

# marine annual cargo

imports and exports  
insurance policy



# Marine Annual Cargo – Imports and Exports insurance policy

## Your duty of disclosure

Before You enter into a contract of general insurance with an insurer, You have a duty, under both the Marine Insurance Act 1909 and the Insurance Contracts Act 1984, to disclose to Us every matter that You know or could reasonably be expected to know which is relevant to Our decision to accept the risk of the insurance and on what terms. You have the same duty of disclosure before You renew, vary, extend or reinstate a contract of general insurance.

Your duty does not require You to disclose a matter:

- ◆ That diminishes the risk to be accepted by Us.
- ◆ That is of common knowledge.
- ◆ That We know, or in the ordinary course of business, should know.
- ◆ In relation to which compliance with Your duty is waived by the insurer.

If You fail to comply with Your duty of disclosure:

**Where the Marine Insurance Act 1909 applies,** We may avoid the contract from inception.

**Where the Insurance Contracts Act 1984 applies,** We may be entitled to reduce Our liability under the contract in respect of a claim, or, in certain circumstances, We may cancel the Policy or declare it never existed because it was not properly entered into. If Your non-disclosure was fraudulent, We may also have the option of avoiding the contract from the beginning.

## Non-disclosure

If You fail to comply with Your duty of disclosure, We may be entitled to reduce Our liability under the contract in respect of a claim or may cancel the contract.

If Your non-disclosure is fraudulent, We may also have the option of avoiding the contract from its beginning.

## Our agreement

We agree to provide You with the insurance as described in this Policy and any Institute Clauses described in the Policy Schedule and forming part of this insurance, for the Period of Insurance shown in the Schedule and for any subsequent period where renewal may be agreed, and in return You agree to pay Us the premium by the dates advised to You.

The Policy wording, current Schedule, endorsements and any Institute Clauses described in the Schedule are to be read together.

## Definitions

In this Policy certain words have special meanings. They have the same meanings wherever they appear. These words are:

**Conveyances** means any ship, vessel, aircraft, postal service, rail, or road transport used to transport the Goods.

### CFR – Cost and Freight

is an INCOTERM describing the contract situation where:

- ◆ the seller must pay the costs and freight necessary to bring the Goods to the named port of destination; and
- ◆ the buyer assumes the risk of loss or damage to the Goods, as well as any additional costs due to events occurring after the Goods have been delivered on board the vessel when the Goods pass the ship's rail in the port of shipment.

### Excess

means the sum shown in the Policy which any loss or claim must exceed before We will be liable under this Policy and which We will not be liable to pay in respect of each loss. The amount of the excess will be deducted from each and every loss.

Where an excess is expressed as:

- ◆ a specified sum – it means the amount specified; and/or

- ◆ a percentage – it means the monetary equivalent of such percentage of each loss;

**provided that,**

where a claim is made in respect of more than one occurrence, the excess will apply as though a claim was made for each individual occurrence.

**FAS – Free Alongside Ship** is an INCOTERM describing the contract situation where:

- ◆ the seller fulfils their obligation to deliver when the Goods have been placed alongside the vessel on the quay or in lighters at the named port of shipment; and
- ◆ the buyer has to bear all costs and risks of loss or damage from that point.

**FOB – Free on Board** is an INCOTERM describing the contract situation where:

- ◆ the seller fulfils their obligation to deliver when the Goods have passed over the ship's rail at the named port of shipment; and
- ◆ the buyer has to bear all costs (including freight costs) and risks of loss or damage from that point.

**Subject Matter Insured/Goods or Insured Goods**

means the type of goods detailed in the Schedule.

Unless specifically listed in the Schedule, or agreed in writing by Us, We do not insure:

- ◆ Domestic furniture, household goods, personal effects.
- ◆ Frozen and/or chilled meat, seafood or foodstuffs.
- ◆ Works of art or antiques.
- ◆ Precious metals and stones, jewellery, 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.
- ◆ Plant, machinery and computers where the limit for any one

Conveyance or location exceeds \$25,000.

- ◆ Tools of trade, electrical and electronic equipment.

**Institute Clauses**

are the customary market standard wordings prepared by the Institute of London Underwriters. Any Institute Clauses referred to in the Policy or Policy documents are deemed to be those most current at the time of attachment of the risk. In the event of any of these clauses being altered or added to, new clauses shall automatically form part of this Policy, unless the alteration or addition reduces Your protection, in which event You shall be advised in writing.

**Insured or You or Your or Assured**

means the insured named in the Schedule.

**Insurer, Underwriter or We or Our or Us**

means the insurer named in the Schedule.

**Insured Transit**

means transits within the geographical limits specified in the Schedule and which occur during the Period of Insurance subject to any voyage trading limitations for exports.

