



XLTRANSIT

XL TRANSIT (Pty) Ltd

GOODS IN TRANSIT CONTINGENT
POLICY WORDING

Subject to the terms, conditions, warranties and provisions hereunder, and in consideration of payment of the premium, Insurers agree to indemnify and/or compensate the Insured, at the option of Insurers, by payment, replacement, reinstatement or repair, in respect of loss or damage attributable to defined events contained herein and occurring during the period of insurance up to the specified limits.

1. Commencement of Insurance:

- 1.1 Monthly paid policies; cover commences from the inception date as stipulated in the policy schedule and continues for every subsequent month which Insurers accept premium to renew, until cancelled subject to the Cancellation Clause herein.
- 1.2 Annual policies: cover commences from the inception date as stipulated in the policy schedule and continues until expiry of cover on the renewal date as stipulated in the policy schedule.
- 1.3 Once-off policies: cover remains in force during the facultative period stipulated in the policy schedule.
- 1.4 Quarterly or Bi-Annual policies: cover commences from the inception date as stipulated in the policy schedule and is renewed automatically for the periods stipulated in the policy schedule, subject to payment of premium to Insurers.

2. Limits:

As stipulated in the policy schedule, the cover provided by this policy is limited to the limit of indemnity per any one vehicle, per any one transit, unless otherwise declared and accepted by the Insurers prior to loss. Where separate limits are stipulated in the policy schedule (e.g. commodity types), such limits are not cumulative, other than in the case of cover for the tarpaulins and containers (if cover selected) where cover will be in addition to maximum policy limits.

3. Insured Cargo:

This policy covers goods carried by sub-contractors of the Insured (including all packing material, pallets, receptacles, covers, boxes, labels and the like when necessary for commercial purposes) as stipulated in the policy schedule, but excludes:

Antiques, antiquities of any description, arms, ammunition, bank and treasury notes, bullion, cash, mobile telephones and accessories, copper, deeds, designs, documents of any description, explosives, film, gold, or silver articles, used household goods and personal effects, jewellery, liquor (other than wine or beer), live animals, motor vehicles of any description, plans, precious metals or stones, pre-paid phone cards or vouchers, specie, stamps, tickets, tobacco products, travellers cheques, electronic goods, highly flammable substances, tinned fish and tyres, unless specifically included in the policy schedule.

4. Carrying Vehicles:

Cover is limited to goods entrusted to the Insured, whilst being carried on mechanically propelled vehicles and its trailers belonging to sub-contractors appointed by the Insured, or as otherwise specified in the policy schedule.

5. Territorial Limits:

Cover is limited to loss or damage occurring within the territorial limits as stated in the policy schedule.

Duration of Cover:

- 5.1 Cover shall attach upon commencement of loading the insured cargo onto the carrying conveyance at the point of loading, continue throughout the ordinary course of transit and terminates once the cargo is off-loaded at its destination at the consignees premises. Cover in respect of shipping containers shall remain in force until off-loaded at the stack or delivered to the container depot whichever may be applicable.
- 5.2 Loss or damage occurring during loading and unloading operations will be included hereunder, provided such operations are the responsibility of the sub-contractor and under their direct control.
- 5.3 Notwithstanding 5.2 above and provided such commodities are included in the policy schedule, any loss or damage arising during loading / unloading of live animals, motor vehicles under own power or rigging and manoeuvring of plant and machinery will be excluded absolutely.
- 5.4 Incidental storage in the ordinary course of transit (not exceeding a maximum period of 72 hours) will be included, provided the goods are kept within a fully enclosed and locked building or guarded security compound.

