

S U R A MARINE



# Marine Bind Annual Cargo Cover

Policy Wording

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# Important Information

## About SURA Marine

SURA Marine is a trading name of SURA Pty Ltd (SURA) ABN 36 115 672 350, AFSL 294313. In issuing the Policy SURA Marine act under an authority given by the Insurers (see below) to arrange, enter into, vary and dispose of this insurance Policy on the Insurer's behalf.

### SURA Marine's contact details are:

Level 14/141 Walker Street  
North Sydney NSW 2060  
PO Box 1813  
North Sydney NSW 2059  
Telephone: (02) 9930 9500

## About the Insurer

This Policy is underwritten by the Insurer being Berkshire Hathaway Specialty Insurance Company (Incorporated in Nebraska, USA) ABN 84 600 643 034, AFS Licence 466713, which is authorised by the Australian Prudential Regulation Authority to carry on general insurance business in Australia. It is referred to as "we", "our" and "us", the "Insurer" and "BHSI" in this document.

### BHSI's contact details are:

GPO Box 650  
Sydney NSW 2001  
Email: [australia@bhspecialty.com](mailto:australia@bhspecialty.com)

## Important Notices

To the extent this insurance is considered to be a contract of marine insurance covered by the Marine Insurance Act 1909 (Cth), that Act will apply. Under that Act a contract of marine insurance is defined as "a contract whereby the insurer undertakes to indemnify the assured, in manner and to the extent thereby agreed, against marine losses, that is to say, the losses incident to marine adventure." Refer to the Act for full details and other provisions which affect this definition.

In all other cases, it is subject to the Insurance Contracts Act 1984 (Cth).

## Your Duty of Disclosure

**Where the Insurance Contracts Act 1984 (Cth) applies,** 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, that 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;
- is of common knowledge;
- We know or should know as an insurer; or
- We waive Your duty to tell Us about.

If You do not tell us anything You are required to, We may cancel Your contract or reduce the amount We will pay You if You make a claim, or both. If Your failure to tell Us is fraudulent, We may refuse to pay a claim and treat the contract as if it never existed.

**Where the Marine Insurance Act 1909 applies** before You enter into an insurance contract You must disclose to Us every material circumstance which is known to You, and You are deemed to know every circumstance which, in the ordinary course of business, ought to be known by You.

A "material circumstance" is one which would influence the judgement of a prudent insurer in fixing the premium, or determining whether it will take the risk.

In the absence of inquiry the following circumstances need not be disclosed, namely:

- any circumstance which diminishes the risk;
- any circumstance which is known or presumed to be known to Us. We are presumed to know matters of common notoriety or knowledge, and matters which an insurer in the ordinary course of its business, as such, ought to know;
- any circumstance as to which information is waived by Us;
- any circumstance which it is superfluous to disclose by reason of any express or implied warranty.

Whether any particular circumstance, which is not disclosed, be material or not is, in each case, a question of fact. The term circumstance includes any communication made to, or information received by, You.

You have the same duty before You renew, extend vary or reinstate an insurance contract.

If You fail to make such disclosure, We may treat the contract as if it never existed.

Subject to the above circumstances which need not be disclosed, where this insurance is effected for You by an agent, the agent must disclose to Us:

- every material circumstance which is known to them, and an agent to insure is deemed to know every circumstance which in the ordinary course of business ought to be known by, or to have been communicated to, them; and
- every material circumstance which You are bound to disclose unless it comes to Your knowledge too late to communicate it to the agent.

### When We can Refuse to Pay or Reduce the Amount We Pay Under a Claim

We may refuse to pay or reduce the amount We pay under a claim to the extent permitted by law.

The situations in which We may refuse to pay or reduce the amount We pay under a claim under the Policy include (but are not limited to):

- when You apply for cover (this includes new business, variations and renewals) and You do not comply with Your obligations regarding pre contractual disclosures and representations to Us under the Insurance Contracts Act 1984 (Cth) or Marine Insurance Act 1909 (Cth) as applicable – see above for details of the Duty of Disclosure and Misrepresentations and our rights in this regard;
- if You do not comply with or meet a term or condition (including where an exclusion applies or other limitation) of the Policy (All referred to as “**Terms**” when used below and in this document) – See “If you do not comply with or meet any Policy Term” below for more detail;
- if You make a fraudulent claim – See “Fraudulent Claims” below;
- where You have not or are not acting in accordance with Your duty of utmost good faith under the Insurance Contracts Act 1984 (Cth) or Marine Insurance Act 1909 (Cth) as applicable – See “Duty of Utmost Good Faith” below.

The amount of any claim entitlement can also be affected and/or reduced by any limits (including any time limits) or Excess(es) that apply. The Policy sets out the relevant limits and Excess(es) and when they apply to a claim.

### If You do not comply with or meet any Policy Term

We will only rely on any rights We have regarding the operation of or breach of a Term of the Policy to the extent permitted by law (including Our right to refuse or reduce a claim noted above). You need to seek Your own advice regarding all relevant legal rights You may have.

### Terms allowing Us to refuse to pay or reduce a claim (in whole or part) by reason of an act by You or some other person that occurred after the Policy was entered into

#### Where the Insurance Contracts Act 1984 (Cth) is applicable,

subject to Our rights in relation to Fraudulent claims explained below under that Act, by reason of section 54, where the effect of the Policy (this includes all terms or conditions, including any exclusion or other limitation) is to allow Us to refuse to pay or reduce a claim (in whole or part) by reason of an act by You or some other person that occurred after the policy was entered into, We will exercise Our rights under the Policy as explained below (Refer to the Insurance Contracts Act 1984 (Cth) for full details).

Under section 54, an “act” by You or some other person includes an omission and inaction and an act or omission that has the effect of altering the state or condition of the subject-matter of the Policy or of allowing the state or condition of that subject-matter to alter.

*How We exercise Our rights where section 54 applies (unless there is a Fraudulent claim)*

- Where:
  - the act was necessary to protect the safety of a person or to preserve property;
  - it was not reasonably possible for You or the other person not to do the act; or
  - You prove no part of the loss that gave rise to the claim was caused by the act,

We will not refuse to pay or reduce the claim by reason only of that act.

- Where the act:
  - could not reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy; or
  - could reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy but You prove that some part of the loss that gave rise to the claim was not caused by the act, We may not refuse to pay the claim, so far as it concerns that part of the loss but, We can reduce our liability in respect of the claim by an amount that fairly represents the extent to which Our interests were prejudiced as a result of that act.

- Otherwise, where the act could reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy, We may refuse to pay the claim.

#### Terms allowing us to refuse or reduce a claim because of pre-existing defects or imperfections existing before the Policy was entered into

##### Only where section 46 of the Insurance Contracts Act 1984 (Cth) is applicable to the Policy:

- where a claim is made in respect of a loss that occurred as a result, in whole or in part, of a defect or imperfection in a thing; and
- where at the time when the contract was entered into You were not aware of, and a reasonable person in the circumstances could not be expected to have been aware of, the defect or imperfection,

We may not rely on any provision included in the Policy that has the effect of limiting or excluding Our liability under the contract by reference to the condition, at a time before the Policy was entered into, of the thing. This does not apply if the Policy is in an excluded class to which section 46 does not apply (Refer to the Insurance Contracts Act 1984 (Cth) for full details).

#### Fraudulent Claims

##### Where the Insurance Contracts Act 1984(Cth) applies,

where a claim is made fraudulently under:

- the Policy; or
- that Act against Us by a person who is not the insured,

We may refuse payment of the claim to the extent permitted by law.

Under section 56(2) of the Insurance Contracts Act 1984 (Cth) a court may, if only a minimal or insignificant part of the claim is made fraudulently and non-payment of the remainder of the claim would be harsh and unfair, order Us to pay, in relation to the claim, such amount (if any) as is just and equitable in the circumstances (Refer to the Insurance Contracts Act 1984 (Cth) for full details).

**Where the Marine Insurance Act applies,** where a claim is made fraudulently under the Policy We may refuse payment of the claim and/or avoid the Policy to the extent permitted by law.

#### Duty of Utmost Good Faith

##### Where the Insurance Contracts Act 1984 (Cth) applies:

- Section 13 of that Act requires each party to the Policy to act towards the other party, in respect of any matter arising under or in relation to it, with the utmost good faith.
- Section 14 of that Act provides that if reliance by a party to the Policy on a provision of the Policy would be to fail to act with the utmost good faith, the party may not rely on the provision.

(Refer to the Insurance Contracts Act 1984 (Cth) for full details).

**Where the Marine Insurance Act 1909 (Cth) applies** a contract of marine insurance is a contract based upon the utmost good faith, and, if the utmost good faith be not observed by either party, the contract may be avoided by the other party.

#### Terms Apply to Extent Enforceable

A term of the Policy will be applied to the extent it is not unenforceable under relevant law.

#### General Insurance Code of Practice

We proudly support the General Insurance Code of Practice (the 'Code'). It does not apply where the Policy is a contract of marine insurance covered by the Marine Insurance Act 1909 (Cth).

The purpose of the Code is to raise the standards of practice and service in the general insurance industry.

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

For further information on the Code, please visit [www.codeofpractice.com.au](http://www.codeofpractice.com.au)

For more information on the Code Governance Committee (CGC) go to <https://insurancecode.org.au>

## Privacy Statement

In this Privacy Statement the use of “We”, “Our” or “Us” means SURA Marine and the Insurers unless specified otherwise.

In this Privacy Statement the use of personal information includes sensitive information.

We are committed to protecting the privacy of the personal information that You provide to Us.

The Privacy Act 1988 contains the Australian Privacy Principles which require Us to tell You that We collect, handle, store and disclose Your personal and sensitive information for the specific purpose of:

- deciding whether to issue a policy,
- determining the terms and conditions of Your Policy,
- compiling data to help develop and identify other products and services that may interest clients, and handling claims.

Personal information is information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- a) whether the information or opinion is true or not;
- b) whether the information or opinion is recorded in a material form or not.

Sensitive information includes, amongst other things, information about an individual’s racial or ethnic origin, political opinions, membership of a political organisation, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual orientation or practices, criminal record, health information about an individual, genetic information, biometric information or templates.

You have given Us Your consent to collect, use and disclose Your personal information in order to provide You with the relevant services and/or products.

When You give Us personal information about other individuals, We rely on You to have made or make the individual aware that You will or may provide their personal information to Us and the types of other parties and service providers We may provide it to, the relevant purposes We and the other parties and service providers will use it for, and how they can access it. If You have not done or will not do either of these things, You must tell Us before You provide the relevant personal information to Us.

We will protect Your information using physical, technical, and administrative security measures to reduce the risks of loss, misuse, unauthorised access, disclosure and alteration. Some of the safeguards that We use are firewalls and data encryption, physical access controls to Our data centres, and information access authorisation controls.