**Limit of liability**

means the limit of liability specified in the Schedule. Our liability is limited to the amount stated any one loss or series of losses arising from the one event.

**Policy**

means this Policy wording, the current Schedule any Institute Clauses described in the Schedule, and any endorsement, all of which are to be read together.

**Premium**

means the premium specified in the Schedule, any endorsement premium and any adjustment premium in accordance with General Conditions, Premium Adjustment.

**Schedule**

means the Policy's schedule.

**Subject-matter Insured**

as appearing in the Institute Clauses has the same meaning as "Goods".

# The Insured Transit

What We will cover in relation to the Insured Transit is subject to this Policy and the provisions of any Institute Clauses described in the Schedule and forming part of this insurance.

## Cover

We will indemnify You against loss or damage to the Goods or expense arising from loss or damage to the Goods:

- ◆ which are caused by risks covered within any Institute Clauses or any other clauses described in the Schedule and forming part of this insurance; and
- ◆ which occurs during the Insured Transit.

Subject to the clauses, conditions, additional benefits, exclusions and other cover limitations contained in or attaching to this Policy.

The cover optional extensions are specified below and the ones which You have selected are shown on the Schedule.

## Optional benefits

The following apply only where You have requested the cover and where specified in the Schedule.

### Exhibition/Demonstration Clause

This Policy, subject to the existing cover terms and conditions, is extended to cover the Goods whilst at any exhibition or premises for a period not exceeding 21 days. However, damage caused by the Goods being in use for the purposes of demonstration or otherwise is excluded.

Subject to a limit of \$25,000 for any one loss or series of losses arising from the one insured event, provided these costs are not recoverable under any other policy of insurance.

### Insufficiency of Packing Exclusion Modification Clause

Insufficiency or unsuitability of of packing or preparation of the subject matter insured to withstand the ordinary incidents of the insured transit where such packing or preparation is carried out by You or Your employees or prior to the attachment of this insurance( for the purposes of this insurance, "packing" shall be deemed to include stowage in a container and "employees" shall not include independent contractors.)

### Sellers Contingency Clause

1. This insurance is to cover the interest of the Insured as seller of Goods in respect of those consignments sold on 'FOB' and 'CFR' terms despatched on or after the commencement date appearing in the Policy.
2. This insurance attaches from the time the Goods leave the warehouse or place of storage at the place named in the Policy for the commencement of the Insured Transit and terminates when the Goods are delivered into the carrying vessel at the port or place of loading. During this transit this insurance is subject to the clauses and conditions listed on the Schedule.
3. Thereafter, cover re-attaches retrospective to the commencement of the Insured Transit with the addition of the risks of war as per the Institute War Clause ('Cargo') if one or more of the following contingencies occur:
  - a. The buyer fails or refuses to accept the shipping document.
  - b. The buyer fails or refuses to accept the Goods.
  - c. The Insured exercises a lien on the Goods or interrupts their transit, or suspends the sale contract whilst the Goods are in transit when this is reasonable to safeguard its interests.
4. The Insured must use all reasonable and usual care, skill and forethought and take all practical measures, including measures which may be required by the Insurer to prevent or minimise loss, and to enforce the contract of sale.
5. All rights and benefits against the buyer and/or the buyer's insurers and/or carrier(s) and/or other persons are to be subrogated to the Insurer.
6. The Insured must advise the Insurer(s) immediately of the occurrence of any of the contingencies in Clause 3 above.
7. This insurance continues during any delay and/or deviation resulting from any of the contingencies described in Clause 3 above provided that prompt notice be given to insurers and subject to an additional premium to be arranged.
8. This insurance and any money payable under it are not assignable without the consent in writing of the Insurer.

9. The existence of this insurance is not to be disclosed to the buyer.
10. Where requested, You agree to provide Us with a declaration of all shipments made on 'FOB' and 'CFR' terms.

## Additional benefits

The following additional benefits are automatically included in the cover provided by this Policy.

### Accumulation Clause

In the event of or during transshipment or after the arrival of the overseas vessel or Conveyance at the port or place of discharge or in the event of any other accumulation of interests beyond the Policy limits due to interruption of the Insured Transit and/or other circumstances beyond Your control, the Policy limits shown in the Schedule will not apply provided that the accumulation of Your Goods beyond such limits is outside Your control and You give Us immediate notice as soon as the circumstances are known to You.

The maximum amount claimable under this clause is limited to double the limit of liability expressed in the Schedule.

### Automatic Reinstatement Clause

The limit of liability stated in the Schedule will be automatically reinstated without an additional premium being payable when a claim is paid under the Policy.

