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Logistics Operators Liability Insurance – Policy Wording

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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 55,000 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 an insurance contract, you have a duty to tell us anything that you know, or could reasonably be expected to know, may affect our decision to insure you and on what terms.

You have this duty until we agree to insure you.

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

You do not need to tell us anything that:

• reduces the risk we insure you for; or
• is common knowledge; or
• we know or should know as an insurer; or
• we waive your duty to tell us about.

If you do not tell us something
If you do not tell us anything you are required to, we may cancel your contract or reduce the amount we will pay you if you make a claim, or both.

If your failure to tell us is fraudulent, we may refuse to pay a claim and treat the contract as if it never existed.

Our contract with you
This policy is a contract of insurance between the insured and Zurich and contains all the details of the cover that we provide.

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

Please note, only covers shown in the schedule are insured. This document is used for any offer of renewal we may make, unless we tell you otherwise. Please keep your policy in a safe place. We reserve the right to change the terms of this product where permitted to do so by law.
Logistics Operators 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. Insuring Clauses
Subject to the limit of liability and the terms and conditions of this policy, we will pay all sums which you become legally liable to pay resulting from an occurrence happening during the period of insurance and arising out of your insured operations for:

1.1 Cargo liability
physical loss or damage to cargo and for consequential loss resulting from such loss or damage.

1.2 Third party liability
liability to third parties for:

1.2.1 Property damage
physical loss or damage to property of any third party including ships, locomotives, rolling stock and equipment and any consequential loss, loss of use, delay or demurrage resulting from such physical loss or damage.

1.2.2 Personal injury
personal injury to any third party including consequential loss resulting from such personal injury (including any claim for indemnity brought against you by a subrogated insurer/claimant pursuant to any Workers’ Compensation or Employers’ Liability Insurance of any such injured person).

1.3 Fines and penalties
1.3.1 fines, customs duty, sales tax, excise tax or other penalties or fiscal charges imposed by a government or authority, provided that such liability arises from an unintentional breach of the statute, law or regulation by you, or your contractors;

1.3.2 your loss arising from confiscation by a government or authority of any property of any person, including your equipment, as a consequence of your breach of any statute, law or regulation in the circumstances described in clause 1.3.1 (including any breach by a person);

1.3.3 liability or loss arising from confiscation by a Government or Authority under clauses 1.3.1 and 1.3.2, provided that the statute, regulation, or law that is breached regulates:

(a) the importation or exportation of cargo;

(b) the importation or exportation of equipment other than equipment owned by you or equipment in the process of acquisition or disposal by you;

(c) immigration;

(d) security or anti terrorism;

(e) workplace safety; and

(f) pollution.

However, we will not indemnify you in respect of fines and penalties as set out in Exclusion 6.3 ‘Fines and penalties’.
1.4 Pollution liability

1.4.1 any compensation to *third parties* for *personal injury* or physical loss or damage to property arising from any *pollution incident*;

1.4.2 any expense or cost incurred in removing, preventing, mitigating or cleaning up any *pollution* following a *pollution incident*;

1.4.3 any fine or penalty that arises from any *pollution incident* unless a competent court or tribunal determines that it is illegal or contrary to public policy for you to be insured against such liability or loss.

However, cover is specifically excluded for any *sub-surface operations liability* or *contaminated land liability*.

1.5 Errors and omissions

Financial loss, loss of use or *consequential loss* arising from an error or omission including wrongful delivery of *cargo*, delay or *demurrage*.

2. Limits of Liability

Zurich’s liability to indemnify you for any losses, damages or liabilities as a result of an *occurrence* will not exceed the limit of liability shown in the *schedule*.

Unless otherwise stated in the *schedule* our liability to indemnify you for any loss, damage or liability as the result of an *occurrence* arising out of property in *your* care, custody and control is limited to $1,000,000.

