



**MARINE**  
**PROTECT**

**FREIGHT  
FORWARDERS  
AND LOGISTICS  
LIABILITY  
INSURANCE  
POLICY**

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

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

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

NTI274 (01/12/2020)

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# INTRODUCTION

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## Important Things You Should Know

Welcome to National Transport Insurance.

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

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

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

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

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

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

## Insurers

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

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

## National Transport Insurance (NTI)

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

# INTRODUCTION

## Features

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

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

Freight Forwarders and Logistics Liability Insurance Policy	
<b>Cover</b>	<p><b>Section 1:</b> Cover for Your liability to third parties for Property Damage to Cargo as a result of an Occurrence in connection with Your Freight Forwarders Activities or Logistics Activities.</p> <p><b>Section 2:</b> Cover for Your liability to third parties arising from Your negligence in providing, or Your failure to provide, advice or information given or required to be given in connection with Your Freight Forwarders Activities or Logistics Activities.</p> <p><b>Section 3:</b> Cover for Your liability to pay fines or penalties imposed on You as a direct consequence of Your inadvertent or unintentional breach of statutory provision or law, subject to that breach arising from the specific circumstances noted within this section and in connection with Your Freight Forwarders or Logistics Activities.</p> <p><b>Section 4:</b> Cover for Your liability to pay for Personal Injury, Property Damage and clean-up costs arising from a sudden and unforeseen Pollution event in connection with Your Freight Forwarders or Logistics Activities.</p> <p><b>NB.</b> Section 2 is provided on a Claims Made basis - Please read Your Policy Wording thoroughly.</p>
<b>Territorial Limits</b>	Anywhere in the Commonwealth of Australia

## Your duty of disclosure

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

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

You do not need to tell us anything that:

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

### If you do not tell us something

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

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

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

### Who must tell Us?

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

# INTRODUCTION

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## Privacy policy

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

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

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

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

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

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

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

## Resolving Your Complaints

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

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

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

### Complaints

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

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

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

### Internal Dispute Resolution

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

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

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

# INTRODUCTION

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## External Dispute Resolution

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

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

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

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

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

The contact details for AFCA are:

### **Australian Financial Complaints Authority**

National Toll Free number 1800 931 678

GPO Box 3 Melbourne VIC 3001

Email: [info@afca.org.au](mailto:info@afca.org.au) Web: [www.afca.org.au](http://www.afca.org.au)

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

## General Insurance Code of Practice

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

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

The Code aims to:

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

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

# DEFINITIONS THAT APPLY TO THIS POLICY

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

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

Word	Meaning
<b>Cargo</b>	means goods and/or merchandise in Your or Your subcontractor's care, custody or control for reward whilst undergoing Freight Forwarders or Logistics Activities. Cargo includes items used to pack, protect or secure the Cargo whilst in transit but, does not include Excluded Cargo, High Risk Cargo, Hazardous Cargo or any Container(s).
<b>Cover</b>	means the benefit and protection provided by this Policy and specified in Your Policy Schedule.
<b>Container</b>	means any demountable carrying unit including ISO shipping containers, tank containers, flat rack, bolster or ULD air container (unit load devices).
<b>Contractor, Sub-Contractor</b>	means any person who is not an Employee engaged in any aspect of the Freight Forwarders or Logistics Activities of any Insured whilst employed by an employment agency, placement agency, labour hire company or any other company or person whose business is or includes the supply and/or provision of labour.
<b>Customs Broker Activities</b>	means consultancy services and activities of a licensed custom broker/agent including interpretation of customs regulations and classification of goods, customs advice or recommendation, processing and/or payment of duties or taxes.
<b>Demurrage Charges</b>	means an agreed pre-estimate of delay charges specified in a contract of carriage.
<b>Employee</b>	means any person engaged in Your Freight Forwarders Activities or Logistics Activities under a contract of service or apprenticeship (other than as specified under clause 2. of Definition of You, Your(s), Insured).
<b>Excess</b>	means the amount specified in Your Policy Schedule You must pay as the first part of any claim unless otherwise stated under the provisions of any applicable product.
<b>Excluded Cargo</b>	means cash, securities, negotiable instruments or other documents representing money or title, bullion, precious metals and/or stones and precious jewellery.
<b>Financial Loss</b>	means financial or economic loss (including Demurrage Charges or loss of freight earnings) of a third party.
<b>Freight Forwarders Activities</b>	means Your activities in the Territorial Scope in respect of the Freight Forwarders operations described in the Policy Schedule including the activities of any canteen, social club, welfare organisation, first aid services or fire service of the named Insured or its subsidiaries, but does not include Logistics Services or Customs Broker Activities.
<b>GST</b>	has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999.
<b>Hazardous Cargo</b>	means any cargo specified as 'Hazardous Cargo' or 'Dangerous Goods' by the current Australian Dangerous Goods Code (ADG) or the current International Maritime Dangerous Goods Code (IMDG).
<b>Headings</b>	when used in Your Policy, are purely descriptive in nature and are not intended to be used for interpretative purposes.