### Brands and Labels Clause

Any damaged Goods bearing identifying brands or labels or other permanent markings or where an exclusive or secret formula may be involved, may be retained by You to dispose of as You see fit, provided a reasonable allowance is agreed for the value of the Goods and this allowance is deducted from the claim settlement.

Where only the labels or packaging are affected, We will pay You only the reasonable cost of reconditioning and/or replacing those labels or packaging.

### Debris Removal Clause

If We pay a claim under this Policy for loss/damage to the Goods, We will also pay cost of removal and disposal of damaged, deteriorated or contaminated Goods and the cost of cleaning up the premises, location or Conveyance.

Subject to a limit of \$50,000 for any one loss or series of losses arising from the one insured event provided these costs are not recoverable under any other policy of insurance.

### Delayed Unpacking Clause

Where packages are not opened on arrival, any concealed loss or damage caused by an insured event which becomes evident when the Goods are unpacked is recoverable under this Policy as long as:

- ◆ the Goods are opened and inspected within a period of 90 days from the time the Goods enter the warehouse or place of storage at the destination named in the Policy; and
- ◆ the packages show no outward sign of loss or damage at the time of entry into the warehouse or place of storage.

However, We shall not pay for loss of, damage to or expense from such Goods which occurs after arrival at the warehouse or place of storage or destination.

### Duty Payable Clause

In the event of a claim caused by an insurable event recoverable under this Policy, We will additionally pay the amount of any import duty and/or taxes paid or payable by the Insured in respect of the Goods, provided:

1. You include in Your declaration to Us the amount of import duty and/or taxes paid and/or payable on all imports insured under this Policy, for which a premium will be charged at the agreed rate.
2. You assist Us to recover any amounts paid by Us by using reasonable efforts to obtain abatement or refunds of import duty and/or taxes paid in respect of such claims.

Nothing in this clause shall increase the limit of liability expressed in this Policy and/or Schedule.

This clause does not cover claims arising from:

- ◆ Total loss of the Goods, or total loss of a part thereof prior to arrival at destination or prior to duty and taxes becoming payable.
- ◆ General average and salvage charges.
- ◆ Duty waived by Customs Authorities at destination.

### Expediting Expenses Clause (imports of electrical/electronic equipment or machinery only)

In the event of loss or damage from an insured event, it is agreed that where:

- ◆ replacement of any part or parts is necessary to prevent interruption of the insured's business; and
- ◆ repair or replacement to original shipped condition cannot be effected locally in Australia;

We will pay the extra cost involved for transit by airfreight of such replacement part or parts from the suppliers to destination, even if the original transit was not by airfreight.



Subject to a limit of 20% of the value of the insured value of the Goods for any one loss or series of losses arising from the one insured event provided these costs are not recoverable under any other policy of insurance.

#### **Extended Transit (Loading/Unloading) Clause**

The duration clause of the applicable Institute Clauses listed in the Schedule is amended to include loading/unloading of the Goods as detailed below:

#### **All Goods except motor vehicles, frozen or chilled meat, seafood, foodstuffs or other temperature controlled or perishable products**

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

- ◆ each item of Goods is placed inside the intended destination/receivers premises;
- ◆ on being placed inside any other warehouse or place of storage, whether prior to or at the destination named herein, which either You or the receivers elect to use either for storage other than in the ordinary course of transit or for allocation or distribution;
- ◆ on placing inside such other place as the receiver may instruct; or
- ◆ seventy-two hours after unloading from the final conveying vehicle;

whichever shall first occur.

#### **Frozen or chilled meat, seafood, foodstuffs or other temperature-controlled or perishable products**

Loading cover commences when the Goods are being loaded onto the conveying vehicle from the ground or loading dock adjacent to the conveying vehicle and terminates when the Goods have been placed on the conveying vehicle.

Unloading cover commences when the Goods are being unloaded from the conveying vehicle and terminates when the Goods are placed on the ground or loading dock adjacent to the conveying vehicle.

The duration clause of Institute Clauses that deal with frozen meat will replace this clause where applicable.

#### **Motor Vehicles**

Where a tilt tray vehicle is used to convey the Goods, the following wording will apply:

- ◆ Loading cover commences when the motor vehicle's wheels/tracks are driven onto the loading ramps of the Conveyance from the ground or loading dock adjacent to the Conveyance and terminates when the motor vehicle has been positioned on the Conveyance.
- ◆ Unloading cover commences when the motor vehicle starts to drive off the loading ramps and terminates when the vehicle is parked on the loading dock adjacent to the Conveyance.

