

Annual Marine Cargo Insurance

Policy Wording



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

Duty of Disclosure

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

Duty of Disclosure under the Insurance Contracts Act 1984

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

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

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

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

If you do not tell us something

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

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

Duty of Disclosure under the Marine Insurance Act 1909

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

Non-disclosure or Misrepresentation

If the *insured* makes a misrepresentation to us, or if they do not comply with this duty of disclosure and we issue 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 that we provide. This policy is made up of:

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

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

Privacy

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

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

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

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

General Insurance Code of Practice

We are signatories to the General Insurance Code of Practice (the Code) and support the Code.

The objectives of the Code are:

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

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

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

Complaints and Disputes Resolution process

If *you* have a complaint about an insurance product we have issued or the service *you* have received from us, please contact *your* intermediary to initiate *your* complaint with us. If *you* are unable to contact *your* intermediary, *you* can contact us directly on 132 687. We will acknowledge receipt of *your* complaint within 24 hours or as soon as practicable.

If *you* are not satisfied with our initial response, *you* may access our internal dispute resolution process. Please refer to the general insurance fact sheet available on our website for details of our internal dispute resolution process.

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

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

Their contact details are:

Website: www.afca.org.au

Email: info@afca.org.au

Freecall: 1800 931 678

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

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

Annual Marine Cargo Insurance Policy Wording

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

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

1. The cover

We insure *you* for physical 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:
 - 2.2.2.1 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
 - 2.2.2.2 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 Communicable disease

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

- 3.1.1 the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
- 3.1.2 the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and

3.1.3 the disease, substance or agent can cause or threaten damage to human health or human welfare or can cause or threaten damage to, deterioration of, loss of value of, marketability of or loss of use of property insured hereunder,

and includes, but is not limited to, a disease that is or becomes listed on the National Notifiable Disease List and/or is or becomes a temporary addition to the National Notifiable Disease List and/or has or could give rise to a public health event of national significance and/or is or becomes a listed human disease (where National Notifiable Disease List means the list established and in force from time to time under section 11 of the National Health Security Act 2007 (Cth) and listed human disease has the meaning given by section 42 of the Biosecurity Act 2015 (Cth), or in each case any subsequent amendment, replacement or successor legislation of the Commonwealth of Australia).

3.2 Insured, You, Your, Assured

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

3.3 Period of insurance

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

3.4 Schedule

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

3.5 Subject matter insured

subject matter insured means the insured goods (including packaging and labels) that *you* own or are contractually responsible for, as described in the policy *schedule*, including:

3.5.1 any return goods, inwards or outwards, and

3.5.2 stock transfers

We do not cover the following, unless *you* have declared them and they are specifically listed in *your* policy *schedule*, or agreed in writing by us:

- (a) domestic furniture, household goods, personal effects;
- (b) frozen and/or chilled meat, seafood or foodstuffs;
- (c) livestock, studstock, bloodstock or live animals;
- (d) goods not transported by a professional carrier or transported by *you* or *your* employees;
- (e) precious metals and stones, money (which means any coin or banknote), bullion, cheques, credit or other card sales vouchers, securities, shares, bonds, deeds, bills of exchange, or any documents that represent money or title;
- (f) plant, machinery and computers (which are not the primary *subject matter insured*), this exclusion will not apply where the total sum insured of these goods does not exceed \$25,000 any one conveyance or location;
- (g) tools of trade, travellers' samples;
- (h) portable data storage or communication devices including but not limited to computers, printers, scanners, readers, recorders, cameras or projectors, digital assistants, measuring devices and mobile telephones owned or used by *you*, *your* employees, travelling salesmen or agents;
- (i) radioactive or explosive goods;
- (j) live plants;
- (k) cigarettes or tobacco products;
- (l) bulk cargo.

3.6 Terrorism

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

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

3.6.2 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 Change of destination / deviation

In case of a voluntary change of destination and/or deviation within the Insured's control, the *subject matter insured* is held covered at a premium to be agreed with us and subject to the terms and conditions of the policy.