We disclose personal information to other parties and service providers whom We believe are necessary to assist Us and them in providing the relevant services and/or products. For example, in handling claims, We may have to disclose Your personal information to other parties and service providers such as Our claim management partner, other insurers, reinsurers, loss adjusters, external claims data collectors, investigators and agents, facilitators, assessors or other parties as required by law. We will limit the use and disclosure of any personal information provided by Us to them to the specific purpose for which We supplied it.

We may disclose Your personal information to Our insurers, reinsurers, related entities and service providers overseas where it is reasonably necessary for, or directly related to, the functions, services or activities We provide to You. When We transfer Your information to other countries, including countries which may not have data protection laws that provide the same level of protection that exists in Australia, We will protect the information as described in this Privacy Policy.

If You do not provide the personal information requested and/or do not provide Us with Your consent to the use and disclosure of Your personal information as set out in this Privacy Statement, Your insurance application may not be accepted, or We may not be able to administer Your Policy, or You may be in breach of Your duty of disclosure, the consequences of which are set out under the heading Duty of Disclosure in this document.

We will notify you as soon as possible if Your personal information is involved in a data breach that is likely to result in serious harm to You.

If You would like a copy of Our Privacy Policies, would like to seek access to or correct Your personal information, opt out of receiving materials We send, complain about a breach of Your privacy or You have any query on how Your personal information is collected, stored or used, or any other query relating to Our handling of Your personal information, please contact Us.

## Complaints and Disputes Resolution Process

### Our complaints process

We view seriously any complaint made about our products or services and will deal with it promptly and fairly.

If you have a complaint, please first try to resolve it by contacting the relevant member of our staff.

If the matter is still not resolved, please then contact our Internal Disputes Resolution Officer on (02) 9930 9500, or by email at [IDR@SURA.com.au](mailto:IDR@SURA.com.au) or by writing to us at the address for SURA given above. They will seek to resolve the matter in accordance with the General Insurance Code of Practice and our Dispute Resolution procedures.

You can contact us if you want more information on our procedures.

If you are not satisfied with the final decision, you may wish to contact the Australian Financial Complaints Authority (AFCA).

### AFCA

A complaint can be referred to AFCA at any time. The AFCA is a free independent external disputes resolution service provided to customers to review and resolve complaints where we have been unable to satisfy your concerns, subject to its rules or terms of reference.

For further details you can visit their website at [www.afca.org.au](http://www.afca.org.au) or contact them:

#### Australian Financial Complaints Authority

PO Box 3  
Melbourne, VIC, 3001  
Telephone: 1800 931 678  
Email: [info@afca.org.au](mailto:info@afca.org.au)

A complaint can be referred to AFCA at any time subject to its rules. AFCA only considers complaints (otherwise covered by its Rules) referred to it within 2 years of our final decision, unless AFCA considers special circumstances apply. If AFCA tells you that under its Rules it cannot assist you or consider your dispute, then you can seek independent legal advice. You can also access any other external dispute resolution or other options that may be available to you.

## Sanctions

We shall not be deemed to provide cover and We shall not be liable to pay any claim or provide any benefit under the Policy to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose Us, Our parent company or Our ultimate controlling entity to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, the Commonwealth of Australia, United Kingdom or the United States of America.

## Governing Law and Jurisdiction

The Policy is governed by the laws of Australia. Any dispute relating to the Policy shall be submitted to the exclusive jurisdiction of an Australian Court within the State or Territory in which the Policy was issued.

## Goods and Services Tax (GST)

The amount payable by You for the Policy includes an amount for GST.

When We pay a claim, Your GST status will determine the amount We pay.

The amount that We are liable to pay under the Policy will be reduced by the amount of any Input Tax Credit (ITC) that You are or may be entitled to claim for the supply of goods or services covered by that payment.

You must advise Us of Your correct Australian Business Number (ABN) and Taxable Percentage. Taxable Percentage is Your entitlement to an ITC on Your premium as a percentage of the total GST on that premium. Any GST liability arising from Your incorrect advice to us of Your ITC entitlement is payable by You.

Where the settlement of a claim is less than the applicable Limits or Sub-limit applicable to the Policy, We will only pay the GST (less Your ITC) applicable to the settlement. This means that if these amounts are not sufficient to cover the whole claim, We will only pay the GST relating to Our share of the settlement for the whole claim. We will pay the claim by reference to the GST exclusive amount of any supply made by any business of Yours which is relevant to the claim.

GST, ITC, BAS and Acquisition have the same meaning as given to those words or expressions in A New Tax System (Goods and Services Tax) Act 1999 and related legislation as amended from time to time.

## Words With Special Meaning

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The following key words and terms used in the policy have a special meaning. Other words may be specially defined to have a meaning when used in relation to a policy section, term or condition.

**Cross Voyages** means shipments that do not enter Australian territory at any point in their transit.

**Distribution Centre(s)** means premises and/or locations operated by the Insured and/or third parties for the purpose of distributing Interests Insured to the Insured's customers or Insured's branches for periods not exceeding 14 days where the Interests Insured have been in the ordinary course of transit, as per the Duration Transit Clauses of the Institute Clauses applicable to this insurance, immediately prior to such distribution from the Distribution Centre(s).

**Employee(s)** means any person employed, hired or borrowed by the Insured in connection with the business activities covered by the Policy, including any trainee or person on work experience, or consultant under a contract of service with the Insured or supplied to the Insured by any employment agency or self-employed persons providing you with labour only; regardless of whether such persons are employed full or part-time or whether employment is of a permanent or temporary nature.

**Excess** means the first amount of each and every claim which must be paid by the Insured. The relevant amount will be stated in the Policy and/or the Policy Schedule.

**Exhibition** means an organized event such as a trade fair, show, conference or similar function at a place or location away from the Insured's own premises where the Interests Insured are displayed, promoted, demonstrated or presented to potential customers or other third parties.

**General Average** means any extraordinary sacrifice or expenditure voluntarily and reasonably made or incurred for the purpose of preserving all property at risk at a time of peril in a common maritime adventure.

**Institute Clauses** means the customary market standard wordings prepared by the Institute of London Underwriters as referenced in the Policy. For full copies of the Institute Clauses mentioned in this Policy, please access via the website link: <https://abhillermarine.com/documents/>.

**Insured** means the party named in the Policy Schedule or any party to whom an insurable interest in the Interest Insured passes under a contract of sale.

**Insurer** means Berkshire Hathaway Specialty Insurance Company (Incorporated in Nebraska, USA) ABN 84 600 643 034, AFS Licence 466713.

**Interests Insured** means the subject matter insured being all goods and/or cargo and/or interests:

- owned and/or belonging to the Insured; and/or
- at the risk of the Insured under a contract of sale; and/or
- appertaining to the Insured business, shipped by or for account of the Insured or the insurance of which is under their control as selling or purchasing agent; and/or
- for whom they have the authority and/or instructions to insure,

as detailed in the Policy Schedule. The Interest Insured also includes stock transfers of materials of plant, machinery, equipment, the Insured's engineer's tools and/or travellers' samples and/or other accompanied equipment being the property of the Insured and/or for which the Insured is responsible, as detailed in the Policy Schedule.

**Limit** means the maximum extent of the Insurer's liability as provided in the Policy Schedule or the Policy unless the Policy states to the contrary that any specific items are payable in excess of the applicable Limit(s).

**Period of Insurance** means the period of time that the Insured is covered by the Policy as shown in the Policy Schedule, or such shorter time if the Policy ends earlier in accordance with its terms or law. Each renewal results in a new contract and new Period of Insurance.

**Policy** means the Policy wording, the Institute Clauses and other clauses incorporated by reference, the Schedule and any endorsement(s) attached hereto, all of which are to be read together.

**Policy Schedule** means the relevant and current Policy Schedule issued to the Insured and specifies important information such as the policy number, Period of Insurance, Limit and any Excess(es) payable.

**Salvage** means the physical act of recovering Your Goods which have been lost or damaged.

**Sub-limit** means the amount of coverage available to cover a specific type of loss as provided in the Policy Schedule or the Policy wording.

**Vehicle(s)** means a motor vehicle or articulated vehicle, including any trailer, semi-trailer, chassis, or similar goods-carrying unit designed to be towed.

## Clauses Applicable To All Policy Sections

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### Acquisitions – Acquired Companies

The Policy will cover any company or subsidiary company formed, purchased or otherwise acquired by the Insured during the Period of Insurance. For this cover to apply, the Insured must:

1. hold a controlling interest in the company or have agreed to accept responsibility for insurance; and
2. declare to the Insurer, as soon as practicable, the estimated value of transits of Interests Insured to be covered during the Period of Insurance and details of any past claims and pay any additional premium required.

The Policy will provide cover from the date of purchase or acquisition of a company or subsidiary on a 'difference in conditions' and 'difference in limits' basis covering the additional cover provided by the Policy which is wider than that provided by the purchased or acquired company's existing policy until the purchased or acquired company's policy expires or is cancelled.

Cover under this clause includes the difference in value between the value insured under the Policy and the amount recoverable under the purchased or acquired company's policy. A copy of the acquired company's policy is to be provided to the Insurer within 90 days from the date the purchase or acquisition is completed, and continued coverage may be subject to an additional premium to be agreed.

### Exchange Rates

In respect of claims submitted in Australia, claims settlements will be in Australian Dollars unless the premium was paid in another currency, in which case settlement will either be in that currency or Australian Dollars at the option of the Insured. The exchange rate used by the Insurer for any currency conversions applicable to declarations made under the Policy will be the Spot Sell rate (as advised by the Insurer's bank) applicable on the date of the bill of lading, Air Waybill or other applicable contract of affreightment.

### Export Cargo Insurance Certificates

If required, the Insured is authorised to issue and sign export certificates strictly in accordance with the terms, conditions and exclusions of the Policy.

Also, the Insured is authorised to issue export certificates with amended conditions of cover (where necessary) to comply with any insurance requirements contained in a Letter of Credit. However, the amended conditions of cover must not exceed the extent of cover provided by the Policy unless the Insurer agrees in writing. If the amended condition(s) of cover increase the Insured's cover provided by the Policy, the Insured may be required to pay an additional premium.

The Insured agrees to indemnify the Insurer for any claim which the Insurer is obligated to pay because an Export Certificate has been issued by the Insured that did not conform to the terms, conditions and Limits of the Policy.

### Important Institute Clauses Applicable to the Policy

The following Institute Clauses are applicable to all sections of the Policy:

- Institute Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons Exclusion Clause 10/11/03;
- Institute Cyber Attack Exclusion 10/11/03;
- Institute War Cancellation Clause (Cargo) 1/12/82.

### Infectious or Contagious Disease Exclusion

Notwithstanding any clause to the contrary, the Policy does not cover loss, damage or expense arising directly or indirectly from, or in way connected with, the actual or suspected presence or threat of any virus, organism or like substance that is capable of inducing disease, illness, physical distress or deaths to humans, whether infectious or otherwise, including but not limited to any epidemic, pandemic, influenza or an outbreak of a virus or disease, or any derivative or mutation thereof, affecting humans. This includes, but is not limited to, the human coronavirus, SAR-CoV-2, which causes the disease COVID-19.

