cover for any one claim or series of claims caused by or arising out of any one Occurrence is the Sub Limit of Indemnity specified in Your Policy Schedule under Fines and Penalties.

## 5. Tenant's Liabilities

We will pay to You or on Your behalf any amount that You become legally liable to pay as compensation for Property Damage to any Premises (including the lessor's fixtures and fittings) leased, hired or rented to You provided that such loss or damage:

- a. arises as a direct consequence of an Occurrence in the Period of Insurance in the conduct of the Terminal Operators & Stevedoring Activities; and,
- b. is not caused by any Occurrence which constitutes a breach by You of Your contractual obligations to the lessor of the Premises.

## 6. Landlord Liability

We will pay to You or on Your behalf any amount You become legally liable to pay as compensation for Personal Injury or Property Damage suffered by Your tenant as a consequence of You breaching the duty of care that You owe as a landlord and arising as a direct consequence of an Occurrence in the Period of Insurance.

## 7. Pollution Liability

We will pay to You or on Your behalf any amount which You become legally liable to pay as compensation in the conduct of the Terminal Operators & Stevedoring Activities for Personal Injury or Property Damage to any Third Party Property as a result of Pollution caused by a single event that:

- a. is sudden and identifiable and neither expected nor intended by You; and
- b. first commences during the Period of Insurance and takes place in its entirety at a specific time and place within the Premises.

Provided that the Pollution:

- i. did not result from Your intentional and wilful violation of any government statute, rule or regulation;
- ii. was not gradual; and /or
- iii. did not result from a continuous or repeated Occurrence or substantially similar Occurrences.

Nothing in this Clause shall operate to provide Coverage for fines, penalties, punitive or exemplary damages.

The maximum amount We will pay under this Automatic Extension of Cover for any one claim or series of claims caused by or arising out of any one occurrence is the Sub Limit of Indemnity specified in the Policy Schedule under Pollution Liability.

# THE COVER

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## 8. Pollution Clean-Up Costs

We will pay to You or on Your behalf any amount which You become legally liable to pay for removing, nullifying or cleaning up Pollution in the conduct of Your Terminal Operators & Stevedoring Activities as a result of Pollution caused by a single event that:

- a. Is sudden and identifiable and neither expected nor intended by You; and
- b. first commences during the Period of Insurance and takes place in its entirety at a specific time and place within the Premises.

Provided that the Pollution:

- i. did not result from Your intentional and wilful violation of any government statute, rule or regulation;
- ii. was not gradual; and /or
- iii. did not result from a continuous or repeated Occurrence or substantially similar Occurrences.

Nothing in this Clause shall operate to provide Coverage for fines, penalties, punitive or exemplary damages.

The maximum amount We will pay under this Automatic Extension of Cover for any one claim or series of claims caused by or arising out of any one occurrence is the Sub Limit of Indemnity specified in the Policy Schedule under Pollution Clean-Up Costs.

## 9. Delay in Handling, Misdirection and Wrongful Delivery

We will pay to You or on Your behalf any amount which You become legally liable to pay as compensation for:

- a. Property Damage to Third Party Property; or
- b. Financial Loss incurred by Your customer or the person entitled to delivery under a bill of lading or other contract of carriage or handling documentation,

arising from delay in handling, misdescription or wrongful delivery of the Third Party Property arising out of one Occurrence in the conduct of the Terminal Operators & Stevedoring Activities in the Period of Insurance.

We will also pay to You or on Your behalf:

- a. any recovery or redelivery expenses incurred during the Period of Insurance for the purpose of averting or minimising Your liability to pay such compensation provided that You, (whenever reasonably practicable), first obtain from Us written consent to incur the cost or expenditure; or
- b. any amount which You become legally liable to pay as compensation for Financial Loss incurred by Your customer arising from Your failure to perform Your contractual obligations and which arises out of an Occurrence, other than compensation as a result Your failure to provide services within an agreed time.

This clause prevails to the extent of any inconsistency with Exclusion 5. Contractual Liabilities or Exclusion 12. Fines and Penalties.

