

S U R A MARINE



Carriers Load Insurance

Policy Wording

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Important Information

About SURA Marine

SURA Marine is a trading name of SURA Pty Ltd ABN 36 115 672 350, AFSL 294313 (called SURA Marine in this document).

SURA Marine distributes this insurance on behalf of the insurer. SURA Marine has an authority from the insurer to arrange, enter into/bind and administer this insurance for the insurer. This means that SURA Marine will be acting as agent for BHSI, not for You.

SURA Marine's contact details are:

Level 14/141 Walker Street
North Sydney NSW 2060
PO Box 1813
North Sydney NSW 2059
Telephone: +61 2 9930 9500

About the Insurer

The insurer of this insurance product is Berkshire Hathaway Specialty Insurance Company (incorporated in Nebraska, USA) ABN 84 600 643 034, AFS License No. 466713. (called We, Us, Our or BHSI in this document).

BHSI's contact details are:

GPO Box 650
Sydney NSW 2001
Email: australia@bhspecialty.com

Important Notices

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

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

Your Duty of Disclosure

Where the Insurance Contracts Act 1984 (Cth) applies, before You enter into an insurance contract, You have a duty, to tell Us anything that You know, or could reasonably be expected to know, that may affect Our decision to insure You and on what terms.

You have this duty until We agree to insure You.

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

You do not need to tell Us anything that:

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

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

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

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

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

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

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

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

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

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

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

Misrepresentations

Under both the Insurance Contracts Act 1984 (Cth) and Marine Insurance Act 1909 (Cth) You have obligations not to make certain misrepresentations to Us.

Where the Insurance Contracts Act applies and You breach this obligation, 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 applies, and You make a relevant representation that is untrue We may refuse to pay a claim and treat the contract as if it never existed.

Refer to the above Acts for more detail.

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

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

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

- when You apply for cover (this includes new business, variations and renewals) and You do not comply with Your obligations regarding pre contractual disclosures and representations to Us under the Insurance Contracts Act 1984 (Cth) or Marine Insurance Act 1909 (Cth) as applicable – see above for details of the Duty of Disclosure and Misrepresentations and Our rights in this regard.

- if You do not comply with or meet a term or condition (including where an exclusion applies or other limitation) of the Policy (All referred to as “**Terms**” when used below) – See “If You do not comply with or meet any Policy Term” below for more detail.
- if You make a fraudulent claim – See “Fraudulent Claims” below.
- where You have not or are not acting in accordance with Your duty of utmost good faith under the Insurance Contracts Act 1984 (Cth) or Marine Insurance Act 1909 (Cth) as applicable – See “Duty of Utmost Good Faith” below.

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

If You do not comply with or meet any Policy Term

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

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

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

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

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

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

We will not refuse to pay or reduce the claim by reason only of that act.
- Where the act:
 - could not reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy; or
 - could reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy but You prove that some part of the loss that gave rise to the claim was not caused by the act, We may not refuse to pay the claim, so far as it concerns that part of the loss but,

We can reduce our liability in respect of the claim by an amount that fairly represents the extent to which Our interests were prejudiced as a result of that act.
 - Where the act could reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy, We may refuse to pay the claim.

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

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

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

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

Fraudulent Claims

Where the Insurance Contracts Act 1984(Cth) applies,

where a claim is made fraudulently under:

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

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

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

Where the Marine Insurance Act 1909 (Cth) applies, where a claim is made fraudulently under the Policy We may refuse payment of the claim and/or avoid the Policy to the extent permitted by law.

Duty of Utmost Good Faith

Where the Insurance Contracts Act 1984 (Cth) applies:

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

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

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

Terms Subject to Relevant Law

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

General Insurance Code of Practice

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

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

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

For further information on the Code, please visit www.codeofpractice.com.au

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

Privacy Statement

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Complaints and Disputes Resolution Process

Our complaints process

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

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

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

You can contact Us if You want more information on Our procedures.

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

AFCA

The AFCA is a free independent external disputes resolution service provided to customers to review and resolve complaints where We have been unable to satisfy Your concerns, subject to its rules or terms of reference.

For further details You can visit their website at www.afca.org.au or contact them:

Australian Financial Complaints Authority

PO Box 3
Melbourne, VIC, 3001
Telephone: 1800 931 678
Email: info@afca.org.au

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

Goods and Services Tax (GST)

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

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

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

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

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

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

Terms And Conditions

Our Agreement with You

We agree, subject to the terms, limitations, exclusions and conditions contained in or endorsed on or otherwise expressed in the Policy, to provide insurance as described in the Policy.

