



# Tracks & Treads<sup>®</sup> Turbo

## Contractors Mobile Plant Insurance Policy

Effective date: 1 February 2021

360TLCTTTIIV721



# Contractors Mobile Plant Insurance Policy

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# About this Booklet

Insurance administered and issued by TLC Insurance Limited, underwritten by Berkshire Hathaway Specialty Insurance Company (inc. in Nebraska, USA).

THIS POLICY OF INSURANCE confirms that in return for payment of the Premium shown in the **schedule**, **we** have agreed to insure **you**, in accordance with the details shown in the **schedule** in conjunction with this **policy** wording.

In accepting this Insurance, the Underwriters have relied on the information and statements that **you** have provided on the Proposal Form (or Declaration). **you** should carefully read this **policy** wording and the **schedule** attached hereto, and if it is not correct please contact **us**. It is an important document and **you** should keep it in a safe place with all other papers relating to this Insurance.

This **policy** of Insurance is issued by TLC Insurance Limited in accordance with the authority granted to them by Berkshire Hathaway Specialty Insurance Company (inc. in Nebraska, USA).

## For Further Information

**Our** knowledge, expertise and experience are always available to **your** broker and **you**. If **you** need any further information about this **policy**, or any other product or service **we** provide, then contact **your** broker or TLC Insurance Limited at:

PO Box 7006, Tauranga 3148  
Phone. +64 7 544 6686  
Freephone. 0800 TLC INS (0800 852 467)  
Email. [info@tlcinsurance.co.nz](mailto:info@tlcinsurance.co.nz)  
Website. [360uw.co.nz](http://360uw.co.nz)

# General Information for Your Contractors Mobile Plant Insurance Policy

## Claims Conditions

1. In the event of an **accident** that may become the subject of a claim under the **policy**, **you** must immediately notify **us** and then forward:
  - a. full details in writing;
  - b. any communication or court documents received.
2. **You** may appoint a licensed repairer of **your** choice, but:
  - a. **You** must obtain **our** agreement before repairs are started;
  - b. **You** must make **your machine** available for **our** inspection;
  - c. **We** reserve the right to invite, accept, adjust or decline estimates or to arrange at **our** expense for the removal of **your machine** to other repairers for quotation purposes.
3. In respect of each claim or potential claim, **you** must:
  - a. not make any admission of guilt or offer of payment without **our** written consent;
  - b. allow **us** to have the sole conduct of all negotiations and proceedings;
  - c. give **us** all reasonable assistance and co-operation in all regards including recovery from the responsible party;
  - d. notify **us** of any other insurance that also provides cover, whether in whole or in part;
  - e. notify the Police as soon as possible in respect of theft of or malicious damage to **your machine**;
  - f. retain any and all parts that are damaged and affected as a consequence of any claim or potential claim and these are not to be disposed of without **our** consent.
  - g. complete all repairs or replacement of the **insured** property within reasonable period after **we** accepted **your** claim. Unless otherwise agreed, all repairs or replacement must be fully completed and all relevant invoices for payment be presented to **us** within 6 months from the date of claim acceptance.

**exclaim**

## Complaint Handling Process

If **you** are not happy, **we** want to know so that **we** can help.

**Our** goal is to have loyal and happy customers. **we** want **our** customers to be completely satisfied in all dealings with **us**.

TLC is committed to:

- + listening to what **our** customers and brokers tell **us**
- + being accurate and honest in telling customers and brokers about **our** products and services
- + communicating clearly with **our** customers and brokers, and
- + resolving any customer complaints or concerns.

This is part of **our** commitment to the General Insurance Code of Practice.

Customers are encouraged to contact **us** with the following messages:

### By Phone

If **you** have a complaint please preferably phone the number on the back of **your policy** wording or call **us** on one of the numbers below weekdays 8.30am to 5.00pm. Here **you** can discuss **your** concern with one of **our** team members.

Phone. +64 7 544 6686  
Freephone. 0800 TLC INS (0800 852 467)

### In Writing

Send **us** the full details of **your** complaint, including any support documents and explain what **you** would like **us** to do.  
Mail to:

PO Box 7006, Tauranga 3148

## In Person

If **you** would like to come in to talk to **us** face to face, please call and **we** will arrange an appointment for a meeting. Phone one of the numbers below for an appointment.