#### **FOB and CFR Pre-shipment Clause (applicable to imports into Australia only)**

Notwithstanding the title or legal ownership under contracts of sale subject to FOB, FAS, CFR or similar INCOTERMS, in the event that We are unable to establish when the event giving rise to loss or damage to the Goods took place, or where You are unable to obtain compensation from the supplier or other parties, then We will indemnify You for loss or damage as a result of an insured peril from the time the Goods leave the warehouse or place of storage at the point of departure.

Provided that:

- ◆ You use all reasonable means to recover the loss from the seller under the terms of purchase before claiming on this Policy;
- ◆ You do not disclose the existence of this cover to the seller; and
- ◆ following settlement under this extension, We are subrogated to any rights of recovery You may have against the supplier or other party responsible and You agree to assist Us in pursuing such recovery.

#### **Fumigation Expenses Clause**

Subject to existing cover conditions, We will cover the reasonable costs, charges and/or expenses necessarily incurred should the Goods on arrival at the port of destination be ordered by the appropriate authorities to be fumigated and/or quarantined because of infestation or suspected infestation, including:

- ◆ cost of actual fumigation or quarantine and related charges; and
- ◆ additional freight costs incurred to/from quarantine/fumigation.

Cover under this clause excludes customary or mandatory fumigation or quarantine costs/expenses (per Government Quarantine Regulations or similar statutory requirements).

Subject to a limit of \$25,000 for any one loss or series of losses arising from the one insured event, provided these costs are not recoverable under any other policy of insurance.

#### **Fumigation Damage Clause**

This insurance covers loss or damage to the interest insured proximately, caused by any process of fumigation including fire resulting from the application of heat during fumigation.

#### **General Average and Salvage Clause**

We will pay General Average and Salvage Charges in full even if the amount insured is less than the contributory value, without applying the Policy excess.

#### **Insolvency Exclusion Modification Clause**

The Insolvency Exclusion Clause, where appearing in the relevant Institute Clauses in the list of exclusions, is deleted and replaced by the following:

In no case shall this insurance cover loss, damage or expense caused by insolvency or financial default of the owners, managers, charterers or operators of the vessel or aircraft where, at the time of loading of the Goods on board the vessel or aircraft, the Insured is aware, or in the ordinary course of business should be aware, that such insolvency or financial default will prevent the normal prosecution of the voyage.

This clause shall not apply where the insurance has been assigned to the party claiming hereunder who has bought or agreed to buy the Goods in good faith under a binding contract.

#### **Loss of Media/Data/Information Clause**

We will pay for all claims for loss of information, data or media provided there is visible external evidence of damage from an insured event. The amount We will pay under this clause is the reasonable cost of rewriting the information or data.

Subject to a limit of \$25,000 for any one loss or series of losses arising from the one insured event provided these costs are not recoverable under any other policy of insurance.

#### **Overcarried Clause**

This Policy extends to cover Goods where they are incorrectly carried to a destination which is different to that intended at the commencement of the voyage, until they are returned to the original destination.

#### **Own Repairs Clause**

In respect of damage claims recoverable hereunder, where You are appointed to effect repairs, it is agreed that such repair costs shall be based on Your normal commercial rate for such repairs including Your normal element of profit.

#### **Packers Clause**

The duration of the Insured Transit is extended where applicable from the time of leaving the supplier's warehouse en route to the packer's warehouse and while there for a period not exceeding one month prior to shipment, but excluding any loss or damage caused by delay.

#### **Packaging & Containers Clause**

We will pay for loss of or damage to packaging (including packaging materials, shipping containers, crates, pallets or the like) while carried during an Insured Transit caused by an insured event.

Subject to a limit of \$25,000 for any one loss or series of losses arising from the one insured event provided these costs are not recoverable under any other policy of insurance.

#### **Re-consigned/Reshipped Clause**

The duration of the Insured Transit is extended where Goods are re-consigned or reshipped direct from the wharf or airport at the intended destination to another destination until arrival at the final destination.

#### **Repacking Costs Clause**

It is agreed that in the event of the original shipping packages arriving at the final destination in a visibly damaged condition arising from an insured event, the costs of replacing such packages shall be for the account of the Insurer in those instances where it is an established custom of the Insured's and or consignee's trade to deliver the Goods to the final customer's premises in the original shipping packages.

#### **Sealed Container Clause**

In respect of shipments in FCL containers, the fact that the container's seal is intact at unloading point shall not invalidate claims for theft, pilferage, shortage and non-delivery provided that:

- ◆ documentary evidence is produced to substantiate the quantity loaded into a container;
- ◆ documentary evidence is provided to substantiate sealing of the container;
- ◆ You will assist Us to pursue every reasonable course of recovery from the suppliers and or the packers or other responsible parties; and
- ◆ all rights of recovery against the seller, packers or other responsible parties where liability may attach are subrogated to insurers.