This insurance is in consideration of the insured named in the Policy Schedule having paid or agreed to pay the premium.

The Policy wording, Policy Schedule (which expression includes any Policy Schedule substituted for the original Policy Schedule) and endorsements (if any) are to be read together.

Acquired Companies

The Policy extends to include cover for any company, subsidiary company or firm ("entity") formed or purchased by You during the Period of Insurance, for a period of up to 30 days from the date of such formation or acquisition provided that You hold a controlling interest of shares carrying more than 50% of votes capable of being cast in, or have agreed to accept responsibility for insurance of, the entity.

For cover to continue after the 30 day period You must:

- a) advise Us of the details of the entity no later than 30 days from the date of formation or acquisition;
- b) declare to Us the estimated sendings, type of Goods or Livestock to be insured and past claims history of the entity; and
- c) agree to any additional conditions, and pay or agree to pay any additional premium, required by Us if We agree to extend cover to the entity under the Policy.

1. The Insurance Contract

The Policy wording contains details of the insurance cover available under Your Carriers Load Insurance Policy.

1.1. No insurance for Your customers, principals or subcontractors

The cover provided by the Policy indemnifies You for Your responsibility for any loss or damage to Goods or Livestock, which You are carrying in the normal course of transit. The Policy does not provide insurance cover for Your customers, principals or subcontractors.

We insure You if You subcontract the transportation of the Goods or Livestock or are acting as a subcontractor to a principal carrier.

1.2. There are two cover options available in the Policy:

Cover Option 1 – Comprehensive Goodwill Cover

Cover Option 2 – Liability for Cargo

Each of these cover options provides a different type of cover. You can select the cover options that You need in the application form You give Us.

We do not automatically insure You for each type of cover. You are only insured for the cover that You requested in Your application for insurance and that We have agreed to cover You for.

Your Policy Schedule shows which insurance cover options You are insured under the Policy and the amounts You are covered for.

2. When Your Insured Transits Start and Finish

During the Period of Insurance, We will insure You while the Goods or Livestock are in the ordinary course of transit and in the custody of either You or Your subcontractor. The insurance does not cover loss of or damage to Goods or death of Livestock or any related expense that occurs during storage at the election of, or on the instruction of, the owner of the Goods or Livestock.

3. Cover Option 1: Comprehensive Goodwill Cover

3.1. The cover

We will indemnify You in relation to Goods and/or Livestock owned by others where You accept responsibility for loss of or damage to Goods or death of Livestock caused by an insured event for:

- nominated client(s); and
- a commodity that has been declared and agreed to by Us,

as shown in the Policy Schedule.

The insured event must occur during the Period of Insurance and geographical limits specified in the Policy Schedule.

At Your request, We may agree to defend Your liability for loss or damage to Goods or death of Livestock caused by a covered insured event, in which case We will indemnify You for reasonable legal costs incurred in conducting such defence. If, in Our reasonable opinion, sufficient grounds do not exist to defend Your liability, We will indemnify You for Your customers' claim(s) against You to the extent of the cover provided by the Policy.

3.2. Insured events

Non-refrigerated Goods

The Policy covers Accidental loss of or damage to the Goods and loss or damage to the Goods caused by the deliberate act of a third party.

Refrigerated Goods

The Policy covers Accidental loss of or damage to the Goods and loss or damage to the Goods caused by the deliberate act of a third party, but excluding deterioration unless caused by variation in temperature following:

- a) Accidental failure, breakdown, stoppage or malfunction of the refrigerating machinery; or
- b) mismanagement of the refrigerating machinery by You or Your subcontractors,

during the Period of Insurance and resulting in a variation in temperature outside of the required range for a period of not less than 4 hours unless a different time period is specified in the Policy Schedule in which case the time period shown in the Policy Schedule will apply.

Claims for mismanagement of refrigeration machinery are subject to a Deductible of 10% of the value of the claim unless a different amount is specified in the Policy Schedule in which case the amount shown in the Policy Schedule as the Deductible will apply.

If reasonably required by Us You will provide evidence that the refrigeration machinery has been properly maintained.