Phone. +64 7 544 6686  
Freephone. 0800 TLC INS (0800 852 467)

Post. Insurance & Financial Services  
Ombudsman Scheme (ONE LINE)  
PO Box 10-845  
Wellington 6143  
New Zealand

Email. [info@ifso.nz](mailto:info@ifso.nz)  
Website. [www.ifso.nz](http://www.ifso.nz)

## TLC Complaint Procedure

When first advised of a complaint:

- a. the complaint will be handled by a person who has authority to deal with it; and this person will review **your** complaint
- b. consider the facts and contact **you** to resolve the complaint as soon as possible, usually within 24 hours.
- c. if the matter cannot then be resolved to **your** satisfaction, it will
- d. be referred to the relevant Manager, who will contact **you** within 5 working days
- e. if **you** are still not satisfied with the outcome, it will be referred to General Management.
- f. **you** will receive TLC's final decision in writing within 15 working days from the date **you** first made the complaint.
- g. if more information is required or **we** need to assess or investigate **your** complaint, TLC will agree a reasonable alternative timeframe with **you**.

And if the complaint still remains unresolved then **you** can undertake dispute resolution proceedings directly with the office of the Insurance & Financial Services Ombudsman as the selected dispute resolution scheme required under the terms of the *Financial Service Providers (Registration and Dispute Resolution) Act 2008*. Contact details as below:

# Definitions

Where stated in the **policy** the meaning of the following words shall be as defined below:

**Accident, Accidental, Accidentally** means:

An unforeseen, unintended and unexpected event which occurs suddenly at a specific time and place in New Zealand.

**Dry Hire** means:

The situation where **you** hire, rent, loan or (borrow) **your machine** to another person or party whereby **your machine** is not under **your** control and is not being operated by **you** or an operator employed by **you**.

**Excess, Deductible** means:

The first amount **you** must pay in relation to each and every claim made under **your policy**, as stated on the **schedule**.

Where there is more than one **insured** item involved with one single event being the subject of a claim under the **policy**, then only one **excess** shall apply. This **excess** will be the highest **excess** of any one of the **insured** items. However if there is also an admissible claim under any extension to this **policy** then the **excess** for that additional cover will be cumulative with the highest machine **excess**. Where a claim has been admitted under a **policy** extension, additional **excess** may apply.

**Liability** means:

**Your** Liability at law, to indemnify third parties for their **loss** or injury incurred during the period of the **policy** arising from an **accident** caused by or in connection with **your machinery** specified and **insured** under the **schedule** of this **policy**.

**Loss** means:

Sudden physical **loss**, damage or destruction to **your machine** caused by an **accident**.

**Period of Insurance** means:

The period shown in the most recent **schedule** or the subsequent period for which the **policy** has been renewed.

**Plant** means:

Any item of plant, Machinery, Equipment (including self-propelled items) that is specified in the **schedule** or any **insured** vehicle. This includes:

1. any Ancillary Equipment normally used with the **insured** item; and

2. Accessories and spare parts whilst in or on the **insured** item.

Ancillary Equipment - interchangeable attachments that are normally used with an item of plant (e.g. buckets, scoops, blades, pneumatic heads). The value of all ancillary equipment shall not exceed 25% of the total value of the **insured** item, unless **insured** as a separate item.

Accessories - supplementary items that have been added to the **insured** item after manufacture, which do not alter the performance or characteristics of the **insured** item.

**Policy** means:

This document, the **schedule** and any other notice **we** give **you** in writing. Together they form The Agreement.

**Revenue** means:

The money received or receivable for services provided in the course of **your** business.

**Schedule** means:

The attachment which forms part of the **policy** and shows **your policy** number, together with the important details of **your** cover.

**Sum Insured** means:

The amount shown in the **schedule** that any one item of plant is **insured** for.

**Total Loss** means:

If the cost of repairs following an **accident** for which a claim has been accepted under this **policy**, exceeds the Sum **insured** or market value of the damaged item then the item is deemed to be a **total loss**.