6. Defined Risks/ Risks Insured

6.1 If stated in the policy schedule as being All Risks in the Risks Insured, cover applicable in terms of this policy will be for:

- 6.1.1 **New cargo transported in fully enclosed / fully tarpaulined vehicle** against all risks of physical loss or damage to the insured property, subject to the terms, conditions and exclusions of the policy, excluding in particular loss or damage resulting from variation in temperature howsoever caused, unless otherwise specifically stated in the policy schedule to include Deterioration of Refrigerated Stock (DOS).
- 6.1.2 **Used cargo, shipping containers** (if stated in the schedule to be included), **tarpaulins** (if stated in the schedule to be included), and **goods transported other than in a fully enclosed/fully tarpaulined vehicle:** against the risk of fire, collision of carrying vehicle, overturning of the carrying vehicle, theft following an insured peril and hijacking as defined herein, subject to the terms, conditions and exclusions of the policy.

Any physical loss of or damage to insured cargo resulting from Water, Chipping, Denting, Scratching, Bruising, Marring of Paintwork, Mechanical, Electrical and/or Electronic derangement, Rust, Oxidation or Discolouration is excluded, unless as a direct result of

6.2 If stated in the policy schedule as being fire, collision, overturning and theft following and hijack in the Risks Insured, cover applicable in terms of this policy will be All Risks of physical loss of or damage to the insured cargo unless specifically excluded herein. Any physical loss of or damage to insured cargo resulting from Water, Chipping, Denting, Scratching, Bruising, Marring of Paintwork, Mechanical, Electrical and/or Electronic derangement, Rust, Oxidation or Discolouration is excluded, unless as a direct result of:

- 6.2.1 Fire, Explosion, Lightning, Volcanic Eruption or Earthquake
- 6.2.2 Collision of the conveying vehicle and/or cargo with any external object (excluding other cargo and water)
- 6.2.3 Overturning of the conveying vehicle and/or cargo
- 6.2.4 Theft or Hijacking as defined or any attempt thereat

6.3 **If stated in the policy schedule as being limited to any specific perils only in the Risks Insured provided by this policy, the cover applicable in terms of this policy will be** limited to these specified perils only, as these specified perils are interpreted in terms of the above and subject further to the terms, conditions and exclusions of the policy.

7. **Basis of Valuation/Indemnity**

- 7.1 New cargo: Selling price or New Replacement Value, whichever may be applicable, as is evident from commercial invoices;
- 7.2 Used cargo: Second hand replacement value or local depreciated market value whichever is the lesser;
- 7.3 Fresh Produce: the average market value for the commodity at the market of intended sale on the day of the intended sale, less agents' and market commission, less any costs not incurred or, if pre-sold, suppliers' invoice value, less any costs not incurred.

8. **Plant, Machinery & Equipment**

In the event of loss or damage to second-hand plant, machinery or equipment, the amount recoverable hereunder shall not exceed such proportion of the cost of replacing the part lost or damaged, as the insured value bears to the value of new plant, machinery or equipment. Cover excludes mechanical, electrical and electronic derangement.

9. **Pairs and Sets**

In the event of loss of or damage to any article(s) forming part of a pair or set, Insurers' liability shall be limited to the value of such parts which may be lost or damaged, without reference to any special value which such article(s) shall have as part of such pair or set, nor shall it exceed the proportionate part of the insured value of such pair or set.

10. **Hijacking Definition**

Seizure of insured property contained in or on the carrying vehicle or the theft of insured property, where such seizure or theft is accompanied by unlawful and forcible removal of the carrying vehicle to a destination other than originally intended, or accomplished by means of violence threat of violence against the person or persons who, at the time of such seizure, are in actual lawful control of such carrying vehicle carrying the insured property.

11. **Other Insurance**

If, at the time of any event giving rise to a claim under this policy, any other insurance exists with any other insurers covering the Insured against the events insured in terms of this policy, Insurers shall be liable to make good only a rate able proportion of the amount payable by or to the Insured in respect of such event. If any such other insurance is subject to any condition of average, this policy, if not already subject to any condition of average, shall be subject to average in a like manner.