Deterioration resulting from a failure to maintain refrigeration equipment is not covered.

Livestock

This Policy covers death of animals caused by accident or natural causes provided the animals are:

- a) in a good state of health; and
- b) fit for travel,

prior to loading.

Cover includes death or humane killing of Livestock necessary following an insured event.

4. Cover Extensions

4.1. Additional expenses

Cover Option 1 is extended to cover additional expenses for loss of market, delay, consequential loss (excluding fines and penalties and pollution liability) incurred by any of Your clients in respect of loss of or damage to Goods caused by an insured event.

Claims will be settled with You subject to a maximum limit \$100,000 per event and \$200,000 in annual aggregate unless a different amount is specified in the Policy Schedule in which case the amount shown in the Policy Schedule will apply.

4.2. Onforwarding charges

We will pay all reasonable costs necessarily incurred in unloading, storing and forwarding the Goods (excluding commercial bulk consignments of dangerous Goods) by road to the original destination in Australia if necessary following an insured event.

Subject to a limit of \$25,000 per event unless a different amount is specified in the Policy Schedule in which case the amount shown in the Policy Schedule as the limit of liability for this cover will apply.

4.3. Livestock

Where Livestock is shown as being insured in the Policy Schedule, the following additional benefits will apply:

Agistment expenses

We will pay the reasonable costs and expenses necessarily incurred in maintaining the Livestock at agistment when consequent upon an insured event.

Mustering costs

We will pay the reasonable costs and expenses necessarily incurred for mustering of Livestock at the scene of the accident when consequent upon an insured event.

Wandering off

We will pay for loss of Livestock due to "wandering off" from the scene of the accident following an insured event.

Cover for these additional benefits referred to in this clause 6.2 are subject to a per animal limit of \$500 and a combined annual aggregate limit of \$50,000 per Period of Insurance unless a different amount is specified in the Policy Schedule in which case the amount shown in the Policy Schedule as the limit of liability for this cover will apply.

4.4. Transits by sea

Where Goods and/or Livestock are being transported by sea, the insured events are extended to include:

- a) stranding, sinking, burning, grounding, collision or contact of the vessel with any object other than water;
- b) any general average and or salvage contribution that You are required to pay; and
- c) the risks of jettison, washing overboard and loss or damage caused by a general average sacrifice.

The maximum amount We will pay under this Cover Extension is up to the limit of liability stated in the Policy Schedule.

4.5. Miscellaneous equipment

The Policy covers loss of or damage to miscellaneous equipment while carried in Your Conveying Vehicle caused by the following insured events:

- a) fire;
- b) Flood;
- c) collision of the Conveying Vehicle except with the curb or uneven road surface;
- d) jack-knifing or overturning of the Conveying Vehicle; or
- e) theft following forcible and violent entry into a securely locked Conveying Vehicle.

Subject to a limit of \$25,000 per event unless a different amount is specified in the Policy Schedule in which case the amount shown in the Policy Schedule as the limit of liability for this cover will apply.

However, We will not provide cover under this extension to the extent permitted by law, where the loss is recoverable under any other insurance which indemnifies You for the same claim (in which case the Policy will only provide cover in excess of some or all of the loss which is not covered by the other insurance).

'Miscellaneous equipment' means webbing straps, tarpaulins, ropes and chains, trolleys, gates and dogs belonging to You or for which You are responsible.

4.6. Packaging

The Policy covers loss of or damage to packaging while carried in transit caused by an insured event. Subject to a limit of \$50,000 per event unless a different amount is specified in the Policy Schedule in which case the amount shown in the Policy Schedule as the limit of liability for this cover will apply.

However, We will not provide cover under this extension to the extent permitted by law, where the loss is recoverable under any other insurance which indemnifies You for the same claim (in which case the Policy will only provide cover in excess of some or all of the loss which is not covered by the other insurance).

'Packaging' means packing materials, crates, pallets, or similar receptacles belonging to You or for which You are responsible.

4.7. Personal property

This Policy covers You for loss of or damage to the personal property, owned by You or for which You are legally responsible, including that of Your employee(s) caused by the following insured events:

- a) fire;
- b) Flood;
- c) collision of the Conveying Vehicle except with the curb or uneven road surface;
- d) jack-knifing, overturning of the Conveying Vehicle;
- e) theft following forcible and violent entry into a secured locked Conveying Vehicle.