## 10. Hired Out Equipment

Subject to the application of Your standard conditions of hire, We will pay to You or on Your behalf any amount that You become legally liable to pay as compensation in the conduct of the Terminal Operators & Stevedoring Activities for Personal Injury or Property Damage to Third Party Property caused by the temporary hiring out of cranes, plant and equipment owned by You, provided that such Personal Injury or Property Damage is caused by an Occurrence in the Period of Insurance.

For the purpose of this Automatic Extension of Cover, temporary hire is defined as meaning a period not exceeding 120 consecutive days.

## 11. Hired In Equipment

We will pay to You or on Your behalf any amount You become legally liable to pay as compensation for Property Damage to equipment owned by third parties and hired, leased or rented to You where such loss or damage is caused by an Occurrence in the Period of Insurance and arising in the conduct of the Terminal Operators & Stevedoring Activities and only to the extent that it is not otherwise Covered by the third party who hired, leased or rented the equipment to You.



# THE COVER

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## 12. Goods Sold or Supplied

Notwithstanding Exclusion 25. Product Liability, We will pay to You or on Your behalf any amount You become legally liable to pay as compensation for:

- a. Personal Injury; or
- b. Property Damage to any Third Party Property,

arising from an Occurrence within the Period of Insurance, which is caused by a defect in any food or beverage, including water, You have sold or supplied in the conduct of Your Terminal Operators & Stevedoring Activities, provided that You were not aware and did not suspect there was such a defect at the time of sale or supply.

However the Cover provided by this extension excludes the cost of recalling, withdrawing, inspecting, replacing and/or repairing any food or beverages supplied by You or of making any refund on the price paid for them.

# OPTIONAL EXTENSIONS OF COVER TO THIS POLICY

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The following Optional Extension is not automatically provided and will only apply when shown in Your Policy Schedule. Any Cover provided by the Optional Extension is subject to all other terms, conditions and exclusions of this Policy.

Optional Extensions are included within the Limit of Indemnity shown in Your Policy Schedule and are not payable in addition to such limit.

## 1. Your Works

Notwithstanding Exclusion 15. Your Works, We will indemnify You for Your legal liability to pay compensation for Personal Injury or Property Damage to Third Party Property caused by Your Works and arising as a direct consequence of an Occurrence during the Period of Insurance in the conduct of the Terminal Operators & Stevedoring Activities, except where the completed value of such works exceeds \$750,000 in total.

# CONDITIONS THAT APPLY TO THIS POLICY

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## 1. Standard Terms and Conditions

It is a condition of this Policy that all Your Terminal Operators & Stevedoring Activities are conducted under Your standard terms and conditions (to the extent permitted by law). You must provide us with a copy of these standard terms and conditions prior to commencement of this Policy.

It is important to note that if you do not utilise your standard terms and conditions we may refuse your claim or reduce the amount we pay you in the event of a claim.

## 2. Your Duty of Disclosure

Before You enter into an insurance contract, You have a duty to tell Us anything that You know, or could reasonably be expected to know, which may affect Our decision to insure You and on what terms.

Before You enter into an insurance contract, You have a duty under the Insurance Contracts Act 1984 (ICA) s.21 and the Marine Insurance Act 1909 (MIA) s. 24,25 and 26 (whichever is applicable) to tell Us pursuant to the ICA: anything that You know, or could reasonably be expected to know, which may be relevant to Our decision to insure You and on what terms; or, pursuant to the MIA: every material circumstance which is known to You or which ought to be known to You which would influence Us in fixing the Premium or determining whether to accept the risk.

You have this duty until We agree to insure You.

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

- reduces the risk We insure You for;
- is common knowledge;
- We know or should know as an insurer; or
- We waive Your duty to tell Us about.

### If You do not tell Us something

If You do not tell Us anything You are required to, We may cancel Your contract or reduce the amount We will pay You if You make a claim, or both.

If Your failure to tell Us is fraudulent, We may refuse to pay a claim and treat the contract as if it never existed.

### Who must tell Us?

Everyone who is insured under the Policy is required to comply with the duty of disclosure, including Your broker or Your agent.