## Letters of Credit

Notwithstanding the conditions of the Policy, it is agreed that certificates and/or policies may be issued hereunder to enable the Insured to comply with insurance requirements of any letter of credit and/or sales contract such agreement being conditional on the payment of any additional premium which may be required in the event that the cover required is wider than that provided by the Policy.

It is also agreed that regardless of the conditions on which any certificates and/or policies are issued, the Insured named in the Policy Schedule will be covered pursuant to the terms, conditions and exclusions of the Policy.

## Revision of Institute Clauses

All Institute Clauses referred to in the Policy are those current at the time cover under the Policy attaches. Should any of these clauses be revised during the Period of Insurance, the Insurer will give the Insured thirty (30) days' notice of the revision in writing. The revised clause will apply to all risks attaching after the end of the period of notice that begins at 4pm AEST on the day that the notice is issued by the Insurer.

## Sanction Exclusion

The Policy excludes any claim where a claim payment breaches any sanction, prohibition or restriction under United Nations resolutions or the trade and economic sanctions, laws or regulations of Australia, the European Union, United Kingdom or United States of America.

## Terrorism Exclusion

Except for as provided for under the following clauses:

- Institute Strikes Clauses (Frozen Food) (Excluding Frozen Meats) 1/1/86;
- Institute Strikes Clauses (Frozen Meats) (Not suitable for chilled, cooled or fresh meat) 1/1/86;
- Institute Strikes Clauses (Cargo) 1/1/09;
- Institute Strikes Clauses (Air Cargo) 1/1/09;

the Policy excludes any loss, damage, liability or expense arising from:

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

For the purpose of this clause, "**Terrorism**" means any act(s) of any person(s) or organisation(s) involving:

1. the causing, occasioning or threatening of harm of whatever nature and by whatever means;
2. putting the public or any section of the public in fear; in circumstances in which it is reasonable to conclude that the purpose of the person(s) concerned are wholly or partly of a political, religious, ideological or similar nature.

However, this exclusion shall not apply to the extent of the provisions of the Termination of Transit (Terrorism) Clause below.

## Termination of Transit (Terrorism)

This clause shall be paramount and shall override anything contained in this insurance inconsistent therewith.

1. Notwithstanding any provision to the contrary contained in the Policy or the clauses referred to therein, it is agreed that in so far as the Policy covers loss of or damage to the goods caused by any terrorist or any person acting from a political motive, such cover is conditional upon the goods being in the ordinary course of transit and, in any event, **shall terminate** either:
  - a) as per the transit clauses contained within the Policy;
  - b) on delivery to the consignee's or other final warehouse or place of storage at the destination named herein;
  - c) on delivery to any other warehouse or place of storage, whether prior to or at the destination named herein, which the Insured elects to use either for storage other than in the ordinary course of transit or for allocation or distribution;
  - d) in respect of marine transits, on the expiry of 60 days after completion of discharge overside of the goods hereby insured from the overseas vessel at the final port of discharge; or
  - e) in respect of air transits, on the expiry of 30 days after unloading the goods from the aircraft at the final place of discharge,

whichever shall first occur.
2. If the Policy or the clauses referred to therein specifically provide cover for inland or other further transits following on from storage, or termination as provided for above, cover will re-attach, and continues during the ordinary course of that transit terminating again in accordance with clause 1.
3. This clause is subject to Australian law and practice.

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### **USA Sanctions and 'OFAC' Exclusion**

The Policy excludes any claim that would be in violation of any United States of America laws or sanctions, including but not limited to, any sanctions administered or enforced by the United States Treasury Department's Office of Foreign Assets Control ('OFAC').

### **USA and Canada Endorsement for the Institute Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons Exclusion**

The Policy is subject to the Institute Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons Exclusion Clause 10/11/03 ('RACCBE'). The inclusion of RACCBE in the Policy is material to the Insurer's 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 the 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 shall remain in full force and effect under the laws of that State, Territory, district, Commonwealth or possession, Province or Territory. Further, any such finding shall not alter the enforceability of RACCBE under the laws of any other State, Territory, district, Commonwealth or possession of the USA, or any Province or Territory of Canada, to fullest extent permitted by applicable law.

## Ambit Of Cover And Indemnity

The Policy covers the Interests Insured when owned by and/or at the risk of the Insured under a contract of sale whilst in the ordinary course of transit where such transit commences during the Period of Insurance.

### Basis of Valuation – Agreed Value

In accordance with Section 33 of the Marine Insurance Act 1909 the Interests Insured covered under the Policy are deemed to be insured as under a Valued Policy whereby, in the absence of fraud, the insured value of each of the Interests Insured is an agreed value calculated in accordance with the basis of valuation as set out below, and is fixed between the Insurer and the Insured, and conclusive of the insurable value of the Interests Insured.

For the purpose of calculating the insured value of Interests Insured covered under the Policy (and being the basis for declaring the values of each of the Interests Insured as described in General Conditions Declarations above), **unless otherwise stated in the Policy Schedule** or agreed by the Insurer in writing prior to sending, where applicable, the applicable basis of valuation is:

1. **Purchases including CIF and CIP purchases:**
  - Delivered cost at destination.
2. **Sales including FOB and CFR sales:**
  - Export: Cost, insurance and freight plus 10%
  - Local: Sales price less costs not actually incurred in the event of a loss
3. **Plant Machinery and Equipment**
  - Replacement value, (new or used replacement value, whichever is applicable) plus incidental charges incurred such as freight and insurance costs plus duty if incurred by the Insured named in the Policy Schedule.
4. **Transfers of Stock, Goods on Consignment, Returned Goods, Goods on Exhibition, Tools of Trade and Travellers Samples:**
  - Market value, plus incidental charges incurred such as freight and insurance costs plus duty if incurred by the Insured named in the Policy Schedule.

### Measures of Indemnity – Claims

In accordance with Part VI of the Marine Insurance Act 1909, except as otherwise stated in the Policy, claims are to be adjusted as follows:

1. **Total loss (actual or constructive)**

The measure of indemnity is the insured value calculated in accordance with the relevant basis of valuation.
2. **Partial loss**

Where there is a partial loss of the Interests Insured the measure of indemnity is as follows:

  - a) where part of the Interests Insured is totally lost, the measure of indemnity is such proportion of the insured value as calculated in accordance with the relevant basis of valuation as the insurable value of the part lost bears to the insurable value of the whole;
  - b) where the whole or any part of the Interests Insured has been delivered damaged at its destination or is unable to be delivered to destination, the measure of indemnity is:
    - i) machinery: the cost of repairing the machinery or replacing lost or damaged parts including freight costs;
    - ii) other Interests Insured: the percentage depreciation of the damaged goods (being the difference between the gross sound and damaged values at the place of arrival bears to the gross sound value) as applied to the insured value as calculated in accordance with the relevant basis of valuation.
  - c) where different types of Interests Insured are insured under a single insured value, the valuation must be apportioned over the different types in proportion to their respective insurable values. The insured value of any part of the type of goods is such proportion of the total insured value of the type as the insurable value of the part bears to the insurable value of the whole.

### Conveyances

The Policy covers the Interests Insured in transit when conveyed by road and/or rail and/or approved vessels as per Institute Classification Clause and/or air and/or parcel post and/or as otherwise described in the Policy.

## Basis Of Cover – Institute Clauses

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Cover under the Policy is subject to the following Institute Clauses and other clauses as specified in the Policy Schedule and elsewhere in the Policy where applicable:

- Institute Cargo Clauses (A) 1/1/09;
- Institute Cargo Clauses (Air) 1/1/09;
- Institute Cargo Clauses (Air) (excluding sending's by Post) 1/1/09 amended to include postal sendings;
- Institute Strikes Clauses (Cargo) 1/1/09;
- Institute Strikes Clauses (Air Cargo) 1/1/09;
- Institute War Clauses (Cargo) 1/1/09;
- Institute War Clauses (Air Cargo) (excluding sendings by post) 1/1/09;
- Institute War Clause (sendings by post) 1/3/09 not applicable to postal sendings within Australia;
- Institute Theft, Pilferage and Non-Delivery Clause 1/12/82;
- Institute Replacement Clause 1/12/2008;
- Institute Classification Clause 1/01/2001;
- Institute Frozen Food Clauses (A) (Excluding Frozen Meat) 1/1/86 [where applicable this Institute Clause is amended to read "chilled"];
- Institute Strikes Clauses (Frozen Food) (Excluding Frozen Meats) 1/1/86 [where applicable this Institute Clause is amended to read "chilled"];
- Institute Frozen Meat Clauses (A) (not suitable for chilled, cooled or fresh meat) 1/1/86 [Clause 8.1.1 and 8.1.3 to be deleted. Where applicable this Institute Clause is amended to read "chilled"];
- Institute Strikes Clauses (Frozen Meats) (Not suitable for chilled, cooled or fresh meat) 1/1/86 [Clause 5.1.1 and 5.1.3 to be deleted. Where applicable this Institute Clause is amended to read "chilled"].

Subject always to the terms, Limits, Sub-limits and exclusions stated elsewhere in the Policy and/or Policy Schedule.

For full copies of the Institute Clauses mentioned here and elsewhere in the Policy, please access via the website link:  
<https://abhillermarine.com/documents/>.

## Additional Clauses

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Except to the extent that provision is already made by the Policy, the following additional clauses will form part of the Policy.

Headings and categories of clauses have been included for ease of reference; however, the terms, conditions and exclusions of the Policy are not to be interpreted by reference to these headings or categories of clauses. However, should there be any doubt about the cover provided by these clauses, they will be interpreted in favour of the Insured.

### (A) Additional Incurred Costs and Expenses Clauses

#### 1. Data and document reinstatement, repair and replacement costs and expenses

The Policy covers all costs and expenses, necessarily and reasonably incurred by the Insured in reinstating or replacing electronic data (including reinstatement of data entries on on-line, web based and other virtual systems), documents of title or carriage or other documents, following loss, and/or damage to the Interest Insured during the course of transit or whilst at a Distribution Centre.

Claims under this clause are subject to a Sub-limit of \$20,000 any one loss or series of losses arising from the one event.

#### 2. Exhibition costs and expenses

The Policy covers Exhibition costs and expenses necessarily incurred by the Insured, arising from failure of the Insured to exhibit due to loss and/or damage of the Interests Insured or due to the abandonment of an Exhibition of the Interest Insured by the Insured, or cancellation of the Exhibition by the promoter, as a result of such loss and/or damage to the Interests Insured. In no circumstances does this cover:

- a) loss or expenses arising from withdrawal of labour;
- b) cancellation of the Exhibition due to an outbreak of war or through fear of hostilities.

Claims under this clause are subject to a Sub-limit of \$50,000 any one loss or series of losses arising from any one Exhibition.