Subject to a limit of \$2,000 per event unless a different amount is specified in the Policy Schedule in which case the amount shown in the Policy Schedule as the limit of liability for this cover will apply.

However, We will not provide cover under this extension to the extent permitted by law, where the loss is recoverable under any other insurance which indemnifies You for the same claim (in which case the Policy will only provide cover in excess of some or all of the loss which is not covered by the other insurance).

'Personal property' means Bedding, CB/UHF and scanner radios, food/drink and its containers (e.g., thermos-flasks, eskies and mobile fridges), clothing and personal accessories, footwear, mobile telephones, pagers, portable radio, radio cassette and portable compact disc players, and wallet **but excluding** money, credit cards, watches and jewellery. Claims for compact-discs and audio tapes are limited to \$300 per event.

4.8. Removal of debris/clean-up costs

We cover You for all reasonable costs and expenses incurred in removing and disposing of damaged Goods or dead Livestock (this includes the cost of cleaning the accident site but not 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).

The most We will pay under this clause is \$50,000 per event unless a different amount is specified in the Policy Schedule in which case the amount shown in the Policy Schedule as the limit of liability for this cover will apply.

4.9. Resecuring

The Policy covers You for all reasonable costs and expenses incurred in resecuring the Goods where there has been movement of the Goods in transit, which makes resecuring necessary.

We cover these costs and expenses even though there may be no loss or damage to the Goods provided the circumstances necessitating the resecuring were outside Your control and You could not be reasonably expected to have knowledge of them in the normal course of Your business.

Subject to a limit of \$5,000 per event unless a different amount is specified in the Policy Schedule in which case the amount shown in the Policy Schedule as the limit of liability for this cover will apply.

However, We will not provide cover under this extension to the extent permitted by law, where the loss is recoverable under any other insurance which indemnifies You for the same claim (in which case the Policy will only provide cover in excess of some or all of the loss which is not covered by the other insurance).

5. Cover Option 2: Liability for Cargo

5.1. The cover

The insurance cover provided by this cover option applies to transits:

- a) where the consignor/owner accepts and signs Your Approved Terms and Conditions and they apply to the transit; or
- b) where by mistake, Your Approved Terms and Conditions were not accepted and signed by the consignor/owner of the Goods or Livestock.

5.2. Insured events

We will indemnify You for all sums that You become legally liable to pay under the terms of Your Approved Terms and Conditions for:

- a) compensation for loss of or damage to Goods or death of Livestock entrusted to Your care; or
- b) delay, loss of market or consequential loss that is caused solely by the loss of or damage to the Goods or death of Livestock.

The insured event must occur during the Period of Insurance and geographical limits specified in the Policy Schedule.

5.3. Your cover may be reduced where:

- a) You intentionally choose not to use the Approved Terms and Conditions; or
- b) Your changing or waiver of the Approved Terms and Conditions increases Your liability and You have not obtained Our prior written approval of the changes or waiver (such consent not to be unreasonably withheld).

In these circumstances We will reduce Our liability to that which would have applied had Your Approved Terms and Conditions been incorporated into the contract of carriage.

6. How much We will Pay

6.1. Cover Option 1: Comprehensive Goodwill Cover

Subject to the limit of liability shown in the Policy Schedule, the amount payable will be the lesser of:

- a) the cost of repairing or replacing the lost or damaged Goods or Livestock; or
- b) the Market Value at the time of loss of or damage to the Goods or Livestock.

In addition, We will pay legal costs incurred by You with Our consent. We will also pay legal costs incurred by You with Our consent where any optional or additional benefits are shown as being insured in the Policy or on the Policy Schedule.

Our consent shall not be unreasonably withheld or delayed. If You breach this requirement, We shall reduce the liability for this element of the claim by the extent to which We are prejudiced by the failure to seek Our prior consent.

Legal costs and other expenses incurred by You with Our consent are payable as part of, and not in addition to, the limit of liability.

6.2. Cover Option 2: Liability for Cargo

Subject to the limit of liability shown in the Policy Schedule, the amount payable for loss of or damage to Goods or Livestock and consequential loss covered by the Policy will be the actual liability incurred by You.

In addition, We will pay legal costs incurred by You with Our consent. Our consent shall not be unreasonably withheld or delayed. If You breach this requirement, We shall reduce the liability for this element of the claim by the extent to which We are prejudiced by the failure to seek Our prior consent.