**We, Us, Our** means:

TLC Insurance Limited representing the Insurer named in the **policy schedule**.

**You, Your, Insured** means:

The Person(s) or Company(ies) named in the **schedule** including any subsidiary Companies, Directors or Principals representing the Person(s) or Company(ies) named in the **schedule**.

**Your Machine(s)** means:

The item of plant described in the **schedule**.

# Cover for Your Machine

We will indemnify You for Loss by paying, at Our option:

1. to repair, reinstate or replace **your machine**, or
2. an amount equal to **your machine's market value**, or
3. the Sum Insured shown in the **schedule**.

## General Exceptions

We will not pay for:

1. Consequential Loss or financial expense of any kind as a result of **you** not being able to operate **your Machine**.
2. Death, injury, illness, **loss**, damage, **liability**, cost or expense of any nature directly or indirectly caused by, resulting from, or in connection with, any of the following regardless of any other contributing cause or event:
  - a. war, invasion, acts of foreign enemies, hostilities or warlike operations whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
  - b. any act of Terrorism. For the purpose of this exception, Terrorism means an act including but not limited to the use or threat of force or violence by any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s) which from its nature or context is committed for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any government and/or to put the public or any section of the public in fear.
  - c. This **policy** also excludes death, injury, illness, **loss**, damage, **liability**, cost or expense of any nature directly or indirectly caused by, resulting from, or in connection with, any action taken in controlling, preventing, suppressing or in any way relating to, the above exceptions.
3. **Loss, liability** or damage resulting from depreciation, wear and tear, rust or corrosion
4. **Loss, liability** or damage from failure of, or defect, or fault in, the design or specification of **your machine**
5. Electronic Data Exclusion

This **policy** does not insure **loss**, damage, destruction, distortion, erasure, corruption or alteration of ELECTRONIC DATA from any cause whatsoever (including but not

limited to COMPUTER VIRUS) or **loss** of use, reduction in functionality, cost, expense of whatsoever nature resulting therefrom, regardless of any other cause or event contributing concurrently or in any other sequence to the **loss**.

**Electronic Data** means facts, concepts and information converted to a form useable for communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.

**Computer Virus** means a set of corrupting, harmful or otherwise unauthorised instructions or code including a set of maliciously introduced unauthorised instructions or code, programmatic or otherwise, that propagate themselves through a computer system or network of whatsoever nature. COMPUTER VIRUS includes but is not limited to 'Trojan Horses', 'worms' and 'time or logic bombs'.

However, in the event that a peril listed below results from any of the matters described in paragraph a) above, this **policy**, subject to all its terms, conditions and exclusions, will cover physical damage occurring during the **policy** period to property **insured** by this **policy** directly caused by such listed peril.

### Listed Perils

- + Fire
- + Explosion

### Electronic Data Processing Media Valuation

Notwithstanding any provision to the contrary within the **policy** or any endorsement thereto, it is understood and agreed as follows:-

Should electronic data processing media **insured** by this **policy** suffer physical **loss** or damage **insured** by this **policy**, then the basis of valuation shall be the cost of the blank media plus the costs of copying the electronic data from back-up or from originals of a previous generation. These costs will not include research and engineering nor any costs of recreating, gathering or assembling such electronic data. If the media is not repaired, replaced or restored the basis of valuation shall be the cost of the blank media. However this **policy** does not insure any amount pertaining to the value of such electronic data to the Assured or any other party, even if such electronic data cannot be recreated, gathered or assembled.

### Cyber Attack Exclusion

This **policy** does not insure against any **loss** or **liability** or costs directly or indirectly caused by, arising from or in any way connected with the use or operation, as a means of



inflicting harm, of any computer, computer system, computer software programme, computer virus or process or any other electronic system.