#### **Shutout Clause**

The duration of the Insured Transit is extended whilst waiting for an alternative Conveyance where Goods are shutout from the Conveyance at an intermediate place during the ordinary course of the Insured Transit.

## Sorting Charges Clause

It is agreed that in the event of the Insured and or consignee complying with surveyors' instructions to separate shipping packages to ascertain possible loss arising from an insured event, such expenses as approved by the surveyor shall be for the account of the Insurer even though a claim may not subsequently result hereunder.

## Strikes Diversion Expenses

We will pay any reasonable additional expenditure incurred by You where shipowners, charterers or managers exercise a liberty granted to them by the contract of affreightment and where solely in consequence of strikes, riots, civil commotions, lockouts or labour disturbances:

- ◆ the Goods are overcarried to or discharged at a port other than the scheduled port of discharge under the contract of affreightment; and
- ◆ additional expenditure is necessarily incurred in unloading, storing and forwarding the Goods to their final destination.

The additional expenditure is payable irrespective of any other loss whether totally or partially recoverable under the terms of any other insurance.

In no case shall We be liable for any claims unless the liberty referred to in this clause is exercised prior to the expiry of 15 days from midnight on the day on which the strikes, riots, civil commotions, lockouts or labour disturbances cease to be in active operation.

Subject to a limit of \$25,000 for any one loss or series of losses arising from the one insured event provided these costs are not recoverable under any other policy of insurance.

## Unseaworthiness and Unfitness Exclusion Modification Clause

The unseaworthiness and unfitness exclusion clause, where appearing in any Institute Clauses forming part of this Policy, is deleted and replaced with the following:

In no case will this Policy cover loss, damage or expense caused by the following:

- (a) unseaworthiness of vessel or craft or unfitness of vessel, craft or aircraft for the safe carriage of Goods, where You are aware of the unseaworthiness or unfitness at the time the Goods are loaded; and
- (b) unfitness of container, or Conveyance for the safe carriage of the Goods where loading is carried out by You or Your employees.

Exclusion (a) will not apply where the cover provided by Your Policy has been assigned to the party claiming under it who has bought or agreed to buy the Goods in good faith under a binding contract. We waive any

breach of the implied warranties of seaworthiness of the vessel and fitness of the vessel or aircraft to carry the Goods to destination.

## Exclusions and other cover limitations applicable to all sections of this policy

Exclusions contained within any Institute Clauses described in the Schedule and forming part of this insurance shall be paramount where they conflict with terms contained in this Exclusion section of the Policy.

This Policy does not cover loss, damage, liability, destruction, cost or expense of any nature directly or indirectly caused by or contributed to by or arising from any of the following:

### Consequential Loss/Delay Exclusion

This Policy does not cover loss of market and/or loss arising from delay or consequential loss of any description.

### Cyber Attack Exclusion Clause

- 1.1 Subject only to clause 1.2 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 program, computer virus or process or any other electronic system.
- 1.2 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, Clause 1.1 shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system or software program in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

### Deck Shipments Clause

Goods carried in containers are covered in a similar manner to under-deck cargo, but, unless otherwise agreed, all other deck cargo shall be subject to Institute Cargo Clause (C) including the risk of jettison and loss overboard of whole or part of the deck cargo and excluding the cover offered under the Extended Transit (Loading/Unloading) Clause.



## **Electrical, Mechanical and Electronic Failure Exclusion**

This Policy excludes loss or damage to the Goods caused by electronic, mechanical or electrical failure where there is no visible external evidence of damage from an insured event.

## **Extended Radioactive Contamination Exclusion Clause**

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

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

This clause and the Transit and Terrorism Clause below shall override anything contained in this Policy inconsistent therewith. In the event of conflict between these two clauses, the Extended Radioactive Contamination Exclusion Clause shall prevail.

## **Rust, Oxidation and Discolouration Exclusion Clause**

This Policy excludes claims for loss or damage to the Goods due to rust, oxidation or discolouration unless caused by an insured event.

## **Transit and Terrorism Clause**

Notwithstanding any provision to the contrary contained in this Policy or the clauses referred to herein, it is agreed that in so far as this Policy covers loss of or damage to the Goods caused by terrorism, such cover is conditional upon the Goods being in the ordinary course of transit and, in any event shall terminate either:

- ◆ as per the Institute Clauses contained in the Policy, as modified by the Extended Transit (Loading and Unloading) Clause where applicable; or

- ◆ on delivery to any other warehouse or place of storage, whether prior to or at the destination named herein, which You elect to use either for storage other than in the ordinary course of transit or for allocation or distribution;

whichever shall first occur.

