

Carriers Cargo Liability Insurance

Policy Wording



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Welcome to Zurich

About Zurich

The insurer of this product is Zurich Australian Insurance Limited (ZAIL), ABN 13 000 296 640, AFS Licence Number 232507. In this document, ZAIL may also be expressed as 'Zurich', 'we', 'us' or 'our'.

ZAIL is part of the Zurich Insurance Group, a leading multi-line insurance provider with a global network of subsidiaries and offices. With about 60,000 employees, the Zurich Insurance Group delivers a wide range of general insurance and life insurance products and services for individuals, small businesses, and mid-sized and large companies, including multinational corporations, in more than 170 countries.

Duty of Disclosure

Before you enter into a contract of general insurance with us, you have a duty under the Insurance Contracts Act 1984 (Cth) to disclose to us every matter you know, or could reasonably be expected to know, is relevant to our decision whether to insure you and, if so, on what terms. This applies to all persons to be covered under this contract of insurance.

You have the same duty to disclose those matters to us before you renew, extend, vary or reinstate a contract of general insurance. This duty however, does not require disclosure of a matter that:

- diminishes the risk to be insured;
- is of common knowledge;
- we know or in the ordinary course of our business we ought to know;
- we indicate to you that we do not want to know.

Non-disclosure or Misrepresentation

If the *insured* makes a misrepresentation to us, or if they do not comply with this duty of disclosure and we issue the policy with terms and conditions that are different to the terms and conditions that would have been issued had there not been any misrepresentation, or the *insured's* duty of disclosure had been complied with, then:

- we may reduce the cover provided so that we are placed in the same position as we would have been in, had there not been any misrepresentation and the *insured's* duty of disclosure had been complied with; and
- we may also cancel the policy; or
- we may treat the policy as if it never existed if the misrepresentation or the non-compliance with the *insured's* duty of disclosure was fraudulent.

Our contract with you

This policy is a contract of insurance between the *insured* and Zurich and contains all the details of the cover we provide.

This policy is made up of:

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

Please note, only those covers shown in the *schedule* are insured. Please keep this policy in a safe place. We reserve the right to change the terms of this product where permitted to do so by law.

Carriers Cargo Liability Insurance

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

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

1. The cover

We insure *you* for loss of or damage to *goods*, or *death* of livestock on conditions as set out in the *schedule*.

When the cover applies

The insurance only applies to transits that commence during the *period of insurance* specified in the *schedule*, or during any subsequent period that we have accepted payment for.

1.1 We insure *you* against *your* liability for:

1.1.1 loss of or damage to *goods*; and

1.1.2 delay, loss of market or consequential loss caused solely by the loss of or damage to *goods*,

that occurs while the *goods* are in *your* custody or the custody of *your subcontractors*, within the radius of transit as specified in the *schedule*.

1.2 Provided *you* have an effective process and practice of incorporating *your* standard terms and conditions into a contract of carriage as approved by us, if *you* unintentionally fail to incorporate those approved standard terms and conditions into a contract of carriage, this policy will, nevertheless, insure *your* liability.

2. Conditions of cover

2.1 Conditions of insurance

The conditions of insurance are as specified in this policy wording, the *schedule* and attachments and any clauses referred to in the *schedule*, all of which are to be read together.

2.2 Limits on cover

2.2.1 This insurance is limited to the maximum liability stated in the *schedule* for any one loss or series of losses arising from the same event.

2.2.2 If an excess is specified in the *schedule* *you* must bear that amount first in respect of a claim under this policy.

3. Extensions of cover

3.1 Legal costs

If an event insured against in either 1.1 or 1.2 occurs, in addition to the sum insured we will pay legal costs incurred with our written consent.

3.2 Removal of debris

If an event insured against in either 1.1 or 1.2 occurs, in addition to the sum insured we will pay for *removal of debris* up to a limit of \$50,000.

4. Optional extension of cover

If shown in the *schedule*, the insurance is also against the following event:

4.1 Subcontractors

This insurance is extended to cover the liability of *your subcontractors* carrying on *your* behalf as if the *subcontractor* were *you*.