Our total aggregate liability any one *period of insurance* to indemnify you for any losses, damages or liabilities in respect of or in any way related to *valuable cargoes* is $250,000 unless otherwise stated in the *schedule*.

Our total aggregate liability any one *period of insurance* to indemnify you for any losses, damages or liabilities in respect of, or in any way related to, any *temporary hire agreement* is $100,000 unless otherwise stated in the *schedule*.

Our total aggregate liability any one *period of insurance* to indemnify you for any losses, damages or liabilities in respect of, or in any way related to, a *pollution incident* is $1,000,000 unless otherwise stated in the *schedule*.

Our total aggregate liability any one *period of insurance* to indemnify you for any liability in respect of or in any way related to a *errors and omissions* is $500,000 unless otherwise stated in the *schedule*.

3. Extension of Cover

Zurich will, in addition to the Limits of Liability shown in the *schedule*, *cover you for*:

3.1 Defence and costs cover

3.1.1 *approved legal costs and expenses* incurred by *you* in the defence of any liability insured under this policy;

3.1.2 *approved legal costs and expenses* incurred by *you* with the reasonable expectation of avoiding or mitigating a potential liability insured under this policy including representation before any court, tribunal or investigative body;

3.1.3 *approved costs and expenses* incurred by *you* in disposing of *cargo* or property following an *occurrence*;

3.1.4 *approved costs and expenses* incurred by *you* in discharging *your* legal obligations in respect of quarantine, fumigation or disinfection of *cargo*, ships, rolling stock, containers or equipment as a result of an *occurrence*. 
4. **Optional Additional Benefits**

The *optional additional benefits* are only applicable to this policy if we have agreed to provide the cover to you, you have paid any additional premium required and the *optional additional benefit* is noted as being covered in the *schedule*. Otherwise such cover is excluded.

4.1 **Consultancy services**

*Your contractual liability* to compensate *third parties* for losses, including financial loss or loss of income, arising from consultancy services provided by you in relation to logistics management during the *period of insurance* provided your liability is specifically excluded for any *liquidated damages* or claim by any *third party* for indemnity for *liquidated damages*.

Provided always that any contract you may have in place for consultancy services has been approved by us in writing and noted in the *schedule* prior to any *occurrence*.

4.2 **Infringement of personal rights liability**

*Your* legal liability to compensate *third parties* for false arrest, detention or imprisonment, libel, slander, defamation, eviction, invasion of privacy or any public or private nuisance.

4.3 **Tenant’s legal liability**

4.3.1 *Your* legal liability to compensate *third parties* for physical loss or physical damage to *premises* leased or rented by you as tenant where such physical loss or damage is caused following an *occurrence*.

4.3.2 This *optional additional benefit* does not cover or attach to any *premises* owned by you and leased or rented to any *third party* nor to any *premises* leased by you and sub-leased or rented to any *third party*.

5. **Definitions**

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

5.1 **Approved costs and expenses**

*approved costs and expenses* mean costs and expenses that you notify to us and obtain our agreement to pay in advance of you incurring them and which are in any event properly and reasonably incurred.

5.2 **Approved legal costs and expenses**

*approved legal costs and expenses* mean legal costs and expenses that you notify to us and obtain our agreement to pay in advance of you incurring them and which are in any event properly and reasonably incurred.

5.3 **Cargo**

*cargo* means goods, including anything (other than items supplied by you) used, or intended to be used, to pack or secure goods carried from one place to another place in respect of which you contract to provide services, or in which you have an insurable interest.

5.4 **Carrying or lifting equipment**

*carrying or lifting equipment* means an item of equipment used for lifting, carrying or moving of *cargo* including any item of equipment mounted on a vehicle for the purpose of lifting or securing *cargo* but not a shipping container, aircraft, ship or train.

5.5 **Co-assured**

*co-assured* means any legal entity noted in the *schedule* as Co-assured.