# DEFINITIONS THAT APPLY TO THIS POLICY

Word	Meaning
<b>Health Hazard</b>	means any product, compound, derivation, phenomenon, process or formula, including waste, by-product, noise, smell or vibration, whether or not produced, processed or manufactured by You, which, whether by ingestion, inhalation, absorption or in any other manner causes illness, disease, incapacity or death of any person consequent upon his or her exposure to the aforesaid, over any period of time, whether continuous or intermittent.
<b>High Risk Cargo</b>	means: <ol style="list-style-type: none"> <li>watches with a retail value exceeding \$500 (each);</li> <li>works of art, antiques or curios with a value exceeding \$25,000 (each);</li> <li>cigarettes and processed tobacco products;</li> <li>computers (including mobile, laptop or tablet devices), microchips, microprocessors and central processing units;</li> <li>hand held or mobile electronic communication products including mobile telephones, smart phones, electronic organisers or tablet devices.</li> </ol>
<b>Input Tax Credit</b>	has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999.
<b>Insurance Proposal</b>	means the particulars of insurance completed by You, as Your application for insurance, and submitted to Us either in writing or electronically on which We rely to determine whether to provide You with a Policy, and if so, upon what terms and conditions.
<b>Inventory Loss</b>	means mysterious disappearance or unexplained loss of Cargo in transit or in storage or Cargo loss becoming apparent following audit, stocktake or inventory check.
<b>ISPS Code</b>	means the International Ship and Port Facility Security Code.
<b>Limit of Indemnity</b>	means the amount specified in Your Policy Schedule, which is the maximum amount payable by Us in respect of all types of claims under all parts of the Policy for any one loss or series of losses due to or arising out of one Occurrence, and which is inclusive of all Optional Extensions for which Cover is provided under the Policy and subject to any Sub-Limit of Liability and the application of any Excess.
<b>Living Creatures</b>	means flora and fauna (plants & animals), live, active or viable cultures and bacteria (not including food grade additives), tissue or organs, semen and embryos.
<b>Logistics Activities</b>	means Your activities conducted within the Territorial Scope in respect of the Logistics Operations described in the Policy Schedule but, does not include Customs Broker Activities.
<b>Mobile Plant</b>	means: <ol style="list-style-type: none"> <li>a backhoe, bulldozer, endloader, forklift, industrial crane or hoist, other mobile machinery/equipment, agricultural implement; or</li> <li>a non-motorised machine or implement, and is not a Motor Vehicle.</li> </ol>
<b>Motor Vehicle</b>	means: <ol style="list-style-type: none"> <li>any type of machine designed for use on land only, but not a tramway vehicle, locomotive and rolling stock (but this does not exclude a road going Motor Vehicle with 'wind down' rail wheels that may traverse railway lines); or</li> <li>a trailer;</li> </ol> and is not Mobile Plant.