Where the Marine Insurance Act 1909 applies, if You fail to comply with Your duty of disclosure, We may avoid the contract from its beginning.

## 3. Due Observance

If You fail to comply with any provision of Your Policy, We may reduce or refuse to pay a claim, but in any event Our rights will be subject to the Insurance Contracts Act 1984 (Cth), or the Marine Insurance Act 1909 (Cth), whichever is applicable.

# CONDITIONS THAT APPLY TO THIS POLICY

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## 4. Premiums and Declarations

The Premium payable under this Policy is based on the estimated gross revenue and information provided by You in the Proposal or declaration for the Period of Insurance in relation to the extent of Your Terminal Operators & Stevedoring Activities.

Unless otherwise agreed:

- a. if the deposit Premium is \$5,000 or less, the deposit Premium will be regarded as the minimum Premium for the Period of Insurance shown in the current Policy Schedule and no adjustment or declaration of actual figures is required;
- b. If the deposit Premium is more than \$5,000 You must supply a declaration of gross revenue within three (3) months of the expiry of the Period of Insurance. An adjustment will be made to the deposit Premium, based on rates agreed at the beginning of the Period of Insurance. If the adjusted Premium exceeds the deposit Premium, You must pay the difference to Us.

If the adjusted Premium is lower than the deposit Premium, We will pay the difference to You up to 25% of minimum Premium for the Period of Insurance shown in the current Policy Schedule. The balance will be regarded as the minimum Premium for the Period of Insurance.

Your declaration of gross revenue must be Your total gross earnings, including amounts paid or payable, in relation to Your Terminal Operators & Stevedoring Activities, Ship Repairing Activities and Marina Operator Activities (where applicable) during the Period of Insurance, and must include the value of all services, products and parts supplied by You as part of those activities.

## 5. Inspection of Books

You are required to keep accurate records of all gross earnings, including amounts paid or payable, from your Terminal Operators & Stevedoring Activities and on request provide us with an audited copy of these records.

If we request a audited copies of these records and they are not available, we may appoint an auditor, at our discretion, and you must make all relevant records available to the auditor.

The fees for such an audit are payable by us but where the audit reveals misrepresentation of the required figures, whether or not the misrepresentation is intended, you will reimburse us for the auditor's fees.

## 6. Alteration of risk

You must provide Us with immediate written notice of:

- a. every change which materially varies any of the facts or circumstances existing at the commencement of this Policy that comes to Your knowledge, which will also be deemed to include the knowledge of any person whose knowledge would in law be the Your knowledge; and
- b. if You does not provide such notification before the happening of an Occurrence giving rise to a claim under this Policy then, subject to either the Insurance Contracts Act, 1984, or the Marine Insurance Act, 1909, We may refuse to pay a claim, either in whole or in part.

# CONDITIONS THAT APPLY TO THIS POLICY

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## 7. Cancellation

- a. You may cancel Your Policy (or any individual product within Your Policy) at any time by giving Us written notification;
- b. We may cancel only when the law allows Us to do so, and We will allow three business days' notice for You to seek alternative insurance or as otherwise required under the Insurance Contracts Act 1984 (Cth), or the Marine Insurance Act, 1909;
- c. Where You represent more than one person or entity, We will only carry out Your request for cancellation where a written notification to cancel is received from all parties named in Your Policy Schedule;

### **Premium adjustment as a result of Cancellation:**

- d. Where cancellation is to be effected, You are required to provide Us with a declaration of Your actual gross revenue (referred to in the "Premiums and Declarations" section) from the commencement of the Period of Insurance to the proposed cancellation date of the Policy.
- e. If the adjusted Premium for the period prior to the cancellation date is less than the annual deposit Premium, We will refund the difference between the adjusted Premium and the annual deposit Premium, subject to the minimum Premium as shown in Your Policy Schedule applying.
- f. If the adjusted Premium for the period prior to the cancellation date exceeds the annual deposit Premium, You must pay that difference to Us. That additional Premium payable owed to us is payable by the date advised to You.
- g. If the cancellation is due to insolvency or takeover of Your company, consideration will be given to reducing the minimum Premium depending on the circumstances, claims, and Our exposure during the Period of Insurance, but this consideration remains at Our absolute discretion.