5.6 **Consequential loss**

*consequential loss* means loss of income, loss of profit, loss of opportunity, market loss, loss from business interruption or any other economic loss.
5.7 Construction activity

_construction activity_ means construction of any building, infrastructure or civil works including refurbishment but not land reclamation activity that is not otherwise part of any _construction activity_.

5.8 Contaminated land liability

_contaminated land liability_ means any legal liability, fine, penalty, clean-up costs or expenses relating to the contamination of any land, including sub-surface land, unless arising from a _pollution incident_.

5.9 Contraband

_contrad band_ means any _cargo_ that is unlawful to import and/or export or _cargo_ that is imported or exported in an unlawful way.

5.10 Contractual liability

_contractual liability_ means civil liability incurred by _you_ through entering into a contract.

5.11 Contractors

_contractors_ means _your_ contractors and subcontractors and, where the context requires, their respective servants and agents.

5.12 Dangerous cargo

_dangerous cargo_ means any _cargo_ specified as such in the Australian Dangerous Goods code (ADG) or in the International Maritime Dangerous Goods Code (IMDG) or which may become a _dangerous cargo_ while in _your_ possession or control for whatever reason.

5.13 Declared value cargoes

_declared value cargoes_ mean any _cargo_ received by _you_ for carriage, storage or handling purposes that are declared by the shipper to have a specific value, Ad Valorem, for carriage.

5.14 Deliberate, reckless or wilful conduct

_deliberate, reckless or wilful conduct_ means any conduct being an act or omission to act where such act or omission is with intent to cause loss or recklessly and with knowledge that such loss would probably result.

5.15 Demurrage

_demurrage_ means the agreed pre-estimate of losses for delay as specified in a contract.

5.16 Gross charges

_gross charges_ means total charges (collected or uncollected) made by _you_ during the _period of insurance_ and included in the annual revenue as stated on _your_ annual profit and loss statement/statement of financial performance. No deduction will be made from the _gross charges_ in respect of any sub-contracted work. _You_ agree to keep a complete and accurate record of all _gross charges for insured operations_ for examination by _us_ or our representatives and further agree to make an annual report of collected and uncollected charges to _us_ within 30 days after the expiration of this policy.

5.17 Insured location(s)

_insured location(s)_ means location(s) at which _you_ conduct an _insured operation_ that has been noted in _your_ proposal, accepted by _us_ and stated in the _schedule_.

5.18 Insured operation(s)

_insured operation(s)_ means operation, including services, that have been noted in the proposal form and accepted by _us_ and noted in the _schedule_. _Insured operations_ may include:

5.18.1 the provision and management of canteens, social, sports and welfare or organisations or educational facilities which are primarily for the benefit of _your_ employees;

5.18.2 first aid, medical, ambulance and fire services.
5.19 **ISPS code**

*ISPS code* means the International Ship and Port Facility Security Code as in force from time to time.

5.20 **Liquidated damages**

*liquidated damages* means any pre-estimate of damages contained in any contract for any breach of such contract.

5.21 **Occurrence**

*occurrence* means an event, including continuous or repeated exposure to substantially the same general conditions, which results in loss, damage, liability or costs neither expected nor intended by you. All claims that result from one original source, or one original cause, shall be considered to have been caused by a single *occurrence*.

5.22 **Optional additional benefits**

*optional additional benefits* means the optional cover set out in the various extensions of cover available under Section 4.

5.23 **Optional additional benefits deductible**

*optional additional benefits deductible* means any claim recoverable under any *optional additional benefits* will be subject to the deduction of the sum as stated in the *schedule* in respect of your ultimate net loss resulting from any one *occurrence*.

5.24 **Optional additional benefits premium**

*optional additional benefits premium* means the premium payable in respect of any *optional additional benefits* stipulated by us and stated in the *schedule*.

5.25 **Optional additional benefits sub-limit**

*optional additional benefits sub-limit* means the maximum amount we will indemnify you for your liabilities arising under the benefit as a result of any one *occurrence* in any one *period of insurance*.