# DEFINITIONS THAT APPLY TO THIS POLICY

Word	Meaning
<b>National Transport Insurance (NTI)</b>	means National Transport Insurance, a joint venture of the insurers Insurance Australia Limited trading as CGU Insurance ABN 11 000 016 722 AFSL 227681 and AAI Limited Trading as Vero Insurance ABN 48 005 297 807 AFSL 230859 each holding a 50% share.
<b>Occurrence</b>	means any event, including continuous or repeated exposure to substantially the same general conditions, which results in Personal Injury or Property Damage neither expected nor intended by You. All events of a series consequence on or attributable to one source or original cause will be deemed one Occurrence.
<b>Optional Extension</b>	<p>means benefit/s shown under the heading 'Optional Extensions of Cover to this Policy' which are only provided by this Policy if:</p> <ol style="list-style-type: none"> <li>You have specifically requested the benefit; and</li> <li>We have agreed to provide the benefit; and</li> <li>You have paid any additional premium; and</li> <li>the benefit/s are noted as being Covered in the Policy Schedule.</li> </ol> <p>Otherwise, such Cover is excluded.</p>
<b>Period of Insurance</b>	<p>means the period between and includes the dates in Your Policy Schedule shown as 'Insured From/To' during which We provide insurance under Your Policy.</p> <p>Your Policy expires on the date specified in Your Policy Schedule as the 'to' date at 4.00pm Local Standard Time (L.S.T.) of the State or Territory within the Commonwealth of Australia in which Our office issuing Your Policy is located.</p>
<b>Personal Injury</b>	<p>means:</p> <ol style="list-style-type: none"> <li>bodily injury, death, sickness, disability, disease, shock, fright, mental injury, mental anguish or loss of consortium resulting from any of them; and</li> <li> <ol style="list-style-type: none"> <li>false arrest, false imprisonment, malicious prosecution, wrongful eviction, wrongful detention and humiliation;</li> <li>libel, slander, defamation of character;</li> <li>invasion of right of privacy;</li> <li>wrongful entry or wrongful eviction or other invasion of the right of private occupancy;</li> <li>assault and battery committed by You for the purpose of preventing or eliminating danger to persons or property to the extent permitted by law.</li> </ol> </li> </ol>
<b>Policy</b>	means this document, Your Policy Schedule, the Insurance Proposal, any declarations and statements You make to Us and any other notice We give You in writing, all to be read together.
<b>Policy Schedule</b>	means the most current insurance details and attachments to them, issued to You by Us. It sets out Your Policy number, the Policy applying, Excess and any special conditions, endorsements and limits which apply to Your Policy.
<b>Pollution</b>	<p>means discharge, dispersal, release or escape of smoke, vapours, soot, fumes, acids, alkalis, toxic chemicals, toxic liquids, toxic gases, waste materials or other irritants, contaminants or pollutants into or upon any property, land, the atmosphere or any water course or body of water (including ground water).</p> <p>Pollution does not include radioactive material, a Health Hazard or asbestos.</p>

# DEFINITIONS THAT APPLY TO THIS POLICY

Word	Meaning
<b>Premium</b>	means the amount payable by You for this insurance. This does not include any government charges, taxes or duties.
<b>Products</b>	means any goods, product or property (including any components, packaging or container) described in Your Policy Schedule (after they have ceased to be in Your possession or under Your control) manufactured, grown, extracted, produced, processed, assembled, constructed, erected, installed, repaired, serviced, treated, sold, supplied or distributed in or from Australia or its external territories by You, or are deemed by Australian law to have manufactured, in the course of the Business, and includes directions, markings, instructions, warnings or given or omitted advice in connection with such Products, but does not include the design, formula or specification of such Products.
<b>Product Liability</b>	means Personal Injury or Property Damage: <ol style="list-style-type: none"> <li>caused by any defect, or the harmful nature of any of Your Products</li> <li>resulting from any defect or deficiency in any direction or advice given at any time or intended to be given by You concerning the use or storage of Your Products.</li> </ol>
<b>Property Damage</b>	means: <ol style="list-style-type: none"> <li>physical damage to or loss or destruction of tangible property including Financial Loss resulting from such damage, loss or destruction; or</li> <li>loss of use of tangible property which has not been physically damaged or destroyed provided such loss of use is caused by an Occurrence.</li> </ol>
<b>Proposal</b>	means the particulars of insurance completed by You, as Your application for insurance, and submitted to Us either in writing or electronically on which We rely to determine whether to provide You with a Policy, and if so, upon what terms and conditions.
<b>Public Liability</b>	means liability Covered by this Policy but does not include Products Liability.
<b>Security Legislation</b>	means the ISPS Code, the Maritime Transport and Offshore Facilities Security Act 2003 (MTOFSA) and any similar or associated security legislation, regulations or orders.
<b>Sub Limit of Indemnity</b>	means the maximum amount We will pay under a particular part of Your Policy, and will either be specified in the Policy Schedule or within the Policy wording in respect of that Coverage.
<b>Temperature Controlled Cargo</b>	means Cargo maintained at a pre-set or prescribed temperature in order to prevent or arrest decay, spoilage or ruin.
<b>Territorial Limits</b>	means; at and from the locations set out in the Policy Schedule but does not apply to, or insure, any liability or claims arising from or in respect of: <ol style="list-style-type: none"> <li>the Business Activities carried on by You at or from any premises situated outside Australia; or</li> <li>any contract entered into by You under the terms of which work is to be performed outside Australia, other than in respect of the carriage of goods.</li> </ol>
<b>Terrorism</b>	means an act, including but not limited to the use of force or violence (or the threat of force or violence), of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or governments(s), committed for political, religious, ideological ethnic or similar purposes including the intention to influence any government and/or to put the public, or any Section of the public in fear.