In providing any refund of Premium some government taxes and duties are not refundable. If this applies to Your Policy, then no refund of such taxes and duties will be made.

## 8. Goods and Services Tax

- a. The amount of premium paid by You for Your Policy includes an amount for GST on the premium. As You are a commercial entity, You must inform Us of the extent to which You are entitled to an Input Tax Credit for that GST amount each time that You make a claim under Your Policy;
- b. No payment will be made to You for any GST liability that You may incur on the settlement of a claim if You do not inform Us of Your entitlement or correct entitlement to any Input Tax Credit;
- c. Despite the other provisions of this insurance (including provisions in the wordings, Your Policy Schedule or any endorsement) Our liability to You will be calculated taking into account any Input Tax Credit to which You are entitled for any acquisition which is relevant to Your claim, or to which You would have been entitled were You to have made a relevant acquisition; and if the Sum Insured is not sufficient to Cover Your loss, We will only pay any GST (less any relevant Input Tax Credit) that relates to Our proportion of Your loss.

## 9. Government Taxes and Duties

You must pay all levies, taxes, imposts and/or charges, including but not limited to stamp duty and other similar charges which may be payable to or are required to be paid to any government in Australia whether acting through any agency, instrumentality or otherwise in relation to Your Policy.

## 10. Law & Jurisdiction

This Policy is subject to Australian law and practice. The Marine Insurance Act (Cth) 1909 or the Insurance Contract Act (Cth) 1984 may apply to this Policy.

Each party agrees to submit to the jurisdiction of any court of competent jurisdiction within Australia and to comply with all requirements necessary to give such court jurisdiction. All matters arising under this Policy will be determined in accordance with the law and the practice of such courts.

# CONDITIONS THAT APPLY TO THIS POLICY

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## 11. Notices

Where there is more than one of You, any notice given by Us under Your Policy to any one of You will be deemed to be notice given to all of You.

## 12. Other Insurances

You must give Us written notice of any policies of insurance already effected, or which may be subsequently effected, covering whether in whole or in part, the subject matter of the various parts of the Policy. Subject to either the Insurance Contracts Act, 1984, or the Marine Insurance Act, 1909, We reserve the right to seek contribution from such other insurers.

## 13. Causing Or Contributing To Loss

We may refuse to pay a claim, or may reduce the amount payable under a claim, to the extent that Your breach of any condition of Your Policy causes or contributes to loss, damage or liability or prejudices Our interests or rights, in respect of that claim.

## 14. Reasonable Care

At Your own expense You and any person acting for You or on Your behalf must exercise reasonable care and take precautions and use all due diligence to:

- a. prevent loss or damage to and ensure the safety and security of any item or thing which is the subject of the Cover provided under any part of Your Policy;
- b. employ only competent employees;
- c. comply with all statutory obligations and by-laws or regulations and recognised standards imposed by any public authority;
- d. prevent Personal Injury or Property Damage ;
- e. employ safe work practices; and,
- f. maintain Your property, accessories, Mobile Plant and equipment, machinery, implements and everything used in Your Business in proper repair and sound condition.

## 15. Subrogation

Upon the payment of any claim under this Policy and subject to the Insurance Contracts Act 1984 (Cth) or the Marine Insurance Act 1909 (Cth). We will be subrogated to all Your rights and remedies arising out of such claim against any person or corporation whatsoever. If there is any recovery by way of subrogation that includes both Our loss and Your loss, then We and You will be entitled to Our individual pro-rata proportions of the recovered amount (that includes any interest component) subject to any such legislation. For the purposes of this clause, loss includes any legal and administrative costs incurred by either party in the recovery.

## 16. Right of Recovery

Where another person other than a person exempted by law, is liable to compensate You for any loss or damage Covered by the Policy, but You have agreed with, or given an undertaking to, that person without Our written authority, either before or after the loss or damage occurred that You would not seek to recover any moneys from that person, We will not Cover You under Your Policy for any such loss or damage.