5.26 **Overload or overloaded**

*overload or overloaded* means whenever the safe working load specified by the manufacturer or other competent person or responsible authority for any equipment is exceeded.

5.27 **Period of insurance**

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

5.28 **Personal injury**

*personal injury* means:

5.28.1 bodily injury, death, sickness, disease, illness, disability, shock, fright, mental anguish or mental injury;

5.28.2 assault and battery committed with reasonable force by you or at your direction for the purpose of prevention or eliminating danger to persons or property;

and includes hospital, funeral and medical expenses.

5.29 **Pollutant**

*pollutant* means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste including, but not limited to, oil, petroleum products, chemicals or other substances of any kind or nature whatsoever. Waste includes material to be recycled, reconditioned or reclaimed.
5.30 Pollution incident

*pollution incident* means a sudden and accidental event constituting the actual or potential discharge, emission, spillage or leakage upon or into the seas, waters, land or air anywhere in the world of any *pollutant*, that give rise to a *pollution incident* where:

5.30.1 it is an identifiable specific incident;
5.30.2 the specific incident occurred during the *period of insurance* on an identifiable date at a specific time;
5.30.3 the specific incident was discovered by you within 10 days of the specific time that it occurred; and
5.30.4 the specific incident was not caused by your deliberate, reckless or wilful conduct.

5.31 Premises

*premises* means a piece of land or real property identified by its legal title together with its buildings and infrastructure.

5.32 Product

*product* means anything which was, or is deemed by law to have been, manufactured, grown, extracted, treated, produced, processed, sold, supplied, distributed, imported, exported, repaired, serviced, renovated, installed, assembled, erected or constructed in the course of the *insured operation* by you or on your behalf including labels, packaging or containers (but not a vehicle) and any directions, instructions or advice given or omitted to be given in connection with such *product* after it ceases to be in your possession or under your control.

5.33 Product liability

*product liability* means your legal liability to pay compensation in respect of loss or damage, death or personal injury arising directly or indirectly from the manufacture, sale or supply of any defective *product* by you.

5.34 Schedule

*schedule* means the most recent document we give you setting out details of your insurance cover. We give you a schedule when you:

5.34.1 first buy the policy from us;
5.34.2 change any part of the policy or any details relevant to it;
5.34.3 renew the policy with us.

5.35 Security legislation

*security legislation* means the *ISPS Code*, the Maritime Transport and Offshore Facilities Security Act and any other similar or associated regulations or orders.

5.36 Sub-surface operations liability

*sub-surface operations liability* means any legal liability, fine, penalty, clean-up cost or expense resulting from subsidence causing damage to any activity or infrastructure below ground or under water.

5.37 Temporary hire agreement

*temporary hire agreement* means an agreement to lease, hire, rent or borrow any property or equipment for a period not exceeding 120 consecutive days.
5.38 **Terrorism**

terrorism means any act, or preparation in respect of action, or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connections with any organisation(s) or government(s) de jure or de facto, and which:

5.38.1 involves violence against one or more persons;
5.38.2 involves damage to property;
5.38.3 endangers life other than that of the person committing the action;
5.38.4 creates a risk to the health or safety of the public or a section of the public; or
5.38.5 is designed to interfere with or to disrupt an electronic system.

5.39 **Third party**

third party means any person other than you or us.

5.40 **Tool of trade**

tool of trade means any vehicle which has a tool or plant attached to, forming part of, or used in connection with it while such tool or plant is engaged on a work site but does not include such vehicle whilst it is in transit to or from any work site.

5.41 **Valuable cargoes**

valuable cargoes means any high value cargo such as bullion, precious metal objects, precious stones, precious jewellery, cash, securities, valuable works of art, thoroughbred horses, computers, hand held electronic products or mobile phones or any electrical components of these or similar.

5.42 **Wear and tear**

wear and tear means deterioration of anything over time from normal use.