# DEFINITIONS THAT APPLY TO THIS POLICY

Word	Meaning
<b>Third Party Property</b>	<p>means any tangible property not owned, leased, rented, hired, chartered or held on consignment by You.</p> <p>Third Party Property does not include Cargo, Container(s), Hazardous Cargo, High Risk Cargo, Excluded Cargo or Living Creatures.</p>
<b>Use As A Tool Of Trade</b>	<p>means use for excavating, digging, grading, scraping, drilling, lifting, pumping, spraying, vacuuming, suction, or like circumstance.</p> <p>It does not include:</p> <ol style="list-style-type: none"> <li>transit on a designated road to or from a work site; or</li> <li>use for road transport or road haulage.</li> </ol>
<b>We/Our/ Ours/Us/ NTI</b>	<p>means National Transport Insurance, administered on behalf of the Insurers by its manager NTI Limited: ABN 84 000 746 109; AFSL 237246.</p>
<b>You/ Your/ Yours/ Insured</b>	<p>for the purposes of this policy means:</p> <ol style="list-style-type: none"> <li> <ol style="list-style-type: none"> <li>the client named in Your Policy Schedule whose place of residence or if a company, whose place of incorporation, is within Australia or its external territories;</li> <li>all subsidiary companies (now or hereafter constituted) of the Policyholder whose place of incorporation is within Australia and whose business falls within the definition of Business</li> <li>any personal representatives in the event of the death of a client but only in respect of liability incurred by the client;</li> <li>any office-bearer committee or member of the client's own canteen sports social and child care facilities or welfare organisations and any member (not being a qualified medical practitioner) of the client's own fire, first aid medical or ambulance service; or</li> <li>any director, partner, executive officer or shareholder of the client or any Employee but only for liability in respect of which the client would have been entitled to indemnity if the claim had been made against the client.</li> </ol> <p>but only in respect of any liability incurred as part of Your Freight Forwarders Activities or Logistics Activities.</p> </li> <li>any party who has entered into a contract or agreement with You for the performance of work or services in connection with Freight Forwarders Activities or Logistics Activities; but only: <ol style="list-style-type: none"> <li>for an Occurrence for which You would be liable in the absence of the contract or agreement; and</li> <li>to the extent that the contract or agreement requires You to indemnify the party in relation to the Occurrence.</li> </ol> </li> </ol>
<b>Your Works</b>	<p>means the performance of construction, reconstruction, alteration, conversion or development of buildings, structures or facilities by You, or on Your behalf.</p>

# THE COVER

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## Our agreement with You

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

Your Policy consists of:

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

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

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

To the extent that Section 1 Covers any compensation, loss, damage, liability, cost or expense which is also Covered under Section 2 (Errors and Omissions), Section 3 (Fines and Penalties), or Section 4 (Pollution Liability and Clean Up), then the claim shall not be Covered under Section 1 and shall instead be Covered only under Section 2 or Section 3, or Section 4, as applicable.

# SECTION 1 - CARGO LIABILITY

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## What You are insured for under Section 1:

### 1. Compensation

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

- a. Physical loss or damage to Cargo. However, Cover is only provided for physical loss or damage to Temperature Controlled Cargo caused by temperature variation whilst it is held within any temperature controlled:
  - i. Road or rail Conveyance;
  - ii. International Standards Organisation (ISO) shipping container; or,
  - iii. Warehouse or cold storage facility owned or operated by you or Your Contractor(s)
- b. Physical loss or damage to non-owned Container(s); or,
- c. Financial Loss directly resulting from physical loss or damage to Cargo and/or Container(s) as set out in 1.a and 1.b above,

as a result of an Occurrence occurring in the Period of Insurance within the Territorial Limits and in connection with Your Freight Forwarders Activities or Logistics Activities if specified in Your Policy Schedule, less the Excess amount specified in Your Policy Schedule as applicable to this Policy.