6. **Loss, liability** or damage resulting from the explosion or collapse of any pressure vessel which does not have a current certificate as required by any statute or regulation.
7. **Loss, liability** or damage if **your machine** is used or operated:
  - a. for any illegal purpose with **your** knowledge or consent;
  - b. for or being tested in preparation for any race, trial, test, contest or whilst being tested in preparation thereof.
8. **Loss, liability** or damage arising from ingestion or entry of any foreign object into any machine or attachment or accessory thereto.
9. **Loss, liability** or damage intentionally caused by **You** or any person acting with **your** express or implied consent.
10. **Loss, liability** or damage occasioned by lawful seizure or other operation of law.
11. **Loss, liability** or damage discovered only at the time of taking an inventory or during routine servicing.
12. **Loss, liability** or damage due to electrical or mechanical breakdown, failure, breakage or derangement, freezing of coolant or other fluid, defective lubrication or lack of oil or coolant, but if as a consequence of such breakdown or derangement an Accident occurs causing external damage, such consequential damage will be indemnifiable.
13. **Loss, liability** or damage caused by nuclear fuel, nuclear waste or nuclear material.
14. **Loss, liability** or damage or Liability while **your** Machine is being operated or used outside New Zealand.
15. **Loss, liability** or damage resulting from theft by any person or entity:
  - a. posing as a prospective purchaser or other interested party;
  - b. to whom **your machine** is on hire under any agreement for hire;
  - c. including any agreement for hire purchase or lease;
 

in whose debt **your machine** stands as security under or pursuant to any agreement entered into by any person or entity **insured** under the **policy**.
16. Theft of or further damage to **your machine** after Loss unless reasonable steps have been taken thereafter to protect or safeguard **your machine**.

17. Damage to the tyres of **your machine** caused by the application of brakes, road punctures, valve leakage, inherent failure due to manufacturer fault or error, staking or spiking.
18. **Loss, liability** or damage or **liability** whilst left unattended in Excess of 4 hours in any watercourse or body of water and suffers **loss** or damage as a direct consequence thereof.
19. **Loss, liability** or damage if **your machine** is operated by any person who:
  - a. is under the influence of any intoxicating substance or drug; or
  - b. has a proportion of alcohol in the blood which exceeds the legal limit. This exception will apply notwithstanding the operator may have died as a result of the **accident**; or
  - c. has a proportion of alcohol in the breath which exceeds the legal limit; or
  - d. fails to supply a blood or breath sample as required by law; or
  - e. fails to stop, or remain at the scene of an **accident** as required by law;

Provided that:

A certificate of conviction of the driver may be used by **us** as sufficient evidence for these exceptions to apply where the offence was committed at the time of or following the **accident**. A certificate of analysis of the operator's blood or a reading from an evidential breath testing device of the driver's breath may be used by **us** as sufficient evidence of the driver's minimum blood or breath alcohol level at the time of the **accident**.

This exception shall not apply in respect of **loss** which results from fire, theft or conversion.

**We** will pay if **you** did not know or could not reasonably have known that the operator of **your machine** was so affected or refused to undergo an appropriate test at the time of the **accident**, but **we** will not cover the operator of **your machine**.

20. **Loss, liability** or damage if **your machine** is used or operated by **you** or by any person with **your** consent who is not licensed to operate **your machine** under any relevant law.
21. **Loss, liability** or damage if **your** Machine is used in an unsafe or unroadworthy condition and such condition caused or contributed to the **Loss, liability** or damage. **We** will pay if **you** could not have reasonably detected the unsafe or unroadworthy condition.
22. **Loss, liability** or damage resulting from **your machine**:
  - a. undergoing a test of any kind other than as required to comply with any statute or regulation;

- b. being used in a manner not in accordance with the manufacturer's instructions or guidelines, or in a manner or purpose other than that for which it was designed.

If an **accident** should occur as a result of a testing procedure causing damage to parts of the machine not undergoing the test, then damage to such parts will be indemnified.

- 23. **Loss, liability** or damage to **your machine** or its attachments while underground.

## Sanction Limitation and Exclusion

The Insurer will not be liable to pay any claim or provide any cover or benefit to the extent that the provision of cover, payment of such claim or provision of such benefit would expose the Insurer to any sanction, prohibition, or restriction under United Nations resolutions, or the trade or economic sanctions, laws, or regulations of New Zealand, Australia, the European Union, United Kingdom or the United States of America.