## 17. Other Interested Parties

- a. Your Policy does not provide insurance in respect of the interest of any person or entity not named in Your Policy Schedule. We will however recognise a government agency or Your personal representative in the event of Your death or incapacity whether temporary or permanent.

All persons entitled to any benefit under Your Policy will be bound by the terms of Your Policy.

# CONDITIONS THAT APPLY TO THIS POLICY

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## **18. Assignment of Interest**

No change in, or modification of, or assignment of interest under this Policy will be effective except when made by written endorsement to this Policy and signed by us.

## **19. Fraudulent disclosure or misrepresentation**

You must not make any disclosures or misrepresentations that are fraudulent when proposing Your insurance to Us. Subject to the Insurance Contracts Act (1984) (Cth) or the Marine Insurance Act 1909 (Cth). In certain circumstances, We may in certain circumstances cancel the Policy or declare it never existed because it was not properly entered into due to Your fraudulent misrepresentation or disclosure. If We are not entitled to avoid the contract from the beginning, We may be entitled to reduce Our liability under the contract in respect of a claim.

## **20. Prohibited By Law**

Where this Policy provides any indemnity to You which is prohibited by law, this Policy will be varied by operation of this clause so that this Policy does not respond to the extent that the indemnity is prohibited by law.

## **21. Payment of Limit of Indemnity**

We may at any time pay to You the appropriate Limit of Indemnity (after deducting any sum or sums already paid) or any lesser amount for which a claim or claims may be settled and thereupon We will relinquish the conduct and control of and will be under no further liability in connection with such claim or claims except for those costs and expenses incurred prior to the date of such payment.

## **22. Contribution to Costs**

If We have not exercised Our rights under Condition 21. above, Our liability to pay costs and expenses, where any sum or sums exceeding the appropriate Limit of Indemnity have to be paid to dispose of a claim or claims, will be limited to such proportion of the said costs and expenses as such Limit of Indemnity bears to the amount actually so paid, or to be paid.

## **23. Medicare Notification**

We will notify Medicare under the Health and Other Services (compensation) Act 1995, where any payment is due or claim for compensation is lodged under that Act. If a Commonwealth issued 'Notice of Charge' deems that an amount is due to the Commonwealth, that amount will be paid to the Commonwealth prior to and nett of any further compensation payment being made.

## **24. Unintentional Breach or Non-Compliance**

We agree that any breach or act of non-compliance by one party insured by this Policy will not prejudice the rights of any other party insured by the Policy, provided that such other party was not aware of, and did not participate in or condone, such breach or non-compliance.

# CLAIMS RESPONSIBILITIES THAT APPLY TO THIS POLICY

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When You suffer loss, damage, liability or expense claimable under this Policy, You, or anyone acting for You or on Your behalf must:

- a. take all reasonable measures to avoid or minimise any further loss, damage, liability or expense;
- b. not make any admission, offer, promise, payment or indemnity without Our written consent;
- c. tell Us all the details of the loss immediately either by submission of a claim form or by providing the information required by NTI ACCIDENT ASSIST on 1800 684 669, and in no case more than 30 days after the loss damage, liability or expense occurred. This information should be provided to Us with any written documentation, for example, a letter of demand from a claimant, a writ, summons or process received from any third party claimant. The obligation to provide this information is ongoing;
- d. pay the Excess to Us at the time of lodgement of claim;
- e. give Us all information and assistance We require in the prosecution, defence or settlement of any claim or any action or any claim made by You for benefits under Your Policy;
- f. notify Us of any other insurance that also provides insurance for any claim under Your Policy;
- g. in the event of loss caused by burglary, theft and/ or malicious damage, notify the police immediately and provide to them all assistance to apprehend the offending party;
- h. not make any false declaration or statement in support of any claim under Your Policy; and
- i. allow Us to exercise Our rights to possession of the damaged or recovered property where We have paid Your claim.
- j. When You claim under this Policy:
  - i. We may take over any right that You may otherwise have had against any person who may be held responsible for the loss, damage, liability or expense and to take recovery action in Your name against those responsible; and
  - ii. We may take over and conduct in Your name the defence or settlement of any claim or prosecute in Your name for Our benefit, any claim for indemnity or damages or otherwise and will have full discretion in the conduct of any proceedings and in the settlement of any claim.