# SECTION 1 - CARGO LIABILITY

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## 2. Legal Costs / Solicitors Fees / Claimants Costs

In addition We will pay:

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

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

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

### Specific Exclusions that Apply to Section 1 - Liability: Excluded Types of Loss

In addition to the Exclusions that apply to All Sections of this Policy, We will not be liable to indemnify You for in respect of any claims directly or indirectly caused or contributed to by, or in connection with, arising from, or in any way relating to:

- a. Living Creatures;
- b. Wear and tear, ordinary leakage or loss in weight or volume or natural deterioration of the Cargo;
- c. Insufficient or defective packing or preparation of the goods for transport by Your customer or Your customer's agent or subcontractor;
- d. Theft of High Risk Cargo when the value any one occurrence, any one location and/or any one conveyance exceeds \$50,000 including duties and/or taxes;
- e. The release of Cargo to any party claiming it without the production by them of original bills of lading or other transport documents clearly showing their entitlement to the Cargo;
- f. Excluded Cargo;
- g. Physical loss or damage to Cargo caused by temperature variation other than as provided under clause 1.a above.

# SECTION 2 – ERRORS AND OMISSIONS

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## **Important Note: Basis of Cover for Section 2: Claims made and notified basis**

This Section 2 – Errors and Omissions Cover is issued on a 'claims made and notified' basis. This means that Cover will only apply to claims where:

- a. the claim is first made against You during the Period of Insurance and notified to Us during the Period of Insurance, provided that You were not aware at any time prior to the Policy inception of circumstances which would have put a reasonable person in Your position on notice that a claim may be made against You; and,
- b. You provide Us with written notification of facts pursuant to section 40(3) of the Insurance Contracts Act 1984. This provides that where You give Us written notice of facts that might give rise to claim against You as soon as reasonably practicable after You become aware of the facts and prior to the expiry of the Period of Insurance, the policy will respond even though a claim arising from those facts is made against You after the Period of Insurance has expired. For Your information, section 40(3) of the Insurance Contracts Act 1984 is set out below:

*"Where the insured gave notice in writing to the insurer of facts that might give rise to a claim against the insured as soon as was reasonably practicable after the insured became aware of those facts but before the insurance cover provided by the contract expired, the insurer is not relieved of liability under the contract in respect of the claim, when made, by reason only that it was made after the expiration of the period of insurance cover provided by the contract."*

When the Period of Insurance has expired, no new notification of facts can be made on the expired policy even though the Occurrence giving rise to the claim against You may have occurred during the Period of Insurance.

## **What You are insured for under Section 2:**

### **1. Compensation**

We will indemnify You in respect of all sums which You will become legally liable to pay as compensation for Financial Loss solely and directly attributable to any negligent act, error or omission committed or alleged to have been committed by or on behalf of You and in connection with:

- a. The delay in handling Cargo;
- b. Demurrage Charges;
- c. The misdescription of Cargo within any shipping or transport document;
- d. The release of Cargo contrary to instructions;
- e. Unreasonably withholding the release of Cargo; or
- f. Delivery of Cargo to the wrong destination, And subject to the claim against You:
  - i. having first been made during the Period of Insurance; and,
  - ii. such claim having been notified to Us during the Period of Insurance.

### **Notification of Claim or Circumstance**

For the purposes of this Section, if You notify Us in writing of:

- a. any notice received from a person of an intention to make a claim against You; or,
- b. any facts or circumstances of which You become aware which may give rise to a claim against You,

and such notification is given to Us during the Period of Insurance and as soon as reasonably practicable after You receive such notice of intention or become aware of such facts or circumstances, any claim subsequently made against You (whether or not during the Period of Insurance) pursuant to the notice of intention or arising from the facts or circumstances shall be deemed, for the purposes of this Policy and any subsequent policy or policies issued by Us to You, to have been made on the date when You gave written notification to Us.

# SECTION 2 – ERRORS AND OMISSIONS

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## 2. Legal Costs / Solicitors Fees / Claimants Costs

In addition We will pay:

- a. all charges, expenses and legal costs incurred by Us and/or You provided that such charges, expenses and legal costs were incurred with Our written consent in the settlement or defence of any compensation for Financial Loss for which You may be liable under this Policy; and,
- b. Your legal costs of representation at an inquest or inquiry incurred with Our prior written consent.