In no case shall this insurance cover loss, damage or expense attributable to

- ◆ any act of terrorism, being an act of any person acting on behalf of or, which carries out activities directed towards the overthrowing or influencing by force or violence, any government whether or not legally constituted.
- ◆ any person acting from a political, ideological or religious motive.

'Terrorism' shall also include steps taken to prevent, suppress, control or reduce the consequences of any actual, attempted, anticipated, threatened, suspected or perceived terrorism.

## **General conditions**

### **Acquired Companies Clause**

The Insured named in the Schedule includes any company, subsidiary company or firm, formed, purchased or otherwise acquired by You during the Period of Insurance, provided that You:

- ◆ Advise Us of Your interest in the company or firm within sixty (60) days from the date of signing the purchase contract or date of formation.
- ◆ Hold a controlling interest in the company or firm or have agreed to accept responsibility for insurance.
- ◆ Declare to Us the turnover or value of sendings, type of goods to be insured, past loss history, and then agree to any additional conditions and pay any additional premium required by Us.

### **Alteration of Risk**

#### **Where the Marine Insurance Act 1909 applies**

Any material change in the circumstances or nature of the risk covered by this insurance must be notified to Us immediately. If You fail to comply, no claim arising after the change will be payable, unless We have agreed otherwise.

## Where the Insurance Contracts Act 1984 applies

You must give Us immediate notice in writing if You do, or omit to do something which changes the circumstances or nature of the risk covered by this insurance.

### Authorisation

You agree that We may give to and obtain from any other insurers, insurance reference bureaus and credit reporting agencies:

- ◆ insurance claims information; and
- ◆ information relating to Your credit or insurance history.

### Coinsurance Clause

If, at the time of any loss or damage to the Goods, there is any other current insurance, whether effected by You or any other person or persons, covering the same Goods, We will not be liable (where legally entitled) for more than the ratable proportion of the loss, damage or expense.

### Declaration of Shipments Clause

Where required, these are to be made to Us or Our nominated authorised representatives by way of individual declaration, or as agreed as soon as possible after the departure of the vessel.

You must declare each and every shipment falling within the scope of the Policy whether arrived or not. We will accept each and every shipment up to, but not exceeding the limits specified in the Schedule.

In the event of an error or omission in making any declaration under the Policy, the Goods will automatically be covered provided that You advise Us as soon as possible after the error or omission is discovered.

### Duty of Insured

The extent of the insurer's liability is conditional upon:

- ◆ The notification as soon as possible by You to Us of any change materially varying any of the facts and circumstances existing at the commencement of this Policy.
- ◆ The observance of the terms and conditions of the Policy by You and by any other person entitled to claim indemnity under this Policy.
- ◆ Your taking all reasonable precautions to prevent loss or damage to the interests Insured.

### Exchange Rate Clause

The exchange rate used by Us for any currency conversions applicable to declarations made under this Policy will be the Spot Sell rate (as advised to Us by Our bank) applicable on the date of the Bill of Lading or Air Waybill.

## Goods and Services Tax

Where We make a payment under this Policy for the acquisition of goods, services or other supply, We will reduce the amount of the payment by the amount of any input tax credit that You are, or will be, or would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999, in relation to that acquisition, whether or not that acquisition is actually made.

Where We make a payment under this Policy as compensation instead of payment for the acquisition of goods, services or other supply, We will reduce the amount of the payment by the amount of any input tax credit that You would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 had the payment been applied to acquire such goods, services or other supply.

### Law & Practice

This Policy is subject to Australian law, including the Marine Insurance Act 1909. It is also subject to Australian jurisdiction and in some cases the Insurance Contracts Act may apply.

### Third Party Interests

The interests of any third party (e.g. financier or lessor) are only protected under this Policy where You have informed Us and the third parties are noted on the Schedule.

### Variation War and Strikes Rates

If the war and strikes rates for a country or area are amended by the London War Risks Rating Committee, the insurers will give 7 days notice (48 hours for strikes rates on shipments to or from the USA) of the amendment in accordance with the Institute War Cancellation Clause (Cargo).

The amended rate shall apply from the end of the period of notice which begins at midnight of the day that the notice is issued by Us. It will not apply to Insured Transits where cover under this Policy has attached before the amended rate applies.

Our rights to cancel cover for war and strikes risks are not prejudiced by prepayment of the war and strikes premium.

## How much we will pay

**Following an insured event where the Marine Insurance Act 1909 applies**, the provisions of the Marine Insurance Act will be paramount, in relation to this 'How Much We Will Pay' section, and will be applied to determine the amount that We will pay.