# EXCLUSIONS THAT APPLY TO ALL SECTIONS OF THIS POLICY

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We will not be liable for any loss, damage, liability, cost or expense, including without limitation compensation or costs, directly or indirectly caused or contributed to by, or in connection with, or arising from:

## 1. Sanction Limitation and Exclusion Clause 1.6.11

any claim or benefit hereunder to the extent that the provision of such Cover, payment of such claim or provision of such benefit would expose us to any sanction, prohibition or restriction under United Nations resolutions or trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom or United States of America.

## 2. Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons Exclusion

- a. ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel.
- b. the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof.
- c. any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.
- d. the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this Sub-Clause d. 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.
- e. any chemical, biological, bio-chemical, or electromagnetic weapon.

This exclusion shall be paramount and shall override anything contained in this Policy that is otherwise inconsistent.

## 3. Asbestos

or aggravated by or in any way involving asbestos, asbestos fibres, asbestos products or by-products or derivatives of asbestos, including, but not limited to:

- a. mining, processing, transport, distribution and / or storage of asbestos;
- b. manufacture of asbestos;
- c. processing of asbestos;
- d. installation, removal, cleaning up, decontamination, control or treatment of asbestos;
- e. the inhalation of, or fears of the consequences of exposure to or the inhalation of asbestos; or any Property Damage (including the resultant loss of use of such property).

## 4. Aircraft

the ownership, operation, use, charter, possession, maintenance, refuelling, service or repair by You or on Your behalf of any Aircraft.

## 5. Contractual Liabilities

You assuming any liability under any contract or agreement other than:

- a. liability which would have been implied or imposed by law in the absence of such contract or agreement; or
- b. liability assumed under those contracts or agreements noted in the Policy Schedule.

This exclusion does not apply to Automatic Extensions of Cover 9. Delay in Handling, Misdirection and Wrongful Delivery.



# EXCLUSIONS THAT APPLY TO ALL SECTIONS OF THIS POLICY

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## 6. Marine Cyber Endorsement - LMA5403 11/11/19

1. Subject only to paragraph 3 below, in no case shall this insurance cover loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus, computer process or any other electronic system.
2. Subject to the conditions, limitations and exclusions of the policy to which this clause attaches, the indemnity otherwise recoverable hereunder shall not be prejudiced by the use or operation of any computer, computer system, computer software programme, computer process or any other electronic system, if such use or operation is not as a means for inflicting harm.
3. Where this clause is endorsed on policies covering risks of war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power, or terrorism or any person acting from a political motive, paragraph 1 shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

## 7. Directors and Officers Liability

the functions and duties of Your director and/or officer, or the director and/or officer any other legal entity, corporation or other incorporated body including but not limited to:

- a. trademark, copyright or patent infringement;
- b. fidelity obligations of directors, officers, employees, and/or servants;
- c. acting outside the scope of employment or authority or contract; or
- d. fault, error or omission in the management, administration or operation of any super, pension or employee benefits scheme.

## 8. Dishonesty

any fraudulent, dishonest, criminal or malicious act or omission on Your part or any person for whose conduct You are responsible.

## 9. Divers

Personal Injury to divers of any description.

## 10. Explosives

the ownership or use of explosives by or on Your behalf but this exclusion does not apply to Your handling, movement or storage of explosives not owned by You, in the course of the Terminal Operators & Stevedoring Activities.

## 11. Faulty Workmanship

- a. damage to that part of any property upon which You are or have been working; or
- b. repairing, correcting or improving any work undertaken by You or on Your behalf but not excluding any Cover that You may have under the Policy for resultant Personal Injury or Property Damage arising from such work.