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

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

### Sub Limit of Indemnity

The maximum amount We will pay in total under clauses 1 and 2 above of this Section 2 – Errors And Omissions, for any one claim and for all claims made during the Period of Insurance, is the Sub Limit of Indemnity applicable of:

- a. Sub Limit of Indemnity specified in Your Policy Schedule under Section 2 – Errors And Omissions; except,
- b. Demurrage Charges which are further limited to the Sub Limit of Indemnity under Section 2 – Errors And Omissions, or \$100,000, whichever is the lesser.

## Specific Exclusions that Apply to Section 2 – Errors and Omissions

### 1. Excluded Causes of Loss

In addition to the Exclusions that apply to All Sections of this Policy, We will not be liable to indemnify You for any claims directly or indirectly caused or contributed to by, or in connection with, or arising from:

- a. Living Creatures;
- b. Wear and tear, ordinary leakage or loss in weight or volume or natural deterioration of the Cargo;
- c. Insufficient or defective packing or preparation of the goods for transport by Your customer or Your customer's agent or subcontractor;
- d. Theft of High Risk Cargo when the value any one occurrence, any one location and/or any one conveyance exceeds \$50,000 including duties and/or taxes;
- e. The release of Cargo to any party claiming it without the production by them of original bills of lading or other transport documents clearly showing their entitlement to the Cargo; or,
- f. Excluded Cargo.

### 2. Other Prior Matters

We will not be liable for any loss, damage, liability, cost or expense, (including without limitation compensation or Section 2. Clause 2. Legal Costs/Solicitors Fees/ Claimants Costs), directly or indirectly caused or contributed to by, or in connection with, arising from, or in any way relating to a claim made against You or threatened or intimated to be made, prior to the Period of Insurance;

- a. a claim or circumstance which may give rise to a claim against You and which was reported to any insurer under any insurance policy entered into prior to the Period of Insurance;
- b. a claim or circumstance which may give rise to a claim against You and which was disclosed to any insurer in any proposal for insurance prior to the Period of Insurance;
- c. a circumstance which may give rise to a claim against You of which You were aware before the Period of Insurance;
- d. an allegation of negligence, error or omission on Your part made prior to the Period of Insurance, whether or not such allegation was made by a person with standing to sue You in respect of the allegation; or,
- e. a claim or circumstance disclosed to Us in the proposal relating to this Policy.



# SECTION 3 – FINES AND PENALTIES

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**Important Note:** This Section 3 – Fines and Penalties is not subject to exclusion 13. Fines and Penalties.

## 1. Cover

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

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

that is imposed on You as a direct consequence of Your inadvertent or unintentional breach of any statutory provision, law or regulation and provided always that the breach relates to:

- i. the importation or exportation of Cargo;
- ii. immigration;
- iii. workplace safety;
- iv. the provision of security; or,
- v. Pollution, but only if the Pollution is caused by a sudden and identifiable Occurrence in the conduct of Your Freight Forwarders Activities or Logistics Activities which takes place in its entirety at a specific time and place.

## 2. Legal Costs / Solicitors Fees / Claimants Costs

In addition We will pay:

- a. all charges, expenses and legal costs incurred by Us and/or You provided that such charges, expenses and legal costs were incurred with Our written consent in the settlement or defence of any fine, penalty, duty, tax or other fiscal liability for which You may be liable under this Policy; and,
- b. Your legal costs of representation at any coroner's inquest or inquiry incurred with Our prior written consent.

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

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

## Sub Limit of Indemnity

The maximum amount We will pay under this Section 3 – Fines and Penalties Cover for any one claim or series of claims caused by or arising out of any one Occurrence is the Sub Limit of Indemnity specified in Your Policy Schedule under Section 3 – Fines and Penalties.

# SECTION 4 - POLLUTION AND POLLUTION CLEAN UP COSTS

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## 1. Cover

We will indemnify You in respect of Your liability to pay compensation for:

- a. Personal Injury;
- b. Property Damage to any Cargo or Third Party Property; and/or
- c. costs to remove, nullify or clean-up any site, caused by Pollution arising from a single event that,
  - i. is sudden and identifiable; and,
  - ii. neither expected nor intended by You; and,
  - iii. first commences during the Period of Insurance; and,
  - iv. takes place in its entirety at a specific time and place; and,
  - v. arose in connection with Your Freight Forwarders Activities or Logistics Activities if specified in your Policy Schedule,

less the Excess amount specified in Your Policy Schedule as applicable to this Section 4 - Pollution and Pollution Clean Up Costs, and provided that the Pollution:

1. did not result from Your intentional and wilful act or violation of any government statute, rule or regulation;
2. was not gradual; and/or
3. did not result from the continuous or repeated Occurrence or substantially similar Occurrences; and/or
4. did not result from any sub-surface (land or water) operations including but not limited to digging, mining, dredging, depositing of spoil or drilling; and/or
5. did not occur within the United States of America, Canada and their respective protectorates and territories.