#### 3. Fumigation costs and expenses

In the event of Interests Insured hereunder being contaminated and/or infested or being suspected of being contaminated and/or infested during the course of transit or whilst at a Distribution Centre the Insurer agrees to pay for the costs and expenses necessarily incurred by the Insured as a result of the fumigation of the Interests Insured.

Also to include any additional costs necessarily incurred by the Insured in respect of transport of the Interest Insured to and/or from the place of fumigation.

Any resultant loss and/or damage to the Interests Insured caused by such fumigation is recoverable hereunder.

This clause excludes any claim in respect of fumigation that is either customary or mandatory on similar shipments of the Interests Insured.

Claims under this clause are subject to a Sub-limit of \$50,000 any one loss or series of losses arising from the one event.

#### 4. Machinery manufacturer's warranty costs and expenses

In event that the Interests Insured are subject to a manufacturer's written warranty or guarantee, and suffer loss and/or damage by an insured peril, it is agreed that the Policy will include additional costs incurred by the Insured in order to comply with the manufacturer's requirements to maintain their written warranty or guarantee.

Claims under this clause are subject to a Sub-limit of \$100,000 any one loss or series of losses arising from the one event.

#### 5. Quarantine costs and expenses

The Policy covers all costs and expenses necessarily incurred by the Insured in respect of any mandatory quarantine of the Interest Insured arising during the course of transit or whilst at a Distribution Centre, other than where customary or in the ordinary course of the business activities of the Insured, or where a compulsory quarantine order is in force or published prior to the commencement of transit of the Interests Insured.

Also to include any additional costs necessarily incurred by the Insured in respect of transport of the Interests Insured to and/or from the place of quarantine.

Claims under this clause are subject to a Sub-limit of \$20,000 any one loss or series of losses arising from the one event.

#### 6. Replacement of packaging costs and expenses

The Policy covers the costs and expenses necessarily incurred by the Insured in replacing packaging, that is lost or damaged during the transit or whilst at a Distribution Centre where the,

- a) loss and/or damage is covered by the Policy; and
- b) packaging forms an integral part of the Interests Insured.

Claims under this clause are subject to a Sub-limit of \$20,000 any one loss or series of losses arising from the one event.

## 7. Re-securing costs and expenses

The Policy covers the reasonable costs and expenses necessarily incurred by the Insured in re-securing loose, unstable or insecure Interests Insured for the purpose of safely completing their transit to destination even though there has been no loss and/or damage to the Interest Insured provided the circumstances requiring the re-securing were beyond the control of the Insured.

Claims under this clause are subject to a Sub-limit of \$20,000 any one loss or series of losses arising from the one event.

## 8. Removal of debris and authorities' charges, costs and expenses

In the event of loss and/or damage to the Interests Insured the Policy covers all costs and expenses incurred by the Insured and/or charged to the Insured by the relevant police, ambulance, fire services and environmental protection services authorities, in respect of the removal of debris, destruction, clean-up and/or safe disposal and/or delivery of damaged, deteriorated and/or contaminated Interests Insured. Also to include any additional costs necessarily incurred by the Insured in respect of transport of the Interests Insured to destination or to and/or from the place of disposal.

Claims under this clause are subject to a Sub-limit of \$50,000 any one loss or series of losses arising from the one event.

## 9. Ropes and sheets (owned or operated vehicles) costs and expenses

The Policy covers the costs and expenses incurred by the Insured in repairing and/or replacing sheets, ropes, chains, toggles and dunnage used by the Insured for securing the Interests Insured in transit, that have been lost and/or damaged when conveying the Interests Insured in transit or whilst at a Distribution Centre.

Excluding any loss and/or damage, costs and/or expenses in respect of such items solely due to their wear, tear and/or gradual deterioration. Claims under this clause are subject to a Sub-limit of \$10,000 any one loss or series of losses arising from the one event.

## (B) Coverage Extension Clauses

### 1. Condensation and contamination

The Policy covers loss and/or damage arising from condensation and/or contamination of the Interests Insured caused by variation in temperature and/or interruption of power supply and/or in connection with defective heating, air-conditioning or refrigeration equipment.

Where the Policy is subject to the Institute Frozen Food Extension Clauses CL334 dated 01/01/1986 and there is a conflict between the Institute Clause and this clause then the clause which prevails is that which places the Insured at best advantage.

### 2. Deception

The Policy covers loss and/or damage of the Interest Insured arising from the acceptance by the Insured or their agents of orders, documents or signatures, fraudulently prepared or otherwise, from any person acting illegally or maliciously who purports to be the proper party to receive or accept goods but excluding where there is willing collusion of any Employee(s) of the Insured or their agents.

### 3. Infestation, vermin and rodents

The Policy except for where otherwise stated covers loss and/or damage caused by infestation, vermin and rodent, howsoever arising during the ordinary course of transit or whilst at a Distribution Centre.

**(C) Delay Prevention and Expediting Clauses****1. Expedited repair and replacement costs and expenses**

The Policy will indemnify the Insured for the costs and expenses incurred in connection with or incidental to expediting the commencement, carrying out or completion of the repair, reinstatement or replacement of the Interests Insured consequent upon loss and/or damage or any other event insured by the Policy. Such costs and expenses shall include but not be limited to:

- a) express or chartered carriage, delivery or freight (including by sea or air);
- b) chartered aircraft and/or other travel (including by sea or air) of the Insured's directors, Employee(s), agents, sub-contractors, consultants or representatives;
- c) overtime or penalty rates of wages and other related allowances and payments;
- d) hire of additional labour, plant, equipment, materials, expertise or services;
- e) reasonable and necessary changes in the method of construction, the cost of earlier than usual delivery or manufacture and/or the cost of purchasing additional resources;
- f) accommodation and boarding costs (including meals and other costs associated therewith); and
- g) additional administrative and/or overhead expenses.

Claims under this clause are subject to a Sub-limit of \$50,000 any one loss or series of losses arising from the one event.

**2. Additional freight – Piracy**

When the Insured is deprived of the Interests Insured by reason of an act of piracy and the detainment of the cargo is in excess of 30 days from the date of the initial act of piracy, this insurance will pay the cost of the freight incurred to source a replacement cargo. This extension is payable in addition to the insured value and is payable irrespective of whether a claim is settled or otherwise on the original shipment subject to the act of piracy.

Claims under this clause are subject to a Sub-limit of \$50,000 any one loss or series of losses arising from the one event.

**3. Additional forwarding and shipping costs and expenses – Various**

This insurance extends to pay the Insured the following additional costs and/or expenses incurred by the Insured where arise consequent upon, or due to:

- a) **loss and/or damage to Interests Insured**  
In the event of a potential or actual loss of the Interests Insured covered under the Policy, the Insurer shall pay any additional expenses necessarily and reasonably incurred by the Insured in discharging, handling, storing, sorting, re-loading and/or transporting both the damaged and undamaged Interests Insured to the original or alternative destination.
- b) **the exercise of shipowners' and charterers' liberties**  
This Insurance also to pay any additional expenditure incurred by the Insured by reason of the exercise by the shipowners or charterers of any liberty granted by the contract in a manner other than originally contemplated by the contract of affreightment, such expenditure being payable irrespective of any other loss whether total or partial recoverable under the terms of any insurance upon the Interests Insured themselves.

**4. Frustrated delivery of the Interest Insured**

When the Interests Insured cannot be delivered to the originally intended destination by the intended method of conveyance, or is prevented from entering the intended country of destination or passing through any country enroute due to unforeseen events beyond the control of the Insured, this insurance will also pay all additional forwarding and shipping charges incurred by the Insured in order to deliver the Interests Insured to the original or an alternative destination nominated by the Insured.

The Insurer will be reimbursed for such expenses by the Insured when recovered under a General Average adjustment or from a carrier.

Claims under this clause are subject to a Sub-limit of \$50,000 any one loss or series of losses arising from the one event.

**5. Cyber attack – Additional freight costs**

Notwithstanding the Institute Cyber Attack Exclusion Clause, where the transit of the Interest Insured is interrupted or terminated due to a cyber-attack that causes the closure of a port, port facility or Distribution Centre the Policy will pay the additional costs of freight and/or storage incurred by the Insured in order to forward the Interest Insured to its intended destination, or to return it to the place from which it was dispatched, up to a maximum of 10% of the insured value of the Interest Insured.

Claims under this clause are subject to a Sub-limit of \$50,000 any one loss or series of losses arising from the one event and in the aggregate during any Period of Insurance.

#### 6. ISM and ISPS forwarding charges

The Policy shall indemnify the Insured, up to the limit of the insured value for the voyage, for any extra charges properly and reasonably incurred in unloading, storing and forwarding the Interests Insured to the original or an alternative destination nominated by the 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 to such vessel not being certified in accordance with the:

- a) ISPS Code; or
- b) ISM Code as required under the SOLAS Convention 1974 as amended.

This clause does not apply to General Average or Salvage, or Salvage Charges claims.

Claims under this clause are subject to a Sub-limit of \$50,000 any one loss or series of losses arising from the one event.

#### 7. Insolvency of carrier – Additional freight costs

If the transit of the Interest Insured is interrupted or terminated due to the insolvency or financial default of the carrier, whether or not loss or damage has been occasioned to the Interest Insured, the Insurer will pay the additional costs of freight and/or storage incurred by the Insured in order to forward the Interest Insured to its intended destination, or to return it to the place from which it was despatched, up to a maximum of 10% of the insured value of the Interest Insured.

This clause will not apply where, at the time of loading of the cargo on board the conveyance, the Insured was aware, or in the ordinary course of your business should be aware, that such insolvency or financial default could have occurred during the insured transit.

#### 8. Strikes diversion expenses

The Policy will pay additional expenditure incurred by the Insured where shipowners, charterers or managers exercise a liberty granted to them by the contracts of affreightment, where solely as a result of:

- a) strikes, riots, civil commotions, lockouts or labour disturbances; or
- b) conditions arising therefrom making discharge in the normal course impossible,

the Interests Insured are over-carried to (or discharged at) a port other than the port of discharge named in the contract of affreightment.

However, the liberty must be exercised before the expiry of fifteen (15) days from midnight of the day on which the event listed under (a) above (that gave the right to the exercise of the liberty) ceases to be in active operation. This additional expenditure will be paid irrespective of any other loss (whether total or partial) payable under the Policy.

Claims under this clause are subject to a Sub-limit of \$50,000 any one loss or series of losses arising from the one event.

### (D) Contingency and Cover Continuation Clauses

#### 1. Combined contingency and difference in conditions

The Policy covers the Insured's contingent interest in any declared Interest Insured where either the Insured has no responsibility to insure under the terms of sale or purchase, or which should have been insured elsewhere or where the cover provided is more restrictive than that afforded under the Policy, in terms of conditions or duration of cover, or where the Insured is unable to obtain settlement of legitimate claims under the insurance arranged elsewhere, or where there is loss and/or damage to the Interests Insured that would otherwise be covered by this the Policy and for which the Insured cannot obtain payment in for the Interests Insured in accordance with the contract of sale.