## 12. Fines and Penalties

- a. any amount imposed on You in respect of any fines or other penalties imposed by any local, State or Federal Government or other Authority, except to the extent Cover is provided by Automatic Extensions of Cover 4. Fines and Penalties; or
- b. any fines or liquidated damages or penalties incurred under any penalty clause, except to the extent Cover is provided by Automatic Extensions of Cover 9. Delay in Handling, Misdirection and Wrongful Delivery.

# EXCLUSIONS THAT APPLY TO ALL SECTIONS OF THIS POLICY

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## 13. Health Hazard

a Health Hazard.

## 14. Heat Application, Hot Work, Welding and Cutting

hot work, welding, heating and/or cutting not carried out in accordance with Australian Standard AS1674 Safety in welding and allied processes - Fire precautions and its amendments.

## 15. Your Works

Your Works, unless Optional Extensions of Cover to this Policy 1. Your Works is noted in Your Policy Schedule.

## 16. Libel and Slander

the publication or utterance of a libel or slander or other defamatory or disparaging material:

- a. made prior to the commencement of the Period of Insurance;
- b. made by You at Your direction which You knew or suspected to be false; or
- c. related to publishing, advertising, broadcasting or telecasting activities conducted by you or on Your behalf.

## 17. Lifting Capacity

exceeding the registered or rated capacity of any lift device, slipway, travel lift, forklift, floating dock, marine railway or dry dock.

## 18. Navigation Liability

any collision, towage or navigation of any vessel, boat, craft or other description of vessel when on, under or in water and in which You have an interest as owner, charterer, lessor, lessee, or financier or in which You otherwise have a legal or equitable interest, whether or not it is used in connection with Your Terminal Operators & Stevedoring Activities.

## 19. Other Insurance

any claims which are, or would be but for the existence of this Policy, insured by any other insurance effected by You or on Your behalf. This exclusion will not apply in respect of any difference in Cover, sum insured or Excess.

## 20. Overseas Actions

any action brought or instituted against You or any judgement obtained in any country other than the Commonwealth of Australia, although this exclusion will not apply to the extent that an order is made by an Australian Court in respect of a judgement obtained in a country other than the Commonwealth of Australia.

## 21. Ownership or Control

any person or organisation who lawfully destroys, or assumes ownership or control of, any property.

## 22. Performance

- a. a delay or lack of performance by You or on Your behalf of any contract or agreement, except as provided in Automatic Extensions of Cover 9. Delay in Handling, Misdirection and Wrongful Delivery;
- b. the failure of Your work to meet the level of performance, quality, fitness, suitability or durability expressly or impliedly warranted or represented by You.

# EXCLUSIONS THAT APPLY TO ALL SECTIONS OF THIS POLICY

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## 23. Personal Injury to Contractors

Personal Injury to any Contractors.

## 24. Personal Injury to Employees

- a. Personal Injury to any Employee arising out of or in the course of his/her employment;
- b. Personal Injury to any person who is, pursuant to any legislation relating to Workers' or Workmen's compensation or Seaman's compensation, deemed to be Your employee or worker;
- c. Any liability in respect of which You are entitled to seek indemnity under any policy of insurance required to be taken out pursuant to any legislation relating to worker's or workman's compensation or Seaman's compensation including any Commonwealth legislation or any legislation of any State or Territory and whether or not You are party to such contract of Insurance; or
- d. any liability imposed by the provisions of any Workers' or Workmen's compensation legislation, Seaman's compensation legislation or any Accident compensation legislation or any industrial award or agreement or determination.

## 25. Product Liability

any claims arising from Your Products, including liability for the costs and expenses of withdrawing from sale or recalling such goods.

## 26. Professional Duty

any surveys, inspection or condition reports or valuations on Vessels or Your failure to render professional advice or service, but this Exclusion does not apply to the rendering of or failure to render advice or services by members of Your first aid services.

## 27. Property Held for Sale

any Vessel or other tangible property held for sale.

## 28. Punitive Damages

any ruling against You for payment by You of aggravated, exemplary, punitive or multiple damages.

## 29. Ship Repair or Building Activities

any Ship Repair or Building Activities.

## 30. Specialist Operations

any Specialist Operations.