Legal costs and other expenses incurred by You with Our consent are payable as part of, and not in addition to, the limit of liability.

6.3. Limit of liability

The limits of liability stated in:

- a) the Policy Schedule;
- b) any endorsements;

and any sub-limits expressed in the Policy apply to any one insured event, unless stated otherwise. All Policy sub-limits, optional or additional benefits are payable as part of, and not in addition to, the limit of liability.

Legal costs and other expenses incurred by You with Our consent are payable as part of, and not in addition to the limit of liability.

6.4. Who We will pay

Amounts payable under the Policy will be paid to You, or any other party You direct Us to make payment to provided they have an insurable interest in the Goods or Livestock under the Policy, and any such payment will discharge Our liability under the Policy for the loss.

7. What You must Pay if You make a Claim

7.1. Deductible

For claims You make on the Policy, You will have to pay the Deductible which is shown in the Policy or on Your Policy Schedule. If more than one Deductible is payable under the Policy for any claim or series of claims arising from the one accident or insured event You must pay the highest applicable Deductible, but You pay only one Deductible.

8. When You are Not Covered

The exclusions set out in this part apply to all cover options, including optional and additional covers, provided by the Policy.

The Policy does not cover any loss, damage or liability:

- a) occurring during storage at the election of or on the instruction of the owner of the Goods or Livestock;
- b) to property other than the Goods or Livestock specified in the Policy and the Policy Schedule;
- c) to Goods or Livestock carried in a Conveying Vehicle which is unsafe or unroadworthy unless the condition of the Conveying Vehicle could not reasonably have been detected by You or it did not contribute to the loss;
- d) to Goods or Livestock when the Conveying Vehicle is being driven by a driver who is not licensed under the applicable law to drive the Conveying Vehicle unless You did not know and could not reasonably have known that the driver was unlicensed;
- e) to Goods or Livestock when the Conveying Vehicle is being driven by a person whose faculties are impaired by a drug or intoxicating liquor or who has a concentration of alcohol or a drug in his or her blood in excess of that permitted by law for a driver of a motor vehicle unless You did not know and could not reasonably have known that the driver was so affected.
This exclusion will not apply to the extent that there are any statutory provisions to the contrary;
- f) to Goods or Livestock caused by any wilful act or acts committed by You or someone with Your knowledge or connivance;
- g) to Goods or Livestock as a result of delay, loss of market, loss of profits or any consequential loss other than as covered by Clauses 4.1 Cover Option 1 Comprehensive Goodwill Cover or Cover Option 2: Liability for Cargo, and only if those cover options are insured under the Policy;
- h) to Goods as a result of electronic, electrical or mechanical failure unless there is visible external physical damage which occurred during transit caused by an insured event;
- i) to Goods or Livestock directly or indirectly caused by war, acts of war (whether war be declared or not), rebellion, revolution, nationalisation, requisition, destruction or damage by or by the order of any government, public authority or local authority;

- j) for fines, penalties, aggravated exemplary or punitive damages;
- k) arising from ordinary leakage, ordinary loss in weight or volume, ordinary wear and tear, or inherent vice or nature of the Goods;
- l) arising from strikes, lock-outs, labour disturbances, riots or civil commotions or caused by strikers, locked out workmen or persons taking part in labour disturbances, riots or civil commotions;
- m) to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose Us, Our parent company or Our ultimate controlling entity to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, the Commonwealth of Australia, New Zealand, United Kingdom or the United States of America;
- n) to Goods or Livestock caused by Terrorism while the Goods or Livestock are not in the ordinary course of transit;
- o) to Goods caused by or arising from unexplained losses discovered on inventory/stocktaking unless established by You to have been caused by an insured event;
- p) to Goods or Livestock arising directly or indirectly from, or in any way connected with, the actual or suspected presence or threat of any virus, organism or like substance that is capable of inducing disease, illness, physical distress or death to any humans, animals or plants, whether infectious or otherwise, including but not limited to any epidemic, pandemic, influenza, or any outbreak of a virus or disease affecting humans, animals or plants, or any derivative or mutation thereof. This includes, but is not limited to, the human coronavirus, SARS-CoV-2, which causes the disease COVID-19;
- q) to the following Goods:
 - i) live plants and trees;
 - ii) bullion, precious stones, cash or securities, precious metal objects, precious jewellery, valuable works of art;
 - iii) furniture, appliances and related domestic goods belonging to a householder
 - iv) birds (except poultry);
 - v) any Goods owned, hired or leased by You;
 - vi) aircraft, helicopters, missiles and similar Goods;
 - vii) houses; and
 - viii) cigarettes or other tobacco based products valued at more than \$10,000.