5.43 **You, your**

you, your means the person, legal entity, company or companies noted as the named Insured in the schedule, including any named co-assured and:

5.43.1 any subsidiary company, including subsidiaries thereof, of the named Insured or any named co-assured in the schedule and any other organisation under the control of the named Insured or any named co-assured in the schedule and over which it is exercising active management;

5.43.2 any new organisations acquired by the named Insured or any named co-assured in the schedule, during the period of insurance, through consolidation, merger, purchase of the assets of or assumption of control and active management, provided such acquisition or assumption is reported to us within 90 days after it is effected and provided further such acquisition is endorsed onto this policy;

5.43.3 any director, officer or employee acting in the course of their employment.
6. Exclusions
Notwithstanding anything contained anywhere in this policy to the contrary, you are not insured for any losses, damages or liabilities in accordance with the exclusion clauses below.

6.1 General exclusions
This policy does not insure you for your legal liability:

6.1.1 for personal injury to any employee or worker arising out of, or in the course of, their employment in your business, to the extent that you are indemnified or entitled to be indemnified under a policy of insurance or self insurance arrangements in accordance with any workers’ compensation or accident compensation legislation, or to the extent that you would have been entitled to be indemnified had you arranged insurance as required by such legislation.

6.1.2 arising out of any provision of any workers’ compensation legislation or industrial award or agreement or determination.

6.1.3 for personal injury to any person arising directly or indirectly from:
(a) exposure to noxious or harmful substances (including but not limited to radio-active substances, asbestos, cadmium or hydrocarbons); or
(b) repetitive stress, strain or cumulative trauma.

6.1.4 for damage or loss to:
(a) any premises occupied by you unless the appropriate tenant's legal liability’ extension applies and is noted in the schedule; or
(b) any property or equipment leased, hired, rented or borrowed by you unless such property or equipment is leased, hired, rented or borrowed by you under a temporary hire agreement and the damage or loss arises from your negligence.

6.1.5 for damage or loss to any property (including damage or loss to cargo or equipment including shipping containers and cargo handling equipment) caused by or arising from:
(a) routine wear and tear or gradual deterioration when you are responsible for the maintenance or care, custody and control of such property;
(b) inherent vice, ordinary leakage, or ordinary loss in weight or volume;
(c) defective or insufficient packaging of the cargo by your customer, their subcontractor or agent; or
(d) unexplained losses discovered on inventory/stocktaking unless established by you to have been caused by an occurrence.

6.1.6 arising from the release of cargo without production by the person claiming release of the cargo, of the original bill of lading or other transport document entitling the release of cargo.

6.1.7 for damage or loss to declared value cargoes to the extent that any claim is increased by the declaration of value by your customer, their contractors or agents.

6.1.8 for damage or loss to valuable cargoes unless:
(a) your customer did not inform you, and you could not have reasonably known, that you were handling such cargoes; or
(b) you handle such valuable cargoes only on the terms of your usual contract with your customer; or
(c) you agree with your customer, in respect of such valuable cargoes, the following condition or one to the same effect:

‘The customer shall have a clause in their bill of lading or other contract of carriage giving you the benefit of provisions therein excluding or limiting the customer’s liability including any liability in negligence to the extent permissible by law and the customer undertakes to defend and indemnify you and hold you harmless against any claim by, or liability to, the customer or any other party to the extent that such claim or liability exceeds the lesser of:

1. your liability under your contract with the customer; or
2. the liability that you would have incurred if you had been able to rely on the provisions in the bill of lading or other contract of carriage excluding or limiting the customer’s liability and which would have applied had the scope of such bill of lading or contract of carriage included your services; and
3. you ensure that reasonable security measures are employed in the handling of such valuable cargoes’.

6.1.9 arising from the use, ownership or operation by you of any vehicle in circumstances in which the vehicle is required by law to have compulsory insurance against such liability.

6.1.10 arising from the use, ownership or operation by you of any registered vehicle, such liability being for property damage unless such vehicle is being used as a tool of trade.