## 31. Statutory Obligations

the failure to comply with any legal and/or statutory obligations or regulations imposed by any government, local or public authority, where such failure to comply is a direct or indirect cause of the loss, except as provided in Automatic Extensions of Cover 4. Fines and Penalties.

# EXCLUSIONS THAT APPLY TO ALL SECTIONS OF THIS POLICY

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## 32. Terrorism

- a. Terrorism; and / or
- b. steps taken to prevent, suppress, control or reduce the consequences of any actual, attempted, anticipated, threatened, suspected or perceived terrorism.

If We assert that any loss, damage, liability or expense is not Covered by reason of this clause it shall be for You to prove to the contrary.

This Clause shall not apply to any loss, damage, liability or expense arising from the operation, ownership, management or chartering of:

- i. Vessels whilst offshore, afloat, under construction or repair, in dock or whilst in store ashore;
- ii. seawalls, wharves, piers, jetties, docks, berths, pontoons and associated dockside equipment all whilst within the confines of the Premises, terminal, shipyard, harbour or marina; or
- iii. cargo in the ordinary course of transit.

## 33. Unlawful Activities

Your participation in an unlawful trade, or unlawful venture, or unlawful act.

## 34. Underground / Underwater Services

underground or underwater services, cables or pipes of any kind.

## 35. Motor Vehicles

the ownership, possession, operation, driving or use by You of any Mobile Plant or Motor Vehicle:

- a. which is registered;
- b. which is required under any legislation to be registered; or
- c. in respect of which insurance is required to be effected by You or on Your behalf by or under any legislation, including legislation of any state or territory of Australia, whether or not such insurance is effected.

However this Exclusion will not apply to Personal Injury or Property Damage which arises out of:

- i. delivering goods away from, or collecting goods to convey to, any Motor Vehicle where such Personal Injury or Property Damage occurs beyond the limits of any carriageway or thoroughfare, and such liability does not arise out of the operation of loading or unloading the goods directly onto or off the Motor Vehicle;
- ii. the loading or unloading of, or the delivery or collection of goods to or from any Motor Vehicle not in Your physical or legal control but which is used in work undertaken by You or on Your behalf; or
- iii. use as a Tool of Trade either on any site where You are undertaking work or at Your Premises,

but not for such liability that arises in circumstances for which indemnity would be provided under any form of insurance which is required to be effected by You or on Your behalf by or under any legislation, including legislation of any state or territory of Australia, whether or not such insurance is effected.

# EXCLUSIONS THAT APPLY TO ALL SECTIONS OF THIS POLICY

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## 36. War

- a. war, civil war, revolution, rebellion, insurrection, invasion, act of foreign enemy, hostilities (whether war be declared or not), insurrection or the use of military or usurped power, any act by or against a belligerent power or civil strife arising from any such cause;
- b. mines, torpedoes, bombs, rockets, shells, explosive or other similar weapons of war, except for liabilities, costs or expenses which arise solely by reason of the transport of such weapons either as a result of government order, or with Our written consent, where the reason for such transport is the avoidance or mitigation of liabilities, costs or expenses which would otherwise fall within the Cover given under this Policy;
- c. confiscation, nationalisation, requisition or any Property Damage as a result of any order of any government, public or local authority.

## 37. Silica

the inhalation of, or exposure to silica in any form whatsoever.

## 38. North America Product Liability

Products Liability:

- a. occurring in any country on the continent of North America, or in states or territories incorporated in or administered from or by such country; and
- b. caused by Products exported by You to any such country.

## 39. Communicable or Infectious Disease

- a. The infection of property, humans, animals or other living creatures by infectious matter or parasite, or the spreading or releasing thereof whether accidentally, knowingly, wilfully, maliciously or otherwise; or
- b. any losses caused by a disease listed in the Biosecurity Act 2015 (including consequential amendments and transitional provisions); or
- c. any disease in any way related to any form of Coronavirus, SARS, Avian Flu, Swine Flu or similar disease; or
- d. any disease directly or indirectly caused by or in connection with negatively stranded RNA virus or viruses belonging to the Influenza A genus of the family: Orthomyxoviridae.





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