### Where the Insurance Contracts Act 1984 applies

#### Where the Goods are damaged

Subject to the limit of liability and the limitations contained within the Additional Benefits and Optional Benefits insured, at Our option, We will pay the lesser of:

- ◆ The invoice value covering the Goods whilst in Insured Transit.
- ◆ The actual value of the Goods, if there is no invoice value.
- ◆ The cost of repairing or replacing the Goods with similar items of the same age and condition or as near as possible to that age and condition.
- ◆ The sum insured determined by the basis of valuation shown in the Schedule.

In the event of a total or constructive total loss

Subject to the limit of liability and the limitations contained within the Additional Benefits and Optional Benefits insured, We will pay the sum insured determined by the basis of valuation shown in the Schedule.

#### Antiques, Paintings and Pictures Clause

For antiques, paintings and pictures, the amount We will pay in the event of a loss will be:

- ◆ the reasonable cost of repair excluding any depreciation; or
- ◆ the market value of the Goods as established by an independent and qualified valuer.

#### Limit of Liability

The Insurer's liability is limited to the amount stated in the Schedule for any one loss or series of losses arising from the one insured event.

We will not be liable for any one loss or series of losses arising from the same event under more than one optional section of this Policy if You are covered under more than one section of this Policy.

#### Pairs and Sets Clause

Where any item is part of a pair or set, We will only pay for the part of the pair or set that is lost or

destroyed, even if it cannot be replaced with a matching item. The insured value of the Goods will be regarded as spread over the whole of the pair or set, divided in the proportion that it would cost to replace each of the items making up the pair or set.

#### Replacement Clause – Used Machinery

In the event of a claim for loss or damage to the Goods as a result of an insured event covered by this Policy, the amount recoverable hereunder shall not exceed the cost of repairing or reinstating same to a condition equal to but no better or more extensive than its condition immediately prior to such loss or damage.

In no case shall the liability of the Underwriter exceed the insured value of the Goods. If there is no specified insured value, nor an agreed basis of valuation to establish same, the insured value shall be:

- ◆ in the case of a purchase or sale, the purchase or sale price plus the cost of packing and transport; or
- ◆ Following an insured event where in the case of movement of the Goods other than for the reason of purchase or sale, the written down book value or the current market value (whichever is the highest)

Duty incurred in the provision of replacement part(s) shall also be recoverable provided that full duty payable on the insured machine is included in the amount insured.

## Premium adjustment

#### Premiums and Declarations Clause

The premium payable under this Policy is based on the estimated amount of shipments or sales provided by You for the Period of Insurance. Unless otherwise agreed, You must advise Us within 3 months from the expiry of each Period of Insurance of the actual amount of shipments or sales for the period which should include the actual value of all Goods for which We were at risk during the Period of Insurance.

For this reason, You are required to keep accurate records of such amounts of shipments or sales and to provide Us with an audited copy of these records if required by Us. If We request an audited copy and this is not available, then We may appoint an auditor. We shall pay for the cost of the audit in such circumstances unless the audit reveals a substantial difference to those originally supplied by You, in which case this cost will be borne by You.

The premium for each period will be calculated by Us on receipt of the advice of the actual amount of shipments or sales and in accordance with the rating factors set out in the Schedule or as otherwise agreed. The additional amount payable by You or due to You will be calculated on the difference between the premium for the actual amount of shipments or sales at the end of the period and the deposit premium paid, but subject to a minimum premium of 75% of the estimated annual premium, on which the deposit premium was based, being retained by Us.

The following exceptions to this adjustment calculation are agreed:

- ◆ If the deposit premium is \$1,000 or less, the deposit premium shall be regarded as the minimum premium for the Period of Insurance shown in the Schedule, and no adjustment or declaration of actual amount of shipments or sales will be calculated unless the premium calculated on the actual sendings exceeds \$1,000.
- ◆ If the deposit premium is more than \$1,000 but less than \$25,000, and the actual sendings vary to the estimated sendings by no more than 10%, then no adjustment or declaration of actual amount of shipments or sales will be calculated.

## Cancellation

This Policy may be cancelled by either You or Us in writing as set out below.

You may cancel this Policy at any time by giving written notice to Us.

### **Imports or exports risks to which the Marine Insurance Act 1909 applies**

We may cancel this Policy by giving 30 days notice in the event of non-payment of premium, or for any other reason available at law.