## 2. Legal Costs / Solicitors Fees / Claimants Costs

In addition We will pay:

- a. all charges, expenses and legal costs incurred by Us and/or You provided that such charges, expenses and legal costs were incurred with Our written consent in the settlement or defence of any claim for compensation for which You may be liable under this Policy; and,
- b. Your legal costs of representation at any coroner's inquest or inquiry incurred with Our prior written consent.

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

Nothing in this Section 4 - Pollution and Pollution Clean Up Costs shall operate to provide coverage for fines, penalties, punitive or exemplary damages howsoever described.

## Sub Limit of Indemnity

The maximum amount We will pay under this Section 4 - Pollution and Pollution Clean Up Costs for any one claim or series of claims caused by or arising out of any one Event is the Sub Limit of Indemnity specified in the Policy Schedule Section 4 - Pollution and Pollution Clean Up Costs.

# AUTOMATIC EXTENSIONS OF COVER TO THIS POLICY

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

## 1. Cross Liability

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

## 2. Acquired Companies

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

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

# CONDITIONS THAT APPLY TO THIS POLICY

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## 1. Standard Terms and Conditions

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

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

## 2. Your Duty of Disclosure

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

You have this duty until We agree to insure You.

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

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

# CONDITIONS THAT APPLY TO THIS POLICY

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## **If You do not tell Us something**

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

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

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

## **3. Due Observance**

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

## **4. Premiums and Declarations**

The Premium payable under this Policy is based on the estimated gross earnings and information provided by You in the Proposal or declaration for the Period of Insurance in relation to the extent of Your Freight Forwarders Activities. Unless otherwise agreed:

- a. If the deposit Premium is \$10,000 or less, the deposit Premium will be regarded as the minimum Premium for the Period of Insurance shown in the current Policy Schedule and no adjustment or declaration of actual earnings figures is required;
- b. If the deposit Premium is more than \$10,000 You must supply a declaration of gross earnings within three (3) months of the expiry of the Period of Insurance. An adjustment will be made to the deposit Premium, based on rates agreed at the beginning of the Period of Insurance. If the adjusted Premium exceeds the deposit Premium, You must pay the difference to Us.

If the adjusted Premium is lower than the deposit Premium, We will pay the difference to You but subject to any minimum Premium for the Period of Insurance shown in the current Policy Schedule.

Your declaration of gross earnings must be Your total gross earnings, including amounts paid or payable, in relation to Your Freight Forwarders and Logistics Activities during the Period of Insurance, and must include the value of all services supplied by You as part of those activities.

## **5. Inspection of Books**

You are required to keep accurate records of all gross earnings, including amounts paid or payable, from Your Freight Forwarders Activities or Logistics Activities and on request provide us with an audited copy of these records.

If we request an audited copy of these records and this is not available, we may appoint an auditor, at our discretion, and You must make all relevant records available to the auditor.

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

## **6. Alteration of risk**

You must provide Us with immediate written notice of:

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

# CONDITIONS THAT APPLY TO THIS POLICY

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## 7. Cancellation

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

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

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

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

## 8. Goods and Services Tax

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

## 9. Government Taxes and Duties

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

## 10. Law & Jurisdiction

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

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

## 11. Notices

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

# CONDITIONS THAT APPLY TO THIS POLICY

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## 12. Other Insurances

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

## 13. Causing Or Contributing To Loss

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

## 14. Reasonable Care

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

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

## 15. Subrogation

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

## 16. Right of Recovery

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

## 17. Other Interested Parties

- a. Your Policy does not provide insurance in respect of the interest of any person or entity not named in Your Policy Schedule. We will however recognise a government agency or Your personal representative in the event of Your death or incapacity whether temporary or permanent.
- b. All persons entitled to any benefit under Your Policy will be bound by the terms of Your Policy.