6.1.11 arising from the ownership, operation, management, maintenance, lease, rental, charter or use by you of any vessel or water-borne craft or locomotive or rolling stock.

6.1.12 arising from the disposal, treatment, storage, carriage or processing of waste materials, spoil or operation of any land-fill or similar facility by you or any third party or relating to any contamination of land (including any sub-surface land) (other than where arising from a sudden accidental event constituting a pollution incident) or any remediation of contaminated land (including any sub-surface land) (whether pursuant to an order or directive of any competent authority or otherwise).

6.1.13 assumed by you under contract, including liability for delay and payments under penalty clauses or liability arising under ‘liability without fault’ or ‘performance guarantee’ or ‘declared value’ or ‘liquidated damages’ clauses or similar provisions or liability otherwise accepted by you under any express or implied contract, but this exclusion will not apply to the extent that:

(a) you would incur legal liability in the absence of any specific contractual provision and as a result of your negligence; or

(b) we have agreed to insure specific contractual liabilities assumed by you.

6.1.14 where such liability is a ‘liability without fault’ or a ‘strict liability’ unless imposed upon you by statute, law or regulation.

6.1.15 incurred to any third party to the extent that any such liability is in excess of any statutory immunity or limit of liability or restriction of liability that would otherwise be available to you.

6.1.16 incurred in relation to the provision, for a specific fee or payment in kind of any professional advice or advisory service.

6.1.17 for loss or damage caused by or resulting from your deliberately reckless or wilful conduct in exceeding the registered or rated capacity or ‘safe working load’ or any overload of any carrying or lifting equipment.

6.1.18 arising from deliberate reckless or wilful conduct by you or your contractors.

6.1.19 arising from the wrongful delivery of cargo to the extent that a competent court or tribunal determines that it is illegal for you to be insured against such liability, or for any criminal proceedings associated with any wrongful delivery of cargo.
6.1.20 arising from any deliberate, reckless or wilful non-compliance with, or breach of the ISPS Code or any other relevant security legislation.

6.1.21 arising from construction activity, or any other reclamation or demolition activities undertaken by you or third parties that would normally be covered by 'Contract Works including Public Liability insurance' in respect of the property and liability interests associated with such activities.

6.1.22 arising from erection, dismantling or movement of carrying or lifting equipment unless our prior written agreement has been obtained by you and you agree to pay any additional premium that we require.

6.1.23 in respect of any goods or products sold by you including any product liability or in respect of any costs associated in any way with product recall.

6.1.24 arising in relation to any:
   (a) trademark, copyright or patent infringement;
   (b) breach of directors' and officers' duties;
   (c) breach of fidelity obligations of employees, company directors, officers or company servants;
   (d) conduct of directors, officers, employees or company servants acting outside the course and scope of their employment, authority or contract as the case may be; or
   (e) fault, error or omission on your part in the course of administration of any superannuation, pension or employee benefits scheme.

6.1.25 arising from any alleged or actual fraudulent, dishonest, malicious, intentional or criminal act or omission by you or your contractors.

6.1.26 arising from you or your contractors knowingly dealing in contraband.

6.2 Infringement of personal rights
Notwithstanding optional additional benefit 4.2 ‘Infringement of personal rights liability’, this additional benefit does not cover any liability arising from:

6.2.1 deliberate, reckless or wilful breach of any statute, law or regulation by you or your contractor;

6.2.2 any relationship between you and any employee, officer or contractor;

6.2.3 a contract entered into by you;

6.2.4 intentional publication of material or any utterance by you or your contractors with knowledge that such publication or utterance is false;

6.2.5 any advertising activity publication or utterance that promotes your insured operations;

6.2.6 repeating the same or similar act, utterance or publication of material made by you or your contractors prior to the commencement of the period of insurance;

6.2.7 any claim against you by any person claiming or asserting any breach by you of any discrimination, anti-vilification, harassment or equal opportunity or employment or similar legislation.