In no case shall this insurance cover loss, damage, liability or expense directly or indirectly caused by or contributed to, by or arising from:

- 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 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 actual or alleged liability whatsoever for any claim or claims in respect of loss or losses directly or indirectly arising out of, resulting from or in consequence of asbestos;
- f) any chemical, biological, bio-chemical or electromagnetic weapon.

9. General Conditions

The insurance cover provided by the Policy is subject to the following additional conditions. If You do not meet any of the following conditions, We may reduce or refuse to pay a claim or cancel the Policy. See the important information section – “When We can Refuse to Pay or Reduce the Amount We Pay Under a Claim” for further details.

9.1. Your responsibility for Your liability

We are liable to You for loss or damage covered by the Policy whether assumed by You or for which You are legally liable.

This liability does not create an interest in the Policy on behalf of any person in relation to any loss or damage for which You have accepted liability under the Policy. You, not Us, are responsible for any liability that You have accepted in the course of Your business.

9.2. You are not Our agent

You may not represent to any party that You are able to arrange insurance cover under the Policy or otherwise on behalf of Us.

9.3. Alteration of risk

If You do or omit to do something which materially changes the risk that increases the chances of future loss, You must give Us notice in writing as soon as reasonably practicable.

9.4. Due care

At all times, You must take appropriate care in:

- a) the handling, moving and storing of Goods in Your care, custody or control; and
- b) issuing and obtaining Your customers' agreement to Your Agreed Terms and Conditions (where applicable).

9.5. Insufficiency of packing

We may be entitled to reduce Our liability to You under Cover Option 1 and Cover Option 2 to the extent that it can be shown that the loss or damage being claimed is wholly or partly due to the Goods not being adequately packed or prepared by Your customer to withstand the normal rigours of transit. See the important information section – "When We can Refuse to Pay or Reduce the Amount We Pay Under a Claim" for further details.

9.6. Premium calculation

The method of premium calculation will be shown in the Policy Schedule.

This will be adjustable on actual Gross Freight Earnings.

9.7. Premium adjustment

As specified in the Policy Schedule and detailed below:

Adjustable on actual Gross Freight Earnings

If the Policy Schedule shows a deposit premium based on Your estimated Gross Freight Earnings it is calculated at the commencement of each Period of Insurance based on information You give Us.

You are required to declare to Us Your actual Gross Freight Earnings within one month of the end of a Period of Insurance.

The premium payable is calculated on the actual Gross Freight Earnings during the Period of Insurance being adjusted at the agreed rate(s).

The difference between the premium for the actual Gross Freight Earnings and the deposit premium will be paid by You but always subject to a minimum of 100% of the deposit premium being retained by Us.

If Your deposit premium is less than \$25,000 and the variance between estimated and actual figures is less than 10% then We will waive the amount calculated as owing by You.

9.8. Preventing insurer's right of recovery

Where another party is liable to compensate You for loss, damage or liability which is covered by Your Policy but You have agreed not to seek recovery from that party, We may not cover You under this Policy for that loss, damage or liability to the extent that We have been prejudiced by Your agreement with that party. See the important information section – "When We can refuse to pay or reduce the amount We pay under a claim" for further details.

9.9. Third party interests

You must inform Us of the interests of all third parties who have an interest in the property to be covered by the Policy. We can protect the interest of other parties if You have informed Us and such interest(s) are noted in Your Policy Schedule.

9.10. Cancellation

Cancellation by You

You may cancel the Policy at any time by contacting Us and giving Us notice of cancellation. Cancellation will take effect from the date Your notice is received by Us or any other date if mutually agreed. If You do not exercise Your right to cancel Your Policy, it will continue in force and You will be required to pay the premium.