Where interest in the Interests Insured reverts to the Insured for any reason, such Interests Insured shall be covered continuously during any reasonable period whilst awaiting resale or return, including any additional transit or whilst at a Distribution Centre resultant upon such resale or return.

When required by the Insured, the Insurer will issue a General Average guarantee or pay General Average deposits.

The Policy also covers the difference between the insured value of the Interest Insured that has been insured elsewhere and the insured value under the Policy.

The cover provided is however limited to loss which would otherwise be recoverable under the terms and conditions of the Policy and only to the extent that the Insured is unable to recover such loss under the insurance effected by the buyer or seller, provided that:

- a) the existence of this extension is not to be disclosed to any other interested parties;
- b) notice to be given to the Insurer as soon as practicable after the Insured becomes aware that they may have a claim under this clause;

- c) the Insured must in the first instance take all reasonable steps to recover payment under the contract of sale and obtain reimbursement from the buyers and/or sellers and/or any other interested parties;
- d) in the event of any claim settlement under this extension, any rights of recovery the Insured may have against buyers and/or sellers and/or any other interested parties will be subrogated to the Insurer.

## 2. Distribution centres

Where otherwise not insured, for periods not exceeding 14 days, the Policy covers loss and/or damage to the Interests Insured whilst they are at Distribution Centres being premises and/or locations operated by the Insured and/or third parties for the purpose of distributing such Interests Insured to the Insured's customers or Insured's branches. This extension is only to apply where the Interests Insured have been in the ordinary course of transit, as per the Duration Transit Clauses of the Institute Clauses applicable to this insurance, immediately prior to such distribution from the Distribution Centre.

## 3. Exhibitions

The Policy covers the Interests Insured including declared stands, fixtures, fittings, audio visual equipment, computer equipment, demonstration equipment, Exhibition and/or similar equipment whilst away from premises occupied by the Insured when on and/or at display, demonstration, Exhibition, display, seminar, training site, trade fair, promotional events, film shoots and/or similar events.

The Policy also covers loss and/or damage of such Interests Insured during temporary storage prior to and/or after an event, unpacking, assembly, dismantling and repacking and subsequent return transit to place of origin or to alternative destination.

Excluding any loss and/or damage arising directly from the use and/or demonstration of any Interests Insured under this clause.

Claims under this clause are subject to a Sub-limit of \$50,000 any one loss or series of losses arising from the one event.

## 4. FOB and CFR exports

The Policy will cover goods sold on FOB, CFR or similar terms of sale where the marine insurance for the overseas voyage or air transit is not covered by the Policy.

Cover attaches as provided for in the Policy and continues until the Insured's Interests ends but not later than the time of loading on board the vessel or aircraft or at time of transfer of risk, whichever first occurs.

## 5. Machinery – Erection, Dismantling, Installation and/or Positioning

The Policy covers loss and/or damage to insured machinery whilst being erected, dismantled and/or installed prior to and/or following upon any transit, but excluding loss and/or damage arising directly from any testing and/or operating of the machinery.

In respect of insured machinery purchased by the Insured for the Insured's own use, the Policy covers the machinery until it is positioned on its final bed location, provided that the period after completion of unloading from the delivery conveyance at the Insured's premises does not exceed 7 days.

The Policy shall only indemnify the Insured if there was no other insurance in place covering such machinery at the time the loss or damage occurred.

Excluding any loss and/or damage and/or expense arising directly as a result of such dismantling, installation and/or erection howsoever caused.

Claims under this clause are subject to a Sub-limit of \$50,000 any one loss or series of losses arising from the one event.

## 6. Over-carried Interests Insured

If the Interests Insured are over-carried to a destination other than that to which they were consigned, the Policy will continue to cover the goods until their arrival at the intended destination or an alternative destination nominated by the Insured.

## 7. Packers' premises

When required, the Interests Insured shall be covered from the time of leaving the Insured's or supplier's warehouse enroute to premises for the purpose of packing and whilst there for a period not exceeding 60 days prior to shipment or held covered.

## 8. Postal transits

The Policy covers transits by post from the time they leave the premises of the sender until safely delivered to the person or parties to whom they are addressed at their final destination, including cover for the return journey if for reasons beyond the control of the Insured the Interests Insured are returned by the postal authorities.

**9. Purchases on FOB, CFR and/or similar terms of sale**

Despite the Interests Insured having been purchased by the Insured on terms of sale where they are at the risk of the seller in all or part of the country of origin, the Policy covers such Interests Insured from the time that they leave suppliers' premises as if the terms of sale were Ex Works.

The Insurer is to be subrogated to the Insured's rights of recourse against the suppliers or other parties.

**10. Re-consigned or re-shipped Interests Insured**

The Policy covers the Interests Insured if they are re-consigned or re-shipped direct from the wharf or airport at the intended destination to another destination, cover under the Policy will continue until arrival at the intended destination or an alternative destination nominated by the Insured.

**11. Refused Interests Insured**

The Policy covers the Interest Insured where they are refused and/or declined by any consignee during the course of transit or at destination and cover continues for a period of up to 90 days whilst the Interests Insured are stored awaiting return and/or re-forwarding to or an alternative destination nominated by the Insured.

**12. Seller's interest contingency**

This extension will only apply if the Insured under a contract of sale does not have a responsibility to arrange insurance up to final destination. Full Policy cover will apply if:

- a) title reverts to the Insured because the buyer fails to accept the Interests Insured or;
- b) the Insured exercises a right of lien, interrupts the transit or suspends the contract of sale in order to protect its Interests.

Cover will remain in force until either:

- the Interests Insured are accepted by the buyer;
- the Interests Insured are sold to an alternative buyer;
- the Interests Insured are returned to the Insured; or
- up to 60 days from the arrival of the overseas vessel at the port of discharge;

whichever first occurs.

The Insurer will not pay for loss and/or damage to the Interests Insured:

- unless notice is given as soon as practicable to the Insurer when a contingency in (a) and/or (b) above occurs;
- if the existence of this cover is disclosed to the buyer, its insurers or any other interested party;
- if this cover or any interest in the Interests Insured are assigned to another party;
- if the loss is recoverable from credit insurers;
- arising from Governmental action and/or regulations preventing transfer of currency.

The Insured must use all reasonable and usual care, skill and forethought and take all practical measures that may be required by the Insurer to prevent or minimise loss and to enforce the contract of sale.

When a claim is paid under this extension the Insurer is entitled to exercise rights of subrogation.

The Insured must not disclose the existence of this cover to the buyer or any other third party to whom an interest may attach and all rights of recovery against them are to be subrogated to the Insurer.

**13. Returned Interests Insured**

In the event of the Interests Insured being rejected and/or returned to the Insured for any reason, such return transits are covered hereunder, including whilst in warehouse or an alternative destination nominated by the Insured.

**14. Shut-out Interests Insured**

If Interests Insured are shut-out from the vessel or aircraft and are at the risk of the Insured, the Policy will cover the Interests Insured whilst at a wharf or airport awaiting shipment and during any transit to another wharf or airport or an alternative destination nominated by the Insured.

**15. Title retention ('Romalpa')**

The Policy covers loss and/or damage to the Interests Insured delivered to the consignee's nominated premises pursuant to a contract of sale in circumstances in which the Insured retains expressly, or by operation of law, title to or a proprietary interest in the Interests Insured whether by way of a clause reserving to the Insured title to the Interests Insured pending payment, or otherwise, the Insured not having received payment for such Interests Insured from the customer.

This clause does not cover Interests Insured shipped on a "sale or return" basis or those held by the consignee until sold.

**16. Transit clause extension**

The Transit Clauses of the:

- Institute Cargo Clauses (A) 1/1/09;
- Institute Cargo Clauses (Air) 1/1/09;
- Institute Strikes Clauses (Cargo) 1/1/09; and
- Institute Strikes Clauses (Air Cargo) 1/1/09;

are extended to cover the Interests Insured whilst:

- a) awaiting transit, within buildings, on vehicles or within designated storage areas;
- b) in transit to, from and whilst, during the ordinary course of transit, in customs and at the premises of forwarders, packers, consolidators, haulers, warehousemen and other bailees;
- c) at temporary storage following strike and/or similar action;
- d) during delays in transit and/or after discharge at the final port or airport irrespective of whether such delays are within or beyond the insured's control;
- e) during all loading and unloading operations throughout each transit and the stuffing and un-stuffing of containers; or
- f) left loaded overnight, over weekend or during bank or public holidays at premises either after completion of loading for transit or prior to unloading.

**17. Transshipment**

Customary trans-shipment is covered whenever occurring. Other transshipments are held covered in accordance with the terms, conditions and exclusions of the Policy subject to prompt notice to the Insurer and an additional premium being paid if required by the Insurer.

**18. Travellers' samples and engineers' tools and/or equipment**

The Policy cover the Interests Insured when utilised as travellers' samples and/or engineers' tools and/or equipment including computerised demonstration equipment the property of the Insured whilst in transit in the Insured's own motor vehicle(s) being used by the Insured and/or their Employee(s).

Interests Insured will also be covered whilst temporarily removed from the motor vehicle, outside normal business hours, whilst in transit to and/or from and stored in a securely locked hotel or motel room or private residence in the custody or control of the Insured or their Employee(s).

For this cover to apply the Insured or their Employee(s) must be engaged in the course of the normal business purposes of the Insured and any storage must be incidental to the transit.

The Policy does not cover loss and/or damage arising from:

- a) ordinary wear and tear or gradual deterioration;
- b) mechanical, electrical or manual operation of the Interests Insured whilst undergoing any process; or
- c) theft or attempted theft from unattended place of store which does not involve entry to or exit from the premises by forcible and violent means and/or actual or threatened assault or violence.

It is a condition that Interests Insured contained in vehicles are kept out of sight either in a locked boot or under a load area cover and that when the vehicle is left loaded and unattended:

- a) all doors and the boot or tailgate and other points of access are to be securely closed and locked;
- b) all windows and other openings are to be securely closed;
- c) all security devices fitted to the vehicle are to be put into effect; and
- d) the keys shall be removed from the vehicle and kept in a secure place.

Claims under this clause are subject to an Excess of \$250 any one loss or series of losses arising from the one event.

Claims under this clause are subject to a Sub-limit of \$10,000 any one loss or series of losses arising from the one event.

**(E) Reduced Burden of Proof Clauses****1. Interests Insured blocked and trapped**

The Policy shall indemnify the Insured in the event of the Insured being deprived of use or possession of the Interests Insured by reason of the carrying vessel being unable to sail, or being prevented from sailing, from or out of any port, loading point, terminal, off-shore facility, canal, river, waterway, bay, gulf or other place or area (hereunder referred to as "the said place or area") as a result of the closure, blockade or blockage of the said place or area from any cause whatsoever, provided such closure, blockade or blockage shall not already have been effective on the attachment of this insurance.