6.3 Fines and penalties
Except to the extent specifically stated in Insuring Clause 1.3 of this policy, your liability is specifically excluded for:

6.3.1 commercial fines and penalties;

6.3.2 breach of any statute, law or regulation in respect of freight tariffs, fair trading or anti competitive behaviour;

6.3.3 breach of any statute, law or regulation 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;
6.3.4 breach of any statute, law or regulation in respect of overloading any mechanically propelled vehicle, carrying or lifting equipment unless such breach relates to workplace safety regulations;

6.3.5 breach of any statute, law or regulation caused by deliberate, reckless or wilful conduct by you or by your agent or contractor;

6.3.6 any fine, penalty, customs duty, sales tax, excise tax, similar financial charge or loss arising from confiscation, to the extent that a competent court or tribunal determines that it is illegal or contrary to public policy for you to be insured against such liability or loss;

6.3.7 any fine, penalty, customs duty, sales tax, excise tax, similar financial charge or loss arising from any criminal conviction, to the extent that a competent court or tribunal determines that it is illegal or contrary to public policy for you to be insured against such liability or loss.

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

6.4.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;

6.4.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;

6.4.3 any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;

6.4.4 the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes;

6.4.5 any chemical, biological, bio-chemical, or electromagnetic weapon.

6.5 Terrorism
This policy excludes any act of terrorism or steps taken to prevent, suppress, control or reduce the consequences of any actual, attempted, anticipated, threatened, suspected or perceived terrorism.

6.6 War
This policy excludes loss, damage, liability or expense directly or indirectly occasioned by, happening through or in consequence of:

6.6.1 war, civil war, revolution, rebellion, insurrection, civil strife arising therefrom or any hostile act by or against a belligerent power;

6.6.2 capture, seizure, arrest, restraint or detention (barratry and piracy excepted) and the consequence thereof or any attempt thereat;

6.6.3 derelict mines, torpedoes, bombs or other derelict weapons of war.
7. General Conditions

7.1 Assignment
It is agreed that no assignment of this policy or any monetary sum which may be or may become payable under this policy is to be binding on or recognised by us unless a dated notice of such assignment signed by you and by the assignor in the case of subsequent assignment, is endorsed on this policy and the insurance with such endorsement is produced before payment of any claim or return of premium under this policy but nothing in this condition is to have effect as an agreement by us to the assignment of this policy in the event of a sale or transfer to a new management.

7.2 Cancellation
7.2.1 You may cancel this policy at any time by notifying us in writing.

7.2.2 When the policy is subject to the Insurance Contracts Act 1984, we may cancel the policy subject to the provisions of that Act.

7.2.3 Within 30 days of the effective date of cancellation, you must advise us of the actual gross charges 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 or allowed to you but subject to a retention by us of a minimum premium of 75 per cent of the proportionate part of the estimated annual premium for the period the policy has been in force.

7.3 Claims control
We are entitled (but not obliged) at our own cost to control or take over the conduct of the investigation, defence and/or settlement of any claim, suit or proceeding against you which is or is likely to be the subject of indemnity under this policy.

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

If you are liable for GST in respect of any goods, services or other supply which are the subject of a claim under this policy, we will pay you for that GST liability.

However:

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

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

7.5 Cross liability
Subject to clause 7.9 ‘Joint insureds’ where you are comprised of more than one party, each of the parties will be considered as a separate legal entity with the words ‘you’ and ‘your’ applying to each party in this same manner as if a separate policy has been issued to each party, provided that nothing in this condition will result in an increase in our limit of liability in respect of any occurrence or period of insurance.

7.6 Dangerous cargo
You must act diligently to ensure compliance with all regulations, laws and international conventions relating to the handling and storage of dangerous cargo.
7.7 Deductible
Any claim recoverable under this policy will be subject to the deduction of the sum stated in the schedule in respect of your ultimate net loss resulting from any one occurrence.