## 18. Assignment of Interest

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

# CONDITIONS THAT APPLY TO THIS POLICY

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

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

## **20. Prohibited By Law**

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

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

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

## **22. Contribution to Costs**

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

## **23. Medicare Notification**

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

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

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

# CLAIMS RESPONSIBILITIES THAT APPLY TO THIS POLICY

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

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



# EXCLUSIONS OF THIS POLICY

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

## 1. Sanction Limitation and Exclusion Clause 1.6.11

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

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

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

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

## 3. Asbestos

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

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

## 4. Transport Operations (Aircraft, Watercraft & Railway stock)

the ownership, use, possession, management, operation, hire, charter, maintenance, refuelling, service or repair by You or on Your behalf of any:

- a. aircraft or hovercraft;
- b. vessel meaning any maritime vessel, boat, watercraft or other description of vessel or structure intended to float or used for navigation on, under or in water; or,
- c. railway rolling stock - locomotive, railcar or rail-vehicle.

# EXCLUSIONS OF THIS POLICY

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## 5. Contractual Liabilities

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

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

## 6. Customs Broker Activities

Customs Broker Activities.

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

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

## 8. Directors and Officers Liability

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

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

## 9. Dishonesty

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

## 10. Erection, Dismantling and/or Installation

the erection, dismantling and/or installation of Cargo or machinery and equipment.

## 11. Hazardous Cargo

Hazardous Cargo, unless:

- a. specifically agreed to in writing by Us; or,
- b. You were not made aware of or, in the ordinary course of Your business, You could not reasonably be aware of the nature or type of cargo to be handled or in Your care custody or control,

in which case, the maximum amount We will pay for any one claim or series of claims caused by or arising out of any Event, and in total during the Period of Insurance, is \$100,000 or the Sub Limit of Liability specified in the Policy Schedule.

# EXCLUSIONS OF THIS POLICY

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## 12. Inventory Loss

Inventory Loss unless you can show to our satisfaction that such loss resulted from theft.

## 13. Fines and Penalties

Except and to the extent of cover specifically provided in Section 3 - Fines and Penalties, liability is specifically excluded for breach of any statute, law or regulation:

- a. in respect of ownership, lease or operation of a mechanically propelled vehicle that is required to be licensed or permitted to be licensed for use on a public road;
- b. in respect of overloading any mechanically propelled vehicle, carrying or lifting equipment unless such breach relates to workplace safety regulations;
- c. in respect of freight tariffs, fair trading or anti-competitive behaviour.

## 14. Health Hazard

a Health Hazard.

## 15. Heat Application and Cutting

welding and/or cutting not carried out in accordance with Australian Standard AS1674 (Cutting and Welding Safety Code) and its amendments.

## 16. Your Works

Your Works.

## 17. Libel and Slander

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

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

## 18. Lifting Capacity

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

## 19. Other Insurance

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

## 20. Overseas Actions

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

## 21. Ownership or Control

any person or organisation who lawfully destroys, or assumes ownership or control of, any Cargo, Living Creature, High Risk Cargo, Excluded Cargo, Hazardous Cargo or Third Party Property.

# EXCLUSIONS OF THIS POLICY

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## 22. Performance

- a. a delay or lack of performance by You or on Your behalf of any contract or agreement, except as provided in Section 2 - Errors and Omissions Cover.
- b. the failure of Your work to meet the level of performance, quality, fitness, suitability or durability expressly or impliedly warranted or represented by You.

## 23. Personal Injury to Contractors

Personal Injury to any Contractors.

## 24. Personal Injury to Employees

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

## 25. Product Liability

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

## 26. Professional Duty

any professional advice or service or Your failure to render professional advice or service, but this Exclusion does not apply to Cover as provided by Section 2 - Errors and Omissions.

## 27. Punitive Damages

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

## 28. Statutory Obligations

the failure to comply with any legal and/or statutory obligations or regulations, including the ISPS Code or Security Legislation, imposed by any government, local or public authority, where such failure to comply is a direct or indirect cause of the loss except as provided in Section 3 - Fines and Penalties.

## 29. Terrorism

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

## 30. Unlawful Activities

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

# EXCLUSIONS OF THIS POLICY

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## 31. Motor Vehicles

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

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

However to the extent that any Cover is provided by this Policy, this Exclusion will not apply to Personal Injury or Property Damage which arises out of:

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

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

## 32. War and Strikes

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

## 33. Silica

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

## 34. Communicable or Infectious Disease

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





**NATIONAL OFFICE**

Level 36, 300 George Street  
Brisbane QLD 4000  
PO Box 13550 George Street  
QLD 4003  
T: 07 3292 9800  
F: 07 3292 9900

[nti.com.au](http://nti.com.au)

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