In the event of the Insured being deprived of use of or possession of the Interests Insured in the circumstances referred to in sub-clause 1 above, the Insured shall be deemed to have suffered a total loss by seizure and be indemnified by the Insurer to the full extent of the insured value.

For the purpose of this insurance, the Insured shall have been deprived of use of or possession of the Interests Insured if a period of 120 days has elapsed from the date the Insurer is notified by the Insured of the aforesaid inability or prevention and the carrying vessel is still unable to sail or still prevented from sailing from the said place or area, or from any bay or gulf (in which the said place or area is located) between the said place or area and the high seas.

## 2. Claused bill of lading

Claims under the Policy are not to be prejudiced solely by reason of the marking of any bill of lading (or similar document) with a clause indicating that the any Interests Insured are insufficiently packed or prepared for the insured transit.

## 3. Delayed unpacking – Concealed damage

Where cases, packages or shipping containers are not unpacked on delivery at the final warehouse or place of storage, concealed loss and/or damage which is only discovered when the Interests Insured are unpacked shall be deemed to be recoverable hereunder, provided:

- a) there is no conclusive proof that the loss or damage occurred after delivery;
- b) the loss or damage is discovered no later than ninety (90) days after delivery; and
- c) packages showing outward signs of loss or damage on delivery are immediately opened and inspected and any loss or damage reported to the Insurer.

## 4. Non-delivery and unknown cause of loss and/or damage

In the event of theft or non-delivery of the Interests Insured, provided reasonable steps have been taken to locate the Interests Insured, the Insurer agrees that it will settle the claim in full if the Interests Insured have not been located after the expiry of 45 days from their anticipated delivery date, even if they are subsequently recovered or delivered.

Where the Interests Insured suffer loss and/or damage by causes unknown, or from causes that cannot be promptly determined, the Insurer will, within 45 days from the submission of proof of value and loss and/or damage by the Insured, indemnify the Insured for the loss and/or damage but not exceeding the applicable limit. The Insured shall repay the amount paid by the Insurer in full in the event of the Interests Insured are located in a sound condition or in the event that the loss and/or damage is established as having resulted either from a Policy exclusion or an otherwise uninsured peril.

It is also agreed that for losses anticipated as being in excess of \$20,000 where liability is admitted but the loss cannot be quantified within fourteen (14) working days of the Insurer's admission of Policy liability, then the Insurer shall pay 80% of the anticipated net claim as an interim payment, subject to final adjustment within the terms of the Policy.

## 5. Sealed containers

Where Interests Insured are shipped in a shipping, road or airfreight container, any claim for theft, pilferage, shortage or non-delivery will deemed to be recoverable hereunder even if the container's seal is intact at the unloading point, however, documentary evidence must be produced to substantiate the quantity loaded into the container. If a loss occurs which is payable under this Clause, the Insured agrees to use all reasonable means to first recover the full amount of the loss from the seller, packer or other responsible third party before claiming under the Policy. All rights of recovery against the seller, packer or any other third party to whom liability may attach are to be subrogated to the Insurer.

## (F) Institute Clauses, Warranty and Exclusion Amendments

### 1. Frozen and chilled Interests Insured by airfreight

Unless otherwise agreed, where the Interests Insured are frozen or chilled, cover shall be subject to Institute Cargo Clauses (Air), excluding loss and/or damage resulting from any variation in temperature howsoever caused unless as a direct result of:

- a) fire or explosion;
- b) crashing of the carrying aircraft;
- c) overturning or derailment of land Conveyance;
- d) collision or contact of aircraft or Conveyance with any external object;
- e) malfunction of onshore refrigeration machinery;
- f) negligence on the part of freight forwarders, cool store and airline freight staff.

The above shall only apply during sectors of storage or transit where there is no active power refrigeration process in operation. For the purposes of this clause dry ice or polystyrene bins or other similar method is deemed to be passive refrigeration. It is a condition precedent to liability being accepted by the Insurer that any claimant making a claim for variation of temperature under this clause must provide appropriate evidence of temperature variation including documentary evidence of recordings showing the time, duration and extent of temperature variation.

## 2. Insolvency exclusion amendment

The Insolvency Exclusion Clause where appearing under "Exclusion" in the relevant Institute Clauses is deleted and replaced by the following:

"In no case will the Policy cover loss, damage or expense arising from insolvency or financial default of the owners, managers, charterers or operators of the vessel or aircraft. However, this exclusion will not apply:

- if the Insured is unaware (or in the ordinary course of business would be aware) at the time of loading the goods on to the vessel or aircraft that this insolvency or financial default could prevent the normal completion of the transit; or
- where the cover provided by the 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."

## 3. Institute frozen food and meat clauses amendment for chilled Interests Insured

Where any Institute Clauses for Frozen Food or Frozen Meat included under the Policy are applicable they are amended so that where the Interests Insured are chilled, under these Clauses the words, "frozen", "freezing" and "coldstore(s)" are deleted and replaced with the words "chilled", "chilling" and "coolstore(s)" respectively.

## 4. Insufficiency of packing amendment

The insufficiency or unsuitability of Packing Exclusion Clause where appearing under "Exclusions" in the relevant Institute Clauses does not apply to:

- a) inland transits within Australia by road, rail, air or post; and
- b) shipments by sea between Australian ports where the goods are being conveyed by a motor vehicle that is on board a roll-on roll-off vessel.

In respect of all other shipments the clause is deleted and replaced by the following:

"In no case will the Policy cover loss, damage or expense caused by insufficiency or unsuitability of packing or preparation of the goods. For the purpose of this clause, "packing" is to include stowage in a container or other similar inter-modal methods of unit load but only when the stowage is carried out before cover under the Policy attaches or by the Insured or their servants. However, despite the above exclusion, if a claim is made for loss or damage that is alleged to have been caused by insufficiency or unsuitability of packing or preparation of the goods, the Insurer agrees not to use this as a defence against the claim:

- a) in any case where the packing or preparation was carried out by a party other than the Insured; and
- b) where the insufficiency or unsuitability arose entirely without the Insured's privity or knowledge.

The Insured undertakes to follow all reasonable measures to pursue rights of recovery against sellers or other third parties responsible for the loss or damage. The above agreement is not to interfere with the Insurer's rights of subrogation against packers or their insurers."

## 5. Institute classification clause extension

Any transits that would be covered hereunder but for the provisions of the Institute Classification Clause are held covered at an additional premium to be agreed. The terms of the Institute Classification Clause shall not prejudice any claim hereunder when advice of claim to the Insurer is the first indication that a transit has been made by a vessel that is not covered within the terms of the Institute Classification Clause, provided the appropriate additional premium is paid thereafter.

It is agreed that the age limitation within Clause 2.1 of the Institute Classification Clause is increased to 30 years of age.

## 6. Institute cargo clauses (B) and (C) extension

In the event that any Interest Insured are insured under the Policy subject to either the Institute Cargo Clauses (B) 01.01.2009 or Institute Cargo Clauses (C) 01.01.2009, or the preceding equivalents, then the Policy covers loss and/or damage to the Interests insured caused by heavy weather, loss overboard, theft, pilferage, non-delivery of an entire package, piracy and malicious damage.

## 7. Unseaworthiness and unfitness exclusion amendment

The Unseaworthiness and Unfitness Exclusion Clause where appearing under "Exclusions" in the relevant Institute Clauses is deleted and replaced by the following: "In no case will the Policy cover loss, damage or expense arising from:

- a) unseaworthiness or vessel or craft or unfitness of vessel, craft or aircraft for the safe carriage of the goods, where the Insured is aware of the unseaworthiness or unfitness at the time the goods are loaded; or
- b) unfitness or container, lift-van or conveyance for the safe carriage of the goods where loading is carried out before cover under the Policy attaches or by the Insured or their Employee(s).

However, exclusions (a) and (b) above will not apply where the cover provided by the 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. The Insurer waives any breach of the implied warranties of seaworthiness of the vessel and fitness of vessel or aircraft to carry the goods to destination.”

## (G) Additional Exclusions and Limitations

### 1. Cargo ISM endorsement

This clause is applicable to Interests Insured carried on:

- a) Ro-Ro passenger ferries;
- b) passenger vessels transporting more than 12 passengers;
- c) oil tankers, chemical tankers, gas carriers, bulk carriers and cargo high speed craft of 500gt or more;
- d) all other cargo ships and mobile offshore drilling units of 500gt or more.

In no case shall this insurance cover loss, damage or expense where the subject matter insured is carried by a vessel that is not ISM Code 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, the Insured is aware, or in the ordinary course of business, should be aware:

- a) either that such vessel was not certified in accordance with the ISM Code; or
- b) that a current Document of Compliance was not held by her owners or operators,

as **required under the SOLAS Convention 1974 as amended**. This exclusion shall not apply where this insurance has been assigned to the party claiming hereunder who has bought or agreed to buy the subject matter insured in good faith under binding contract.

Subject otherwise to the Limit, exclusions and conditions stated in the Policy Schedule.

### 2. Cargo ISPS exclusion

In no case shall this insurance cover loss and/or damage where the Interests Insured are carried by a vessel that does not hold a valid International Ship Security Certificate as required under the International Ship and Port Facility Security (ISPS) Code when, at the time of loading of the Interests Insured goods on board the vessel, the Insured was a charterer of the vessel and was aware, or in the ordinary course of business should have been aware that such vessel was not certified in accordance with the ISPS Code as required under the SOLAS Convention 1974 as amended.

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

### 3. Deck cargo

Interests Insured shipped on deck in ISO shipping containers or Interests Insured carried on deck without the privity, knowledge or consent of the Insured but subject to an under-deck bill of lading are covered in terms of the Policy conditions. Other on-deck cargoes covered on Policy conditions but excluding the risks of rust, oxidation, discolouration and/or sea-water damage.

### 4. Distribution centre exclusions

The Policy covers loss and/or damage to the Interests Insured whilst at Distribution Centres when outside the ordinary course of transit but excluding:

- a) loss due to unexplained or mysterious disappearance, inventory shortage, misfiling or misplacing of information;
- b) loss discovered at normal stocktaking unless it can be established that the loss is attributable to a peril insured by the Policy;
- c) theft or attempted theft of Interests insured that are stored in the open unless specifically agreed by the Insurer;
- d) loss and/or damage covered by the Institute War Clauses; and
- e) loss and/or damage arising directly arising out of any process of manufacture, conversion, treatment and/or use and the like.

### 5. Goods and services tax (GST)

Where applicable, the Insurer is entitled to deduct from any claim settlements the amount payable by reason of GST. However, if there is a shortfall between the GST component of any claim and the amount of input tax credit the Insured is entitled to, the Insurer will pay this shortfall in addition to the net claim settlement amount.