Cancellation by Us

We may cancel the Policy pursuant to any right at law by giving You written notice to that effect. Where the Insurance Contracts Act 1984 (Cth) applies this includes where:

- You have:
 - failed to comply with the duty of utmost good faith;
 - failed to comply with the Duty of Disclosure at the time when the Policy was entered into;
 - made a misrepresentation to Us during the negotiations for the Policy before We entered into the Policy;
 - failed to comply with a provision of the Policy, including a provision with respect to payment of the premium;
 - made a fraudulent claim under the Policy or any other Policy of insurance (whether with Us or some other insurer) that provided insurance cover during any part of the period during which the Policy provides insurance cover; or
 - failed to notify Us of any specific act or omission or failure that has occurred after the Policy is entered into where notification is required under the terms of the Policy.
- the effect of the Policy is to authorise Us to refuse to pay a claim, either in whole or in part, by reason of an act or omission or failure of You or of some other person and, after the Policy was entered into, such an act or omission or failure has occurred.

When We cancel the Policy, it will have effect from whichever of the following times is the earliest (unless We tell You otherwise in Our cancellation notice):

- the time when another policy of insurance replacing the Policy is entered into; or
- 4 o'clock in the afternoon of the third (3rd) business day after the day on which notice was given to You unless the Policy is in force because of section 58 of the insurance contracts act 1984 (Cth), in which case the cancellation will have effect from 4 o'clock of the fourteenth (14th) business day after the day on which notice was given to You.

Effect of cancellation

Your Policy with Us ends from the time of cancellation. You will not have cover for events occurring after that time.

However, cancellation of this insurance by Us or You does not affect the treatment of any claim for an event that happened happening before cancellation.

Premium refund

If You or We cancel the Policy We may deduct:

- a pro rata proportion of the premium for any time for which You have been covered. For example, if Your Period of Insurance is 12 months and You have been covered for six (6) months, the deduction for the time You have been covered will be half the annual premium; and
- any government taxes or duties paid by Us in relation to Your Policy We cannot recover.

However, in the event that You have made a claim under the Policy and We have agreed to the claim no return of premium will be made.

9.11. Law and practice

The Policy will be governed in accordance with the laws of the Commonwealth of Australia. Any disputes arising out of the Policy will be subject to determination by any Court of competent jurisdiction within the Australian State or Territory in which the Policy was issued and according to the laws applicable to the jurisdiction.

9.12. Interpretation

In the Policy:

- a) headings are for convenience only and do not affect interpretation;

and unless the context indicates a contrary intention:

- b) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- c) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- d) "includes" in any form is not a word of limitations; and
- e) a reference to "\$" or "dollar" is to Australian currency.

10. Claims

10.1. What You must do

Following an event that is likely to give rise to a claim under the Policy, You must take the following steps:

As soon as reasonably practicable

- a) Take all reasonable measures to avoid or minimise any loss or damage (We will pay the reasonable and necessary cost of doing this);
- b) Inform the police promptly after a theft is discovered and obtain a written report of such notification.

Notification

- a) You must inform Us of the event as soon as possible at claimsnoticeaustralia@bhspecialty.com;
- b) Submit to Us full written particulars as soon as possible.
- c) Send to Us all correspondence and documents relating to the event.
- d) You must not admit liability for any claim made against You and advise Us as soon as reasonably practicable.
- e) Provide or arrange for Us to be provided with invoices, statements and other documents evidencing the amount of the loss.

10.2. What should not be done

- a) Do not admit liability.
- b) Do not repair or replace any Goods until You have Our approval.
- c) Do not dispose of the damaged Goods without Our approval.

10.3. When others may be liable

When other parties may be liable to You for the loss, damage or liability, You must:

- a) not agree to release those parties from liability;
- b) hold the parties liable by delivering a notice of intention to claim; and
- c) inform Us of the circumstances and let Us have a copy of all relevant documents.

We may exercise all Your legal rights relating to the loss or damage. We may prosecute or defend any legal proceedings in Your name and have full discretion in the exercise of Your legal rights.

10.4. Fraud

If any claim in whole or part is fraudulent or false in any respect We may be entitled to avoid paying the claim or reduce the amount of the claim settlement. In some circumstances We may also be able to cancel Your Policy. See the important information section – “When We can refuse to pay or reduce the amount We pay under a claim” for further details.

11. Definitions

Some key words and terms used in this Policy have a special meaning that appear below when the word starts with a capital letter in this document. Other words may be specially defined to have a meaning when used in relation to a Policy section, term or condition.