5. Definitions

When used in this policy, *schedule* or endorsements the following definitions will apply:

5.1 Death

death means the expiration of livestock or their slaughter for humane reasons following injury.

5.2 Expropriation

expropriation means the lawful seizure, confiscation, nationalization or requisition of the *goods*.

5.3 Goods

goods means the subject matter insured, belonging to a third party, including livestock, shipping containers, flatracks and packaging.

5.4 Insured, You, Your

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

5.5 Nuclear or radioactive

nuclear or radioactive means the ionising radiations from or the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter or nuclear waste, weapon, device, fuel, installation, reactor or any component of these.

5.6 Period of insurance

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

5.7 Removal of debris

removal of debris means if an insured event occurs we will pay the cost of removal and disposal of damaged *goods* or dead livestock including the cost of cleaning the accident site but does not mean any expense or liability of any kind incurred as a result of the actual or potential discharge, emission, spillage or leakage of any liquid or gas pollutant of any kind or nature beyond the road surface and the road verge at the accident site.

5.8 Schedule

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

5.9 Storage

storage means the period of time *goods* are retained at *your* warehouse or other premises on the instruction or at the election of the owner of the *goods*. *Storage* does not include any period of time the insured *goods* are awaiting trans-shipment or on carriage or the livestock are being rested.

5.10 Subcontractor

subcontractor means the person or company to whom *you* have given the *goods* for carriage.

5.11 Terrorism

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

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

5.11.2 putting the public or any section of the public in fear,

in circumstances in which it is reasonable to conclude that the purpose(s) of the person(s) or organisation(s) concerned are wholly or partly of a political, religious, ideological or similar nature.

5.12 War or warlike activities

war or warlike activities means invasion, act of foreign enemy, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection or civil strife following any of these.

6. Exclusions

The insurance does not cover *your* liability for loss, damage or expense that:

- 6.1 occurs;
 - 6.1.1 during *storage* at the election of, or on the instruction of, the owner of *goods*;
 - 6.1.2 because the conveying vehicle is driven by a person impaired by drugs or alcohol or whose blood alcohol concentration exceeds the legal limit or who refuses an appropriate test unless *you* did not know or could not reasonably have known of the driver's impaired condition;
- 6.2 or arises from:
 - 6.2.1 intentional loss or damage by *you* or *your subcontractors*;
 - 6.2.2 *war or warlike activities*;
 - 6.2.3 *expropriation*;
 - 6.2.4 anything *nuclear or radioactive*;
 - 6.2.5 any chemical, biological, bio-chemical or electromagnetic weapon;
 - 6.2.6 *terrorism*; or
 - 6.2.7 fines, penalties or punitive damages.

7. Claims conditions

7.1 Claims procedure

When loss or damage happens which may give rise to a claim under this policy, *you* should take all reasonable measures to avert or minimise the loss and ensure that all rights against any third parties are properly preserved and exercised.

- 7.1.1 If the event involves theft, or an accident has occurred involving a vehicle owned or operated by *you* or *your subcontractors* and another vehicle, *you* must notify the police as soon as possible and, if we request, obtain a written police report.
- 7.1.2 *You*, or any anyone else entitled to make a claim under this policy, must not admit liability or pay or offer to pay any claim without our written consent. *You* must deny liability in writing if entitled to do so in accordance with the terms and conditions of carriage for any claim made on *you*.
- 7.1.3 *You* must notify us immediately of what has happened and send us full details of the event, forwarding any letters or documents giving notice of a claim to be made on *you*, together with a copy of *your* written denial of liability within 30 days.
- 7.1.4 *You* must not authorise any repairs to the goods without our consent.

7.2 Claims settlement

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

- 7.2.1 Goods and Services Tax
In respect of any *goods*, services or other supply which are the subject of a claim under this policy we will pay the claimant for that GST liability. However:
 - (a) where we make a payment under this policy for the acquisition of *goods*, services or other supply, we will reduce the payment by the amount of any input tax credit the claimant is, or will be, or would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 in relation to that acquisition whether or not the acquisition is actually made; or
 - (b) where we make a payment under this policy as compensation for the acquisition of *goods*, services or other supply, we will reduce the payment by the amount of any input tax credit the claimant would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 had the payment been applied to acquire such *goods*, services or supply.