7.8 Headings
Headings have been included for ease of reference, but do not form part of the policy.

7.9 Joint insureds
Where you are comprised of more than one legal entity, information supplied to us will be deemed to have been furnished by or on behalf of all entities. Any information supplied to us or any omission or non-disclosure in relation to any renewal or endorsement of this policy will also be deemed to have been furnished, omitted or withheld on behalf of all entities.

7.10 Notice and proof of claim
When an occurrence happens which may give rise to a claim under this policy, you must take reasonable care to prevent or minimise any loss, damage, liability or costs covered by this policy and ensure that all rights against other parties are properly preserved and exercised. You must:

7.10.1 advise us within 30 days of full particulars of every occurrence, circumstance, claim, writ, summons, proceedings, impending prosecution, inquest or the like known to you;

7.10.2 use your best endeavours to preserve any damaged or defective property which may prove necessary or useful by way of evidence (together with any relevant documentation or records) in connection with any claim and, so far as may be reasonably practicable, no alteration or repair shall be made to any watercraft, premises, machinery, fittings, equipment or plant until we have had an opportunity to inspect and have provided our consent;

7.10.3 retain and preserve from destruction any business; documents and records that might foreseeably be connected with potential future claims, for a period of at least seven years;

7.10.4 not make any admission, offer, promise of payment in connection with any occurrence or claim under this policy without our written consent;

7.10.5 give to us all information and assistance as we may reasonably require in the prosecution, defence or settlement of any claim.

Zurich must have full discretion in the conduct of any negotiations or proceedings in connection with any claim.

7.11 Notification of material change
You must notify us in writing as soon as possible of any material change in the risk covered by this policy and pay any additional premium we may require.

7.12 Other insurance
Provided it is permitted by law, where two or more insurance policies have either been effected by you or effected on your behalf by another party covering the same risk, this policy will only cover the amount of the claim which exceeds the amount recovered under the other policy or policies, up to the limits provided for under this policy.

7.13 Premium
Subject to any agreement to the contrary this policy is in consideration of your payment of the minimum and deposit premium as stated in the schedule. If your actual gross charges for the period of insurance exceed the estimated gross charges on which the deposit premium was based, you agree to promptly pay any additional premium calculated by applying the agreed rate to the amount of such excess charges.

No deduction will be made from the gross charges in respect of any subcontracted work. You agree to keep a complete and accurate record of all gross charges for operations covered by this policy for examination by us or our representatives and you further agree to make an annual report of collected and uncollected charges to us within 30 days after the expiration of the period of insurance.
7.14 **Proper law and jurisdiction**

7.14.1 The construction, interpretation and meaning of the provisions of this policy shall be determined in accordance with Australian law.

7.14.2 In the event of any dispute arising under this policy including, but not limited to, its construction and/or validity and/or performance and/or interpretation, you will submit to the exclusive jurisdiction of any competent Court in the Commonwealth of Australia.

7.15 **Rights of subrogation**

In the event of a payment made under this policy to you or on your behalf, we shall be subrogated to all your rights of recovery against any person or organisation. At our request and our expense, you shall do all things reasonably required by us for the purpose of enforcing any rights and remedies or of obtaining indemnity from other parties to which we are entitled pursuant to this policy.

7.16 **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 you or any other party to the extent that such cover, payment, service, benefit and/or any business or activity of yours would violate any applicable trade or economic sanctions, law or regulation.

7.17 **Valuation and foreign currency**

All premiums, limits, retentions, indemnity and other amounts referred to in this policy are expressed and payable, where due, in Australian currency. Unless where otherwise provided, if judgment is rendered, settlement is denominated or an element of loss under this policy is stated in a currency other than Australian dollars, payment under this policy shall be made in Australian dollars at the cash rate of exchange for the purchase of Australian dollars as reported in the Australian Financial Review on the date the final judgment is reached, the amount of the settlement is agreed upon or the element of loss is due, as the case may be.