

Single Marine Cargo Insurance

Policy Wording



Contents

Welcome to Zurich

About Zurich	2
Duty of Disclosure.....	2
Our contract with you.....	3
Privacy.....	4
General Insurance Code of Practice.....	4
Complaints and Disputes Resolution process.....	4

Single Marine Cargo Insurance – Policy Wording

1. The cover.....	5
2. Conditions of cover.....	5
2.1 Conditions of insurance	5
2.2 Basis of valuation.....	5
2.3 Limits on cover.....	5
3. Definitions	
3.1 Communicable Disease	5
3.2 Insured, <i>You, Your</i> , Assured.....	6
3.3 Period of insurance.....	6
3.4 Schedule	6
3.5 Subject matter insured.....	6
3.6 Terrorism.....	6
4. Additional clauses	
4.1 Brands.....	7
4.2 Debris	7
4.3 Packers	
5. Exclusions	
5.1 Climatic Conditions	7
5.2 Communicable Disease	7
5.3 Cyber Risk.....	7
5.4 Information technology hazards.....	7
5.5 Institute Radioactive Contamination, Chemical, Biological, Bio-chemical and Electromagnetic Weapons Exclusion Clauses – USA/Canada endorsement	8
5.6 ISM	8
5.7 Mechanical or electronic derangement.....	8
5.8 Pre-existing damage	8
5.9 Rejection.....	8
5.10 Rust, oxidisation, discolouration.....	8
5.11 Termination of transit (terrorism) 2009	9
5.12 Terrorism	9
5.13 Vermin.....	9
6. Claims conditions	
6.1 Claims procedure	9
6.2 Claims settlement.....	10
6.3 Excess.....	10
6.4 Other insurance	10
6.5 Rights of subrogation.....	10

7.	General conditions	
71	Applicable legislation.....	11
72	Notification of material change.....	11
73	Plurals and titles.....	11
74	Proper law and jurisdiction	11
75	Reasonable care.....	11
76	Third parties.....	11
77	Trade and Economic Sanctions	11
78	Transfer	11

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.

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*.

Single 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 the insured voyage that commences during the *period of insurance* specified in the *schedule* from the point of departure to the destination each as specified in the *schedule*.

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

The agreed value of the *subject matter insured* will be their invoice cost plus the cost of insurance and freight plus 10 per cent (CIF + 10%) unless a different valuation is agreed and stated in the *schedule*.

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*:

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*).
- 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;

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 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.

4.2 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 \$25,000 any one loss or occurrence in addition to the sum insured.

4.3 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.

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 risk

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

- a. the failure, error or malfunction of any computer, computer system, computer software programme, code, or process or any other electronic system; or
- b. 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 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:

- a. theft of equipment;
- b. collision;
- c. sinking, grounding or stranding of the carrying vessel;
- d. overturning or derailment of land conveyance;
- e. jettison or washing overboard;

- f. fire, lightning, explosion;
- g. aircraft or vehicle impact;
- h. falling objects; or
- i. windstorm, hail, tornado, cyclone, hurricane, earthquake, volcano, tsunami, flood, freeze or weight of snow.

5.5 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.

5.6 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;

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

5.6.2 a current Document of Compliance was not held by its owners or operators as required under the 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.

5.7 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.

5.8 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.

5.9 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.

5.10 Rust, oxidisation, discolouration

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

5.11 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:

- 5.11.1 as per the transit clauses contained within the contract of insurance;
 - 5.11.2 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;
 - 5.11.3 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;
 - 5.11.4 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;
 - 5.11.5 in respect of marine transits, on the expiry of 60 days after the completion of discharge overseaside of the *subject matter insured* from the overseas vessel at the final port of discharge; or
 - 5.11.6 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 5.11.1 to 5.11.6 above.

5.12 Terrorism

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

- 5.12.1 *terrorism* and/or
- 5.12.2 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 5.11.

5.13 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 three days of delivery if the loss or damage was not apparent at the time of taking delivery;
- 6.1.6 immediately notify us, or our nominated survey/settling agent, what has happened and promptly send full details including details of any other insurance on the *subject matter insured* and the following documentation:
- (a) original or copy of shipping invoices, shipping specifications and/or weight notes;
 - (b) original bill of lading, waybill and/or other contract of carriage;
 - (c) landing account and weight notes at final destination;
 - (d) documentary evidence of the extent of the loss or damage; and
 - (e) any correspondence with the carrier or bailee about their liability for loss or damage.
- 6.1.7 not authorise any repairs to the *subject matter insured* without our consent.

6.2 Claims settlement

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

6.2.1 Goods and Services Tax

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

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

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

7.3 Plurals and titles

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

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

7.3.2 singular includes the plural, and vice versa; and

7.3.3 the male includes the female and neuter.

7.4 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.

7.5 Reasonable care

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

7.6 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.

7.7 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.

7.8 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.

Zurich Australian Insurance Limited

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