The Insurer will not be liable to pay any fine, penalty or charge that the Insured is liable for arising out of any misrepresentation of, or failure to disclose, on the part of the Insured, the proper input tax credit entitlement in the settlement of any claim or premium relating to the Policy.

## 6. Process exclusion

No claims to attach hereto for loss and/or damage to the Interest Insured which may be sustained whilst the same is in use and/or being worked upon and directly resulting thereon.

## 7. Second-hand machinery

Unless otherwise stated elsewhere in the Policy, where machinery insured hereunder is less than three (3) years of age at the time transit commenced, its insured value is deemed to be its new replacement value. The conditions applicable to new machinery shall apply but subject to the Obsolete Parts sub-clause below and excluding wear, tear and gradual deterioration.

### a) Obsolete parts

In the event of a claim arising under the Policy necessitating the manufacture of any new parts or accessories, the liability of the Insurer shall be limited to the manufacturers' latest available list price of identical parts or accessories of the year of manufacture of the machine plus a reasonable uplift to cover inflation based on the Retail Index between the date of issue of the latest available list price and the date transit commenced.

If no such manufacturer's list price is available, the total liability shall in no case exceed the insured value of the insured machine. Where machinery is more than three (3) years of age at the time transit commenced, it is insured hereunder for its current market value. Conditions applicable to new machinery shall apply but subject to Second-Hand Replacement sub-clause below.

### b) Second-hand replacement

In the event of a claim arising under the Policy, the sum recoverable shall not exceed such proportion of the cost of replacement of the parts lost or damaged as the insured value bears to the value of new machinery, or the costs of repair of such part(s), plus charges for forwarding and refitting, if incurred. The Insurer will pay customs duty and taxes if they are included in the insured value.

However, in no case shall liability of the Insurer exceed the insured value of the complete machine.

## 8. Theft from own vehicles

The Policy will not cover theft from the Insured's own motor vehicle(s) when left unattended unless:

- a) all doors and other points of access are securely locked with all keys removed and all windows closed, and alarm activated if the motor vehicle is alarmed;
- b) all Interests Insured are kept out of sight as far as is practical;
- c) notice is given to the Police within twenty-four(24) hours from when the theft is first discovered; and
- d) the motor vehicle is parked in securely locked premises (building, garage, or compound with secure walls or fences and gates) outside normal business hours.

## (H) Claims Adjustment Clauses

### 1. Apportionment of recoveries

Where a recovery is obtained by the Insurer from a carrier or other third party, such recovery shall be apportioned between the Insured and the Insurer in the same proportion as the respective parties hereto have borne such loss.

### 2. Brands and labels

In the event of loss or damage to Interests Insured bearing embossed or indented brands or labels or other permanent markings identifying the Insured as the manufacturer or suppliers, or exclusive and/or secret formula that may be involved, the Interests Insured may be retained by the Insured to dispose of as they see fit provided a reasonable allowance is agreed for the value of the goods. Where only the labels of goods are affected by the insured event the amount payable by the Insurer is limited to the cost of reconditioning and the cost of re-labelling.

### 3. Control of damaged Interests Insured

In respect of the Interests Insured under the Policy the Insured is to retain control of all damaged or deteriorated Interests Insured or those which have been stolen and recovered in sound condition.

The Insured shall, subject to exercising its discretion reasonably, be the sole judge as to whether the Interests Insured are suitable for use in any manufacturing process, marketing or sale and no Interests Insured deemed by the Insured to be unfit shall be used, sold or otherwise disposed of except by the Insured or with their written consent.

Where, however, the sale or disposal of damaged, deteriorated or recovered Interests Insured are in the reasonable opinion of the Insured detrimental to their interests (or which they are unable to sell or dispose of under their agreement with any customer and/or trade association,) the Interests Insured shall be deemed to be a constructive total loss and the Insured shall be entitled to re-condition, dispose of or destroy these, subject to the Insurer's written consent.

In the event that any Interests Insured which have been stolen are recovered and retained for a period in excess of 45 days by police, customs authorities or government agencies such Interests Insured shall be deemed to be a constructive total loss.

The Insured agrees wherever practicable to recondition and/or sell such Interests Insured after removal of all brands and trademarks and the Insured shall pay the Insurer any value obtained.

The Insured may repair the Interests Insured or nominate repairers where repairs by any other party may or would compromise, prejudice or invalidate any guarantee and/or warranty and/or like assurance or undertaking given by the manufacturers or suppliers of the Interests Insured.

#### 4. Excess waiver

All claims payable under the Policy will have any Excess as shown in the Policy Schedule deducted prior to settlement but shall not apply to losses that would be recoverable under the Institute Cargo Clauses (C) had they been applicable.

#### 5. General Average and salvage

If there is a claim for General Average contributions or salvage charges, the Interests Insured will be considered as being insured for their full contributory value and the claim will be paid regardless of any Policy Excess.

#### 6. Labels

In the event that labels or wrappers are damaged, defaced, destroyed or lost irrespective of whether or not the contents are damaged then the Policy will indemnify the Insured for the cost of new labels or wrappers, including the costs applying these and of re-packing the Interests Insured, but in no case shall the Insurer be liable for an amount greater than the insured value of the damaged goods.

If the Insured acting reasonably deems the Interests Insured unfit for sale or use or if it is not possible to identify the contents of containers the labels or wrappers of which have been damaged, defaced, destroyed or lost, then the Interests Insured goods are to be deemed a constructive total loss and the claim settled accordingly.

#### 7. Reconditioned Interests Insured

Reconditioned, refurbished, restored or remanufactured Interests Insured shall, for the purposes of the Policy, be treated as new subject to:

- a) the Interests Insured, other than for the purposes of testing or trial, have not been in operation since having been subject to any of the above stated processes; and
- b) such processes have been carried out by a company whose work carries a guarantee.

#### 8. Salvage loss settlement option

At the option of the Insured, claims will be adjusted on the basis of salvage loss whereby settlement is the insured value as defined under the basis of valuation herein less net proceeds of sale.

#### 9. Testing, sorting and segregation charges

Where the Insurer's surveyor requires or recommends that packages and/or damaged Interests Insured be sorted in order to ascertain or assess the nature and/or extent of loss and/or damage, costs and expenses arising from such sorting shall be recoverable hereunder.

Furthermore, in the event of external signs of loss and/or damage to the Interests Insured and/or packing, the Insurer agrees to meet the reasonable costs of discharge, testing, sorting and segregating the Interests Insured including any surveyor's fees and additional storage charges whether or not any actual loss and/or damage is found.

Cover under this clause includes the cost of transporting the Interests Insured to or from a test facility, and the cost of re-packing and transit to destination after completion.

Cover is extended for periods of duration of transit in excess of those provided to allow for the above to be carried out prior to delivery to final destination.

#### 10. Unauthorised occupants

The Policy includes loss and/or damage arising as a consequence of any means of conveyance being occupied by a person(s) seeking illegal entry into any country.

In the event of a consignee having reasonable grounds for not accepting the Interests Insured as a result of their being carried in a container so occupied, the Policy will pay a total loss on any and all Interests Insured.

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**(I) Shipping Containers Clauses****1. Shipping container loss and/or damage**

The Policy is hereby extended to indemnify the Insured for physical loss of or damage to shipping containers (excluding containers owned and/or time-leased by the Insured) where responsibility for such physical loss or damage is assumed by the Insured under, interchange and/or handover receipt, delivery order and/or bills of lading (or similar sea carriage documents) signed/agreed as part of the Insured's import and export operations. Cover is subject to the following conditions of insurance insofar as applicable:

- Institute Container Clauses Time 1/1/87;
  - Clauses 9 and 10 deleted;
  - Clause 15 Excess \$500;
- Institute War and Strikes Clauses Containers Time 1/1/87.

This clause is further subject to the following:

- a) cover under this clause shall attach at the point that the Insured assumes legal liability for loss of or damage to the shipping containers used for the purpose of transporting the Interests Insured covered under Section 1 where such transits commence during the Period of Insurance and will cease at the point that the Insured no longer has any responsibility for the loss of or damage to the shipping containers;
- b) cover is subject to shipping containers being returned by the Insured within the period specified in the delivery order;
- c) the additional cover provided under this clause shall not apply to containers hired, leased and/or owned by the Insured except as described above in this clause;

Claims under this clause are subject to a Sub-limit of \$50,000 any one loss or series of losses arising from the one event.

**2. Shipping container demurrage**

In the event of actual or apparent loss and/or damage to the Interest Insured which is recoverable under the Policy, Insurer agrees to pay any demurrage and similar costs incurred by the Insured in respect of the late return of any shipping container which has been used to convey the Interests Insured.

Claims under this clause are subject to a Sub-limit of \$20,000 any one loss or series of losses arising from the one event.

## General Conditions

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### Premium

The Insurer hereby agrees to insure against loss, damage, liability, costs and/or expenses in the manner described in this Policy in consideration of the Insured named in the Policy Schedule having paid or agreed to pay the premium specified by the Insurer.

The Insured must pay the premium by the due date. If the premium is unpaid or the payment dishonoured, this Policy will not operate and there will be no coverage.

### Declarations and Policy limits

The Insured must declare all transits of the Interests Insured that are covered by the Policy where such transits commence during the Period of Insurance.

Transits must commence and terminate within the Geographical Limits stated in the Policy Schedule and are to be valued in accordance with the basis of valuation stated in the Policy Schedule.

The Insurer will accept the declaration up to but not exceeding the limit any one conveyance and location specified on the Policy Schedule. Premium will be payable on each declaration calculated at the agreed rate(s).

Where cover is required for the following transits they must be declared:

1. Imports and Cross Voyages
  - a) Ex Works, FOB and CFR imports and where under any other contract of sale the Insured is at risk at any point during the course of transit;
  - b) CIF, CIP and similar purchases where 'Buyers Interests', 'Difference in Conditions' and similar contingency type cover is required; and
  - c) Customer Duty and Taxes if a separate rate applies to these.
2. Exports and Cross Voyages
  - a) DDP, DDU, CIP and CIF exports and where under any other contract of sale the Insured is at risk at any point during the course of transit;
  - b) FOB and CFR sales where pre-shipment and 'Sellers Interest' cover and similar contingency type cover is required;
  - c) Customer Duty and Taxes if a separate rate applies to these.

3. Inland transits
  - a) all transits being domestic sales and purchases of the Interests Insured when at the risk of the Insured and not declared as (1) Imports or (2) Exports above;
4. Transfers of stock, goods on consignment, plant machinery and equipment.
5. Returned Interests Insured;
6. Engineers' tools, travellers' samples and similar items;
7. Interests Insured in transit to and from and whilst at Exhibition.
8. Other Interests Insured in transit where covered by the Policy.

Declarations may be made to the Insurer on an annual basis where the Insurer agrees to an annual deposit premium.

The Insured will not be prejudiced by an unintentional or inadvertent error or omission in making declarations, such as an incorrect description of the goods or incorrect information regarding the risk, however, the Insured must inform the Insurer as soon as practicable after they become aware of the error or omission.