Accidental

Any occurrence or event which arises during the course of transit and results in loss or damage to the Goods which is unintended and could not have been expected by a person who has actual knowledge of the means of transportation of the Goods.

Approved Terms and Conditions

Any written agreement defining or limiting Your legal responsibility for Goods or Livestock in Your care, custody and control which has been declared to and approved by Us prior to the commencement of transit. This includes a consignment note, freight note or conditions of contract issued by You (or a principal contractor) that has been agreed to by the owner of the Goods or Livestock.

Conveying Vehicle

Any mode of transport used to transport the Goods whether owned or operated by You or a subcontractor of Yours.

Deductible

The amount of each claim to be borne by You before We are obliged to make any payment under the Policy. Our liability to indemnify You under the Policy applies only in respect of the claimed loss which exceeds the Deductible amount stated in the Policy or the Policy Schedule (as applicable).

Any applicable Deductible will be advised to You before You agree to enter into a Policy with Us.

Flood

The covering of normally dry land by water that has escaped or been released from the normal confines of any of the following:

- a) a lake (whether or not it has been altered or modified);
- b) a river (whether or not it has been altered or modified);
- c) a creek (whether or not it has been altered or modified);
- d) another natural watercourse (whether or not it has been altered or modified);
- e) a reservoir;
- f) a canal;
- g) a dam.

Goods

General cargo and other property specified in the Policy Schedule, owned by others, including shipping containers and flatracks, while in Your or Your subcontractors' care, custody or control and while being carted in Your business as a contract haulier. Goods does not include Livestock.

Goodwill

Where for commercial reasons you elect to compensate your customers for loss or damage to their cargo as provided for under Cover Option 1 – Comprehensive Cover notwithstanding that you having no legal liability or obligation to do so.

Gross freight earnings

The total gross income derived by You during the Period of Insurance out of the carriage of Goods whether as principal, subcontractor or through Your subcontractors without deduction of any cost, payments to others or expenses of any kind.

Livestock

Agricultural or farm animals of a type specified in the Policy Schedule, owned by others, including shipping containers, while in Your or Your subcontractors' care, custody or control and while being carted in Your business as a contract haulier. Bloodstock, stud or prize animals does not mean Livestock.

Market Value

The cost to buy an item, of the same or equivalent age, condition, model, make or breed as the insured Goods or Livestock.

Period of Insurance

The period specified as the "Period of Insurance" in the Policy Schedule, unless the Policy ends earlier in accordance with its terms or law, in which case the Period of Insurance ends at that earlier time.

Policy

This document (except to the extent part of it is expressly excluded), the Policy Schedule and any other documents We agree with You will form part of Your policy that We issue. Together they form Your contract with Us. These are all important documents and should be carefully read together and kept in a safe place for future reference.

Policy Schedule

The document of that name which sets out the details of the insurance cover such as the Policy number, Period of Insurance, limit of liability and any Deductible payable in the event of a claim. It is part of the Policy and should be read in conjunction with the other documents that form the Policy.

Terrorism

Any act(s) of any person(s) or organisation(s) involving:

- a) the causing, occasioning or threatening of harm of whatever nature and by whatever means;
- b) 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 political, religious, ideological or of a similar nature.

'Terrorism' shall also include steps taken to prevent, suppress, control or reduce the consequences of any actual, attempted, anticipated, threatened, suspected or perceived Terrorism.

We, Our, Us

Berkshire Hathaway Specialty Insurance Company (incorporated in Nebraska, USA) ABN 84 600 643 034, AFS License No. 466713 in its own capacity and when acting through its agent SURA Pty Ltd ABN 36 115 672 350, AFSL 294313 trading as SURA Marine (SURA Marine).

You, Your, Yours

The person(s), companies or firms named on the current Policy Schedule as the "Insured", and any entity to the extent that cover is provided under the Terms and Conditions – Acquired Companies.

NSW

Level 14, 141 Walker Street
North Sydney NSW 2060
Telephone: 02 9930 9500

SURA Pty Ltd ABN 36 115 672 350,
AFSL 294313 trading as
SURA Marine ("SURA Marine").

In providing any financial services
SURA Marine acts under a binder
as an agent of Berkshire Hathaway
Specialty Insurance Company
(incorporated in Nebraska, USA)
ABN 84 600 643 034, AFS
License No. 466713

Thank you for receiving
this document electronically.
SURA Marine supports
positive initiatives for
our environment.