4.7 Containers hired, leased or at risk of the insured

In respect of shipping containers leased by or otherwise at *your* risk, the policy is extended to cover *your* legal liability as per contract for physical loss or damage to shipping containers in *your* care, custody and control up to a limit of \$100,000 each container subject to an excess of \$5,000 each and every loss per container except where losses are caused by a single occurrence when only one excess shall apply.

4.8 Containers owned by the insured

This policy covers shipping containers owned by *you* subject to:

- 4.8.1 Institute Container Time 1.1.87 (CL338); and
- 4.8.2 Institute War and Strikes Clauses Containers – Time 1.1.87 (CL340),

provided that the coverage afforded by this clause is limited to \$100,000 for any one loss and is subject to an excess of \$5,000 each and every container except where losses are caused by a single occurrence when only one excess shall apply.

4.9 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.

4.10 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 \$100,000 any one loss or occurrence in addition to the sum insured.

4.11 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.

4.12 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.

4.13 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:

- 4.13.1 *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;
- 4.13.2 *you* should give to us all rights and remedies in respect of any recourse *you* may have for such loss or damage; and
- 4.13.3 *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.

4.14 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:

- 4.14.1 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;
- 4.14.2 for General Average;
- 4.14.3 in respect of duty waived by customs authorities at destination on shipments arriving damaged by a peril covered under this policy; or
- 4.14.4 in cases where no duty or landing charges are paid.

4.15 Exhibition/demonstration

This policy is extended to include:

- 4.15.1 *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;
- 4.15.2 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
- 4.15.3 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 4.15 is 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.

4.16 Expediting expenses

In the event of loss or damage from an insured event where overtime and/or other expediting expenses are incurred, this policy covers reasonable additional costs incurred in rectifying that damage or loss provided that the coverage provided by this Clause is limited to \$50,000 for any one loss.

4.17 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.

4.18 Fumigation

This policy is extended to cover loss or damage to the *subject matter insured* caused by fumigation where fumigation is required under a written order from the relevant quarantine authority of the country where the *subject matter insured* is unloaded.

4.19 Fumigation expenses

This policy is extended to cover any charges and/or expenses necessarily incurred should the *subject matter insured*, on arrival at the port or place of destination, be ordered by the appropriate authority to be fumigated and/or quarantined.

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

4.19.1 the cost of fumigation and/or quarantine and all related charges; and

4.19.2 any additional costs incurred by way of cartage to and/or from fumigation and/or quarantine, provided that such extended cover,

is subject to a limit of \$100,000 or 15 per cent of the limit of liability shown in the *schedule* whichever is the lesser.

Cover under this clause does not include mandatory fumigation for particular goods under government quarantine regulations or similar statutory requirements and/or quarantine charges and expenses applying irrespective of infestation or suspected infestation.

4.20 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.

4.21 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.

4.22 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*.

4.23 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.

4.24 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.

4.25 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*.

4.26 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.

4.27 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:

- 4.27.1 documentary evidence the package or item was loaded into the container; and
- 4.27.2 a copy of the discharge tally sheet or claused delivery notes, to substantiate the loss.

4.28 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.

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

- 4.28.1.1 accept the *subject matter insured*;
- 4.28.1.2 take up the documents of title; or
- 4.28.1.3 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.

4.28.2 Cover will remain in force until either:

- 4.28.2.1 the *subject matter insured* is accepted by the buyer;
- 4.28.2.2 the *subject matter insured* is sold to an alternative buyer;
- 4.28.2.3 the *subject matter insured is returned to you*; or
- 4.28.2.4 60 days from the arrival of the overseas vessel at the port of discharge, whichever first occurs.

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

- 4.28.3.1 unless immediate notice is given to us when a contingency in 4.28.1.1, 4.28.1.2 and/or 4.28.1.3 above occurs;
- 4.28.3.2 if the existence of this extension is disclosed to the buyer, its insurers or any other interested party;
- 4.28.3.3 if this extension or any interest in the *subject matter insured* is assigned;
- 4.28.3.4 if the loss is recoverable from credit insurers;
- 4.28.3.5 arising from government action and/or regulations preventing transfer of currency; or
- 4.28.3.6 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'.

4.29 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.

4.30 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.