12. **Cancellation**

This policy or any section may be cancelled at any time by Insurers giving 30 days' notice in writing (or such other period as may be mutually agreed), or by the Insured giving immediate notice. On cancellation by the Insured, Insurers shall be entitled to retain the customary short period or minimum premium for the period the policy or section has been in force. On cancellation by Insurers, the Insured shall be entitled to claim a pro-rata proportion of the premium for the remainder of the period of insurance from the date of cancellation.

13. **South African Jurisdiction**

It is hereby agreed that this policy shall be governed by the laws of the Republic of South Africa whose courts shall have exclusive jurisdiction in any dispute arising hereunder.

14. Salvage Disposal

In the event of loss or damage and with the prior approval of Insurers, the Insured shall take all reasonable steps to mitigate the loss by preserving the recoverable salvage and to dispose of the damaged insured cargo at the best possible price. In the event of Cargo Owners not approving of such disposal, Insurers shall nevertheless be entitled to reduce their liability by an amount equivalent to the reasonable salvage value that would have been obtained by the Insurers or their agents.

15. Misrepresentation, Misdescription and Non-Disclosure

Misrepresentation, misdescription or non-disclosure in any material respect shall render voidable the particular item, section or sub-section of this policy as applicable.

16. Payment of Premium

It is a warranty of cover that at the commencement of cover and upon each renewal the Insured will pay the Insurer the premium(s) as stipulated in the policy schedule and applicable premium schedule. In respect of monthly paid policies it is warranted that the Insured will pay the Insurer a premium as stipulated in the policy schedule by the first day of each calendar month, unless premium payment is transacted by means of monthly debit order administered by the Insurer, in which case the premium is payable to the Insurer on the date chosen by the Insurer to lodge this debit order. The Insured shall ensure that this premium debit is successfully met. Breach of this warranty will entitle the Insurer to avoid liability for all losses.

17. Excess

Claims recoverable under this policy shall be subject to the excesses applicable to the defined event(s) and/or insured cargo, as stipulated in the policy schedule, for each claim, event or occurrence.

18. Claims Settlement

It is herewith agreed that the Insurers will settle claims subject to the limits, excess and warranties as set out in the policy, plus VAT thereon if the Insured is obliged to pay VAT in terms of South African legislation current at the time of settlement.

Any settlement under this policy will be for the benefit of the Cargo Owner(s), their subrogated insurers or any other party, on receipt of written authorisation from the Cargo Owner(s) or their subrogated insurers.

19. Insured's Duty of Care

It is the duty of the Insured to take such measures as are necessary to minimise loss are property preserved.

In addition to costs recoverable under this policy for loss or damage, Insurers agree to reimburse the Insured for costs properly and reasonably incurred in pursuance of these duties, irrespective of whether such actions were successful or any loss or damage resulted.

20. Debris Removal

This policy covers, in addition to any other amount recoverable under this policy, the reasonable costs legally incurred by the Insured in respect of the removal and/or disposal of non-recoverable insured cargo, provided that:

- 20.1 Insurers shall not be liable for any amount exceeding R20,000 unless otherwise stated in the policy schedule
- 20.2 Insurers shall not be liable for any consequential loss or liability to third parties howsoever caused

21. Fraud

If any claim under this policy is in any respect fraudulent, or if any fraudulent means or devices are used by the Insured or anyone acting on their behalf or with their knowledge or consent to obtain any benefit under this policy, or if any event is occasioned by the wilful act of, or with the connivance of the Insured, the benefit afforded under this policy in respect of any such claim shall be forfeited. This policy excludes the dishonesty of any partner, member, director or employee of the Insured whether acting alone or in collusion with others. This exclusion shall not apply to sub-contractors appointed by the Insured.