### Deposit premium

Where the premium is a deposit premium it is calculated by applying the agreed rate(s) to the estimated value of transits to be made during the Period of insurance.

As soon as possible after the end of the Period of Insurance, the Insured must declare the total value (see basis of valuation) of all transits made during that period without exception and the estimated value of transits for the following period where the Policy is to be renewed.

The declared value is adjusted at the end of each period by applying the agreed rate(s) to the total value of actual transits made during that period. Any difference between the adjusted premium and the deposit will be paid by or refunded to the Insured subject to any minimum premium that applies.

### War and strikes premium

The Insured to pay additional premium for war and strikes cover on all shipments at a rate advised by the Insurer and which is applicable on the date the transit commences from the place where cover under the Policy attaches.

### War and strikes rates amendments

The Insurer's 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 is not prejudiced by the war and strikes premium under the Policy having been prepaid at the rates current at the commencement of each annual Period of Insurance.

The Insurer has the right to apply higher rates on or to charge on a "held covered" basis, voyages or flights to specific countries or areas provided the Insurer notifies the Insured of such rates prior to the attachment of the applicable shipments. Any additional premium will be calculated by applying the difference between prepaid and amended war and/or strikes rates to actual declared figures for period/s applicable or, if not so declared, on a pro-rata to annual premium basis for the annual period concerned.

Important note: If the Insured does not accept such rates prior to attachment, War and Strikes cover will not apply to the applicable shipments.

### Cancellation of the Policy

The Insurer or the Insured may cancel this insurance at any time by giving thirty (30) days written notice of cancellation. Strikes risks cover may be cancelled by giving the Insured seven (7) days written notice of cancellation with the exception of shipments to, from or within the United States of America (USA) where forty eight (48) hours written notice of cancellation will apply.

War risks cover may be cancelled subject to the provisions of the Institute War Cancellation Clause (Cargo) 1/12/82.

Cancellation shall become effective on the expiry of the requisite period of time from 4pm AEST of the day on which notice of cancellation is issued but shall not apply to risks, which have attached before the cancellation becomes effective.

Where the premium under the Policy is a flat non-adjustable premium, then upon cancellation the Insurer will refund a pro rata proportion of the premium received for the unexpired period. Otherwise, upon cancellation the Insured is required to declare to the Insurer all insured transits for the period that the Insurer is on risk and any refund of premium due to the Insured or additional premium due by the Insured will be payable after deduction of any minimum deposit premium if applicable.

### Electronic Delivery of Documents and Notices

The Insurer will send Policy documentation and any written notices or correspondence to the Insured, or the Insured's agent, by way of e-mail. If requested by the Insured, the Insurer will provide hard copies of the aforementioned.

### Claims

These claims procedures are important. Failure to follow them might jeopardise a claim under the Policy.

### Claims preparation costs and expenses

The Policy covers the costs and expenses reasonably incurred by the Insured (other than the wages or salaries or Employees and/or contracted staff of the Insured) in appointing any professional claims advisor engaged for the purpose of preparing, verifying, presenting to the Insurer and/or substantiating any claim under the Policy provided that the liability of the Insurer in respect of any one claim shall not exceed \$5,000.

### Documentation

In the event of a claim under the Policy the Insured must provide the following claims documentation to the Insurer and/or their nominated agents:

- a) original insurance certificate(s) (if applicable);
- b) original bill(s) of lading and/or CMR note(s) and/or air waybill(s) and/or consignment note(s) and/or other carriage documentation;
- c) commercial invoice(s) covering the consignment the subject of claim and if not stated on the invoice confirmation of the terms of sale;
- d) copy(ies) duty entry (if applicable);
- e) copy freight invoice(s) (if applicable);
- f) copy(ies) packing list(s), shipping specifications and/or weight notes;
- g) receipts given to vessel's agent or other bailees;
- h) written claim(s) against carrier, bailees and other responsible parties holding them responsible and copies of any replies;
- i) copy(ies) of delivery receipt(s) – claused noting the loss/damage;
- j) quantified claim(s) noting split between value(s) of Interest Insured and duty if applicable;
- k) landing accounts and weight notes at destination;
- l) relevant correspondence with third parties including sellers, buyers, transport or freight companies;

- m) photographs, if available;
- n) any relevant survey report;
- o) quotes for repairs; and
- p) any other relevant documentation.

### General Average

In the event of a General Average claim, the Insurer will need to ascertain the name and contact details of the average adjuster and details of the casualty sustained.

In a General Average situation, the vessel owner has a lien on the cargo in respect of the ultimate contribution to the General Average sacrifices or expenditures. The Insured must secure this lien prior to release of the cargo.

The procedure generally will be as follows:

- a) an average bond or agreement will be sent to the consignee named in the bill of lading by the average adjuster appointed by the vessel owner or its local agent;
- b) this document must be completed and signed by the final receivers of cargo. It is preferred that receivers sign a separate average bond for each bill of lading. If the Insured is the receiver of more than one bill of lading, it will be in order for the Insured to take photocopies of the attached bond and sign those;
- c) it is part of the agreement contained in the bond that the Insured must provide evidence of the value of the Interests Insured. The Insured is therefore required to attach to the bond a copy of the relevant commercial invoice. The Insured must ensure that the currency of the invoice and the terms of sale are clearly shown thereon. Cargo receivers should return the completed and signed average bond, together with a copy of the invoice to the local settling agent for onward submission to the average adjuster.

As security for the lien, the average adjuster will normally ask for the Insurer's guarantee. The Insured should pass the guarantee form together with the bond and supporting documents to Insurer or the local settling agent. They will arrange completion and signing of the guarantee by the Insurer and forward this to the average adjuster with the bond etc. In the event a cash deposit is requested, the Insured must contact the settling agent immediately. The Insured is not to make a cash deposit without the Insurer's prior approval.

In order to avoid delay in obtaining release of cargo, the consignee should immediately notify the settling agent and submit the following documents:

- a) the signed average bond;
- b) the average guarantee;
- c) copy of the commercial invoice(s) and packing list(s);
- d) the original bill(s) of lading;
- e) the original insurance certificate(s) or Policy (if issued); and
- f) correspondence with the average adjuster.

### Immediate action

If there is any loss, damage, event, incident or circumstances that may give rise to a claim under the Policy, the Insured and their agents must:

- a) take reasonable measures to avert or minimize any loss or damage; and
- b) ensure that all rights against carriers, bailees or other third parties are property preserved and exercised.

### Insurable Interest – Important note

Part II Section 12 of the Marine Insurance Act 1909 states:

#### “When interest must attach

1. The assured must be interested in the subject-matter insured at the time of the loss, though need not be interested when the insurance is effected”.

### Minimising loss, responsibilities and costs

If the Insurer accepts liability for any claim, the Insurer will settle it and may attempt to recover from the party responsible for the loss and/or damage. For the Insurer to succeed in a recovery attempt, certain things need to be done as soon as reasonably practicable after the loss and/or damage is discovered.

The Insurer may need the Insured's assistance in answering some queries or supplying documents, or possibly giving evidence if there is a recovery action. If that is the case, the Insurer will pay the reasonable costs associated with the Insured giving that assistance.

- a) In the event of loss and/or damage to the Interests Insured, the Insured, must promptly clause all consignment notes, bills of lading or air waybills accordingly.
- b) Any theft, attempted theft or malicious damage should be reported to the police as soon as practicable and best endeavours are to be made to obtain a crime reference number.

- c) It should be noted that it is the duty of the Insured and their agents in all cases to take such measures as may be reasonable for the purposes of averting or minimising a loss and/or damage and to ensure that all rights against the carriers or other third parties are properly preserved and exercised. Failure to do so may prejudice a claim hereunder. In particular, the Insured or their agents are required:
- i) to promptly make a written claim for all loss on carriers, bailees, port authorities and other third parties;
  - ii) in no circumstances, except where under written protest, to give clean receipts where Interests Insured are in doubtful condition;
  - iii) when delivery is made by container, to ensure that the container and its seals are examined on delivery; and
  - iv) if the container is delivered damaged or with seals broken or missing or with seals other than as stated in the shipping documents, to clause the delivery receipt accordingly and retain all defective or irregular seals for subsequent identification.

The Insurer will (in addition to any claim payable under the Policy) reimburse the Insured for any charges properly and reasonably incurred to minimize any loss or damage. The consignees or their agents should make themselves familiar with the regulations of the Port Authorities at the port of discharge. Failure by the Insured or of their agents to comply with any of these requirements may entitle the Insurer to reduce the amount of (or refuse to pay) any claim.

### Non-contribution

The Policy does not cover any loss damage, liability or expense, event or circumstance giving rise to a claim which at the time of the happening of such loss, damage, liability or expense is insured by or would but for the existence of the Policy be insured by any other existing cargo insurance policy(ies) except in respect of any excess beyond the amount which would have been payable under such other policy(ies) had the Policy not been effected. This does not apply where the Insured is unable to obtain settlement of any legitimate claim from said other policy(ies).

The Insurer under the Policy shall not be liable to pay or contribute if the Insured's claim was or would have been recoverable under any other policy(ies) of insurance but due to breach of warranty, non-disclosure, misrepresentation, breach of condition or non-payment of premium, the Insured is not entitled to receive settlement under such other policy(ies).

### Notification to insurer and required documentation

If there is loss, damage, event, incident or circumstances that may result in a claim under the Policy, the Insured must provide the Insurer with notice of the loss or damage as soon as practicable. To enable claims to be dealt with promptly, the Insured or their agents must submit all available supporting documents without delay.

### Subrogation

Where a claim has been paid under the Policy, the Insurer has the right to take over any legal right of recovery that the Insured may have against other parties. The Insurer may exercise all legal rights of the Insured relating to the claim and may prosecute or defend any legal proceedings in the name of the Insured and have full discretion in the exercise of the Insured's legal rights. The Insured must assist in any recovery action or defence undertaken by the Insurer on behalf of the Insured.

If any lost or stolen Interests Insured for which a claim has been paid are later found or recovered, the Insurer must be informed as soon as reasonably practicable. The Insurer has the right to retain the Interests Insured including any proceeds if they are sold, if the Insured has been fully reimbursed.

If any party pays or reimburses the Insured for any lost or damaged Interests Insured for which the Insurer have paid a claim, this payment must be paid to the Insurer as soon as it is received.

### Waiver or acceptance of abandonment

Measures taken by the Insured with the object of saving, protecting, or recovering Interests Insured shall not be considered as a waiver or acceptance of abandonment or otherwise prejudice the rights of the Insurer or the Insured.

**NSW**

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SURA Marine acts as an agent for Berkshire Hathaway and is authorised to arrange, enter into/bind and administer this insurance on their behalf.

SURA Marine is a trading name of SURA Pty Ltd (SURA)  
ABN 36 115 672 350,  
AFSL 294313

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