7.2.2 Foreign currency invoice

If the amount of a claim is to be calculated based on an invoice in a currency other than Australian dollars, the claim will be paid in Australian dollars at the rate of exchange current at the date the loss or damage occurred.

7.3 Excess

In the event of a claim *you* must bear first the amount of any excess specified in the *schedule* or elsewhere in the policy wording.

7.4 Other insurance

When making a claim on this policy *you* must also supply us with written details of all policies that may pay or partially pay that claim.

7.5 Rights of subrogation

We are entitled to exercise any rights *you* may have against anyone else in relation to the *goods* for which we have settled a claim under this policy. *You* must cooperate fully with us in exercising those rights and must give us any information or assistance we may require.

8. General conditions

8.1 Applicable legislation

To the extent that this policy covers risks governed by Insurance Contracts Act 1984 (Cth).

8.2 Australian law and jurisdiction

This policy is subject to Australian law and jurisdiction.

8.3 Cancellation

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

8.3.2 We may cancel this policy by giving *you* 30 days notice in writing. However, we may only do so in the circumstances set out in section 60 of the Insurance Contracts Act 1984 (Cth).

8.3.3 Within 30 days of the effective date of cancellation *you* must advise us of the actual figures for the period the policy has been in force to enable us to calculate the premium due for this period. The difference between this premium and the deposit premium will either be paid by or allowed to *you* but subject to retention by us of 75 per cent of the proportionate part of the original estimated annual premium regardless of the period the policy has been in force.

8.4 Conduct of claims

We are entitled to:

8.4.1 conduct on *your* behalf any legal proceedings or negotiations relating to claims made against *you*;

8.4.2 authorise *you* to defend any legal proceedings brought against *you* on the understanding that we will be kept fully informed and will be consulted and will participate in decision-making regarding liability or any negotiations with other parties; and

8.4.3 exercise any rights *you* may have against anyone else in relation to *goods* for which we have paid any amount under this policy.

You, and anyone else entitled to claim under this policy, must cooperate fully with us in exercising these rights and must give us any information or assistance we may require.

8.5 Notification of material change

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

8.6 Plurals and titles

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

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

8.6.2 singular includes the plural, and vice versa; and

8.6.3 the male includes the female and neuter.

8.7 Premium and adjustments

You must pay us the deposit premium stated in the *schedule*. This is based on estimated figures for the *period of insurance* provided by *you* and *you* must keep accurate records of the equivalent actual figures. A statement of these actual figures (audited if requested) must be given to us within one month after the end of the *period of insurance*.

We will adjust the premium proportionally at the end of that period on the basis of *your* actual figures.

8.7.1 If the adjusted premium is higher than the deposit premium stated in the *schedule* *you* must pay us the difference unless the deposit premium is less than \$25,000 and the variation between estimated and actual figures for the period is less than 10 per cent when no difference in premium is payable.

8.7.2 If the adjusted premium is lower than the premium stated in the *schedule* we must pay the difference to *you*. However, we are entitled to retain 75 per cent of the estimated annual premium the deposit premium was based on.

8.8 Reasonable care

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

8.9 Sanctions regulation

Notwithstanding any other terms or conditions under this policy, Zurich shall not be deemed to provide coverage and will not make any payments nor provide any service or benefit to any *insured* or any other party to the extent that such cover, payment, service, benefit and/or any business or activity of the *insured* would violate any applicable trade or economic sanctions, law or regulation.

8.10 Third parties

If anyone else is entitled to make a claim under this policy, that person and/or entity must also comply with its terms.

8.11 Transfer

You may only transfer a right under this policy with our written consent.

8.12 Variation to normal conditions of carriage

If *you* intentionally agree to carry *goods*, either as a principal or a subcontractor, under any different terms and conditions to those in *your* standard consignment note as approved by us, this policy will only insure *your* liability as if the *goods* were carried subject to *your* usual terms and conditions unless we have agreed to extend this policy to provide insurance subject to such different conditions of carriage.

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