22. Specific Warranties

It is warranted that the Insured has:

- i) obtained written confirmation of details of the sub-contractor's own adequate insurance cover, before any load transportation is sub-contracted to that sub-contractor.
- ii) created a binding contractual liability on the part of the sub-contractor for any loss or damaged to the goods whilst under the sub-contractor's control, and that this contractual liability has been clearly confirmed in writing between the Insured and the sub-contractor before any load transportation is sub-contracted to that sub-contractor.
- iii) not sub-contracted to the sub-contractor any load transportation after becoming aware that the sub-contractor no longer has their own adequate transit insurance cover, or that the sub-contractor no longer accepts liability for loss of damage to the goods.
- iv) included in the transport agreement between the Insured and the sub-contractor, the written condition that the Insured has the right to withhold all monies otherwise payable to the sub-contractor in lieu of any loss or damage to the goods, and that upon becoming aware of any loss or damage to the goods, the Insured immediately terminates any further payment of monies otherwise payable to the sub-contractor, up to an amount equateable to the value of the loss or damage to the goods.
- v) obtained a cession signed by the sub-contractor, wherein the sub-contractor cedes to the Insured the benefit of any claim payment payable by the sub-contractor's insurer, relating to any load transportation sub-contracted to the sub-contractor by the Insured.

23. Specific Exclusions

In no case shall this policy cover:

- 23.1 ordinary loss in weight or volume, ordinary wear and tear or loss or damage caused by inherent vice or nature of the insured cargo.
- 23.2 loss or damage caused by insufficiency or unsuitability of packing, covering or securing of the insured cargo, in or on the carrying vehicle, when such is within the knowledge of the Insured.
- 23.3 loss or damage caused by delay, even though the delay be caused by an insured peril.
- 23.4 loss, damage, liability or expense (including legal costs) directly or indirectly arising from detention, confiscation, forfeiture, impounding, expropriation, nationalisation, capture, seizure, arrest, restraint, detainment or requisition (other than hijacking as defined) of the insured cargo legally carried out by customs, police, crime prevention units or any other officials or authorities.
- 23.5 consequential loss, including but not limited to loss of profits, penalties, guarantees or extraordinary reproduction costs.
- 23.6 loss or damage to shipping containers unless specifically included in the policy schedule.

23.7 any loss or portion thereof, for which indemnity has been received from the sub-contractor, whether by way of payment or off-set against monies otherwise payable to the sub-contractor by the Insured.

24. Claims

On the happening of an event which may result in a claim under this policy give notice thereof to the Insurers or the Insures appointed agent(s) within 30 (thirty) days of the occurrence (other than hijacking or theft). As soon as is practicable after the event the Insured must submit to the Insurers full details in writing of any claim and give to the Insurers such proof, information, documentation and sworn declarations as the Insurers may require and provide particulars of any other insurance covering such events as are hereby insured.

It is warranted by the Insured that all claims resulting from a hijacking or theft, as defined in clause 10 will be advised in writing to the Insurers, Police and specialist response company or their appointed agents within 24 (twenty four) hours of the occurrence of the hijacking or theft incident.

25. Prescription

If the Insurers declines liability for a claim in terms of this policy, representation may be made to the Insurers within 90 days of the date of the letter of rejection or cancellation letter.

If the dispute is not satisfactorily resolved in this manner, legal action may be instituted against the Insurers for the enforcement of the claim by way of the service of summons against the Insurers.

Summons must be served on the Insurers within 180 days after expiry of the 90 day period, failing which all benefits in respect of such claim shall be forfeited and no liability can arise in terms of such claim.

Any summons is to be served at the office of XL Transit Underwriting Managers (Proprietary) Limited (as agents authorised to receive same on behalf of the Insurers), stated in the policy schedule.

26. Breach of Conditions

The conditions and warranties of this policy and sections thereof shall apply individually to each of the risks insured and not collectively to them, so that any breach shall render voidable the section only in respect of the risk to which the breach applies.

27. Warranty Clause

Where the word warranty appears in the policy, it is deemed to have meaning as implied in an insurance context. Any breach of any warranty will result in the Insurer having no liability in terms of this policy.

28. General Exclusions

28.1 Nationalisation, Confiscation and Requisition

This policy does not cover loss due to nationalisation, confiscation, commandeering, requisition, or wilful destruction by any lawfully constituted authority.