### **All other risks to which the Insurance Contracts Act 1984 applies**

Under Section 60 of the Insurance Contracts Act 1984, We may cancel this Policy or any section at any time, by giving notice in writing to You of the date from which the cancellation is to take effect, where You have:

- ◆ failed to comply with Your duty of utmost good faith;
- ◆ failed to comply with Your duty of disclosure at the time when this Policy or any section of the

Policy was entered into, varied, altered, or renewed;

- ◆ made a misrepresentation to Us during the negotiations for this Policy, but before We agreed to issue this Policy;
- ◆ failed to comply with a provision of the Policy;
- ◆ failed to pay the premium for this Policy;
- ◆ made a fraudulent claim under this Policy, or any other contract of insurance (whether with Us or another insurer) that provided cover during any part of the Period of Insurance of this Policy;
- ◆ failed to comply with a requirement in this Policy that You notify Us of an act or omission which occurred after this Policy was entered into; and/or
- ◆ failed to notify Us of any specific act or omission or such a notification as is required under the terms of this Policy.

We may deliver such notice to You personally or by post at Your address last notified to Us.

Under Section 60 of the Insurance Contracts Act 1984, We may cancel this Policy at any time where:

- ◆ it is in force by virtue of Section 58 of the Insurance Contracts Act 1984; or
- ◆ it is an interim contract of general insurance.

In the event of cancellation by either party, unless You have made a fraudulent claim, We shall refund a proportion of the premium paid relating to the unexpired Period of Insurance, subject to the minimum premium (at pro-rata for the period) referred to in the premiums and declarations clause being retained, less any non-refundable duties, irrespective of any premium funding arrangement by You.

### **War Risks**

We may cancel the Policy at any time based on and subject to the Institute War Cancellation Clause (currently 7 days).

### **Strike Risks**

For Strike Risks, We may cancel the Policy at any time, by giving 7 days notice to You, with the exception of shipments to or from the USA which are at 48 hours notice.

Cancellation shall become effective on the expiry of the requisite period of time from midnight of the day on which notice of cancellation is issued by or to Us, but shall not apply to risks which have attached before the cancellation becomes effective.

# Claims

## Claims Procedure

Where there is loss or damage which may result in a claim under this Policy, You must take the following steps:

- ◆ Inform Us about the event as soon as possible.
- ◆ Submit as soon as possible all written particulars, supporting documentation and correspondence regarding the event including invoices, statements or other documents evidencing the amount being claimed.
- ◆ Take reasonable measures to avoid or minimise any loss, damage or expense. We will pay the costs of such measures provided they are both reasonable and necessary.
- ◆ Properly preserve and exercise all rights against carriers, bailees or other third parties, specifically:
  - Do not release those parties from liability.
  - Deliver to the parties responsible a notice of intention to claim within 3 days of delivery.
  - Do not give clean receipts where the Goods are in doubtful condition except under written protest.
  - Where the delivery is made by container, ensure that the seals are examined immediately by a responsible official.
  - If a container is delivered damaged or with seals broken or missing or with seals other than as stated in the shipping documents, note the delivery docket accordingly and retain the seals for subsequent identification.
  - Upon discovery of any loss or damage, apply immediately for surveys by the carriers or other bailees to be conducted within 3 days of delivery.
- ◆ Inform the police as soon as possible after a theft has occurred.
- ◆ In the event of a general average or salvage contribution arising under this Policy, consult Us or Our nominated settling agent before signing any general average or salvage bond.

## Claims documentation

You are required, in the interests of prompt settlement of any claim and to avoid prejudicing Your claim under the Policy, to submit all available supporting documentation without delay including:

- ◆ Contracts of carriage including consignment note(s) or airway bills or bills of lading.
- ◆ Copies of invoices, shipping specifications, weight notes or other documents indicating quantity and value.
- ◆ Any survey reports or other documentation showing the extent of the loss including delivery notes/weight notes at destination.
- ◆ Correspondence exchanged with any third party regarding their liability for the loss or damage.

## Fraudulent Claims

If any claim is fraudulent or false in any respect, We may refuse to pay the whole or part of the claim to the extent permitted by law, and may also be entitled to cancel the Policy.

## Subrogation Clause

When We settle a claim, We may pursue recovery rights against the carrier or any other third party who caused loss or damage to the Goods. You agree that:

- ◆ We may act in Your name in such recovery action; and
- ◆ You will give Us reasonable assistance with such actions.

## Waiver Clause

Measures taken by You or Us with the object of saving, protecting or recovering the Goods shall not be considered as a waiver or acceptance of abandonment or otherwise prejudice the rights of either party.

## Waiver of Rights Clause

Where another person(s) is liable to compensate You for any loss or damage which is covered by this Policy but You have previously agreed not to seek recovery from that person(s), then We will reduce Our liability under the Policy contract as permitted by law.



**Preparation date:**  
11/03/2004



Insurer  
**CGU Marine Insurance**  
A Division of CGU  
Insurance Limited  
ABN 27 004 478 371