4.31 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 Climatic conditions

This policy excludes loss or damage to the *goods* caused by atmospheric and/or climatic conditions (including mildew, mould, heating and sweating).

5.2 Communicable disease

This policy excludes any actual or alleged loss, liability, damage, compensation, injury, sickness, disease, medical payment, claim, cost, expense or other sum, directly or indirectly arising out of, attributable to, or occurring concurrently or in any sequence with a *communicable disease* or the fear or threat (whether actual or perceived) of a *communicable disease*.

5.3 Cyber risks

This policy excludes any loss, damage, liability or expense directly or indirectly caused by, contributed to by or arising from:

- 5.3.1 the failure, error or malfunction of any computer, computer system, computer software programme, code, or process or any other electronic system; or
- 5.3.2 the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.

5.4 Demonstration, use or testing, return from exhibition

Notwithstanding anything to the contrary in 4.15 '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.

5.5 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:

- 5.5.1 theft of equipment;
- 5.5.2 collision;
- 5.5.3 sinking, grounding or stranding of the carrying vessel;
- 5.5.4 overturning or derailment of land conveyance;
- 5.5.5 jettison or washing overboard;
- 5.5.6 fire, lightning, explosion;
- 5.5.7 aircraft or vehicle impact;
- 5.5.8 falling objects;
- 5.5.9 windstorm, hail, tornado, cyclone, hurricane, earthquake, volcano, tsunami, flood, freeze or weight of snow.

5.6 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.

5.7 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:

5.7.1 the vessel was not certified in accordance with the ISM Code; or

5.7.2 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.

5.8 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.

5.9 Pre-existing damage

This policy excludes loss or damage which has not occurred during the insured transit, for example, pre-existing damage or damage occurring after the goods have been delivered at destination.

5.10 Rejection

This policy excludes rejection, detention, condemnation or confiscation of the *subject matter insured* by any government or their agencies or departments or by any public or local authority regardless of the reason

5.11 Rust, oxidation, discolouration

This policy excludes rust, oxidation, discolouration, unless caused in transit from an insured event.

5.12 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:

5.12.1 as per the transit clauses contained within the contract of insurance;

5.12.2 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;

5.12.3 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;

- 5.12.4 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;
- 5.12.5 in respect of marine transits, on the expiry of 60 days after the completion of discharge overside of the *subject matter insured* from the oversea vessel at the final port of discharge; or
- 5.12.6 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 5.12.1 to 5.12.6 above.

5.13 Terrorism

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

- 5.13.1 terrorism; and/or
- 5.13.2 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 5.12.

5.14 Unexplained loss

This policy excludes unexplained loss, mysterious disappearance and/or shortage deduced solely from an inventory computation.

5.15 Vermin

This policy excludes any loss or damage arising from vermin.

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:
 - 6.1.6.1 original or copy of shipping invoices, shipping specifications and/or weight notes;
 - 6.1.6.2 original bill of lading, waybill and/or other contract of carriage;

- 6.1.6.3 landing account and weight notes at final destination;
 - 6.1.6.4 documentary evidence of the extent of the loss or damage; and
 - 6.1.6.5 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:

- 6.2.1.1 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(Cth) in relation to that acquisition whether or not the acquisition is actually made; or
- 6.2.1.2 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 (Cth) 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.

6.2.3 Under-insurance

If the actual value of the *subject matter insured* under this policy at the time of loss or damage is higher than the agreed value or the limit of liability specified in *your* policy *schedule*, we may pay *you* an amount less than the limit of liability in accordance with the provisions of the Marine Insurance Act 1909 (Cth) and the Insurance Contracts Act 1984 (Cth), where relevant.

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 (Cth) 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 (Cth).

7.2 Cancellation

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

7.2.2 When the policy is subject to the Marine Insurance Act 1909 (Cth), 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.

7.2.3 When the policy is subject to the Insurance Contracts Act 1984 (Cth), we may cancel the policy subject to the provisions of that Act.

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

7.2.5 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.

7.3 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.

7.4 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.

7.5 Deposit premium

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*.

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

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 Proper law and jurisdiction

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

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

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

7.10 Reasonable care

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

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 Trade and Economic Sanctions

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.

7.13 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.

7.14 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.

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