28.2 War, Riot and Terrorism

(a) This policy does not cover loss of or damage to property related to or caused by:

- (i) civil commotion, labour disturbances, riot, strike, lockout or public disorder or any act or activity which is calculated or directed to bring about any of the afore-going;
- (ii) war, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) or civil war;
 - (a) mutiny, military rising, military or usurped power, martial law or state of siege, or any other event or cause which determines the proclamation or maintenance of martial law or state of siege;
 - (b) insurrection, rebellion or revolution;
- (iii) any act (whether on behalf of any organisation, body or person or group of persons) calculated or directed to overthrow or influence any State or Government or any provincial, local or tribal authority with force or by means of fear, terrorism or violence;
- (iv) any act which is calculated or directed to bring about loss or damage in order to further any political aim, objective or cause, or to bring about any social or economic change, or in protest against any State or Government or any provincial, local or tribal authority, or for the purpose of inspiring fear in the public or any section thereof;
- (v) any attempt to perform any act referred to in Exclusion (iv) or (v) above;
- (vi) the act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with any occurrence referred to in Exclusion A (i), (ii), (iii), (iv), (v) or (vi) above.

If Insurers alleges that, by reason of clause A (i), (ii), (iii), (iv), (v), (vi) or (vii) of this exclusion, loss or damage is not covered by this policy, the burden of proving the contrary shall rest on the Insured.

- (b) This policy does not cover loss or damage caused directly or indirectly by or through or in consequence of any occurrence for which a fund has been established in terms of the War Damage Insurance and Compensation Act, 1976 (Act No. 85 of 1976) or any similar Act operative in any of the territories to which this policy applies.
- (c) Notwithstanding any provision of this policy including any exclusion, exception or extension or other provision not included herein which would otherwise override a General Exclusion, this policy does not cover loss of or damage to property or bodily injury or expense of whatsoever nature directly or indirectly caused by, arising out of or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any sequence to the loss, damage, bodily injury or expense.

For the purpose of this General Exclusion C, an act of terrorism includes, without limitation, the use of violence or force or the threat thereof whether as an act harmful to human life or not, by any person or group of persons, whether acting alone or on behalf of or in connection with any organisation or government or any other person or body of persons, committed for political, religious, personal, ethnic or ideological reasons or purposes including any act committed with the intention to influence any government or for the purpose of inspiring fear in the public or any section thereof.

If Insurers allege that, by reason of General Exclusion (C) of this exclusion, loss or damage is not covered by this policy, the burden of providing the contrary shall rest on the Insured.

28.3 Asbestos

Notwithstanding any provision of this policy including any exclusion, exception or extension or other provision which would otherwise override a general exclusion, this policy does not cover any actual or alleged liability whatsoever for any claim or claims in respect of loss or losses directly or indirectly caused by, arising out of, resulting from, in consequence of, in any way involving, or to the extent contributed to by, the hazardous nature of asbestos in whatever form or quality.

28.4 Nuclear Weapons and Radiation

This policy does not insure loss, damage, cost or expense whatsoever or any consequential loss directly or indirectly caused by or contributed to by or arising from:

- (i) ionising, radiation or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion or use of nuclear fuel;
- (ii) nuclear material, nuclear fission or fusion, nuclear radiation;
- (iii) nuclear explosives or any nuclear weapon;
- (iv) nuclear waste in whatever form;

regardless of any other cause or event contributing concurrently or in any other sequence to the loss. For the purposes of this exclusion only, combustion shall include any self-sustaining process of nuclear fission.

28.5 Consequential Loss

Except as specifically provided, this policy does not cover consequential loss or damage.

28.6 Sanction Limitation and Exclusion Clause

Insurers shall not be deemed to provide cover or be liable to pay any claim or provide any benefit hereunder to the extent that that the provision of such cover, payment of such claim or provision of such benefit would expose Insurers to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.