## Communicable Disease Exclusion

Notwithstanding any clause to the contrary, this **policy** does not cover any **loss**, damage, **liability** or expense 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.

## Standard Policy Extensions

Subject to the same General Exceptions, General Conditions and Claims Conditions of the main wording, **we** will extend **your policy** to cover the following extensions which shall be payable in addition to the Sum **insured**.

### 1. Additional Costs

This **policy** is extended to include any additional charges incurred for overtime, night-work, work on public holidays and express freight PROVIDED **our** total **liability** does not exceed \$10,000 in respect of any one claim under this extension.

### 2. Additions and Deletions

It is agreed that all Plant acquired by **you** shall be considered as being included in the **policy** for a period of up to 3 months from the date of acquisition for the purchase price, up to a maximum limit of \$250,000.

### 3. Agreed Value

Whereby a valuation from an approved Valuer has been received by **us**:

1. prior to any **loss**; and
2. the item is **insured** for the value stated on the valuation within the **schedule**.

**We** agree to pay the value stated as the Sum **insured** within the **schedule**;

Whereby a valuation from an approved Valuer has not been received by **us**, the maximum amount **we** will pay under this **policy** will be the Agreed Value shown on the **schedule** unless it is determined to be more than 20% above the Market Value in which case **we** will only pay the lesser of;

1. the Agreed Value stated on the **schedule**; OR
2. Market Value plus 20%

For the purpose of this extension:

1. the Agreed Value shall be the amount declared to **us** by the **insured** on the required proposal or any subsequent **schedule** for renewal.
2. the Market Value shall be determined by obtaining valuations from:
  - a. any approved Valuer who is able to substantiate any valuation provided with examples of machines which are the same or similar make, model and type and in like condition to **your machine** that:
  - b. have sold within the six month period prior to the **loss**; and/or
  - c. are for sale on the current market.
3. **We** deem an 'approved Valuer' to be a company or person who has reasonable experience and industry knowledge within the New Zealand market of:
  - a. the type of machine being claimed for; and
  - b. the type of industry in which the machine is/ was being used.

### 4. Appreciation

It is understood and agreed that the insurance under this **policy** is extended to cover appreciation of the Agreed Value of **your machine** due to any cause whatsoever PROVIDED always that such appreciation shall not exceed 25% of the Sum **insured**.

## 5. Breach of Warranty

The indemnity provided by this **policy** will not be invalidated by reason of any breach of warranty or condition of this **policy** where the breach occurs without the knowledge of the **insured** named in the **schedule** PROVIDED the **insured** named in the **schedule** has not waived any right of recovery against the driver or operator.

## 6. Cleaning Up Costs

This **policy** is extended to include any cost incurred in cleaning up and disposing of any debris resulting from an **accident to your machine**, including any load carried thereon, PROVIDED **our** total **liability** does not exceed \$10,000 in respect of any one claim under this extension.

## 7. Consequential Loss

It is understood and agreed that if the business carried on by **you** is interrupted or interfered as a direct result of **loss** to **your machine** and for which a claim has been accepted under this **policy**, this insurance extends to:

1. Indemnify **you** against the increase in cost of working and compensate **you** for the loss of **revenue** suffered by **you** PROVIDED that:
  - a. the amount payable for any increase in the cost of working shall be the additional expenditure necessarily and reasonably incurred for the sole purpose of minimising any interruption to the business during the indemnity period in consequence of the **loss**; and
  - b. **you** shall provide all documentation required to establish and verify any claim for **loss** of **revenue** directly related to the **loss**; and
  - c. **you** shall take all reasonable steps to avoid or reduce any potential **loss** of **revenue** including reorganising work methods and schedules; and
  - d. **you** shall take all reasonable measures to assist with the expedient repair and availability of the Machine.
2. Pay **you** a contribution towards the hire/rental of an alternative Machine

Provided that:

- a. The amount payable shall be the additional cost necessarily and reasonably incurred for the sole purpose of minimising any interruption to the business; and
- b. **You** shall provide all documentation required to establish and verify any claim for the hire/rental of an alternative machine; and
- c. **You** shall take all reasonable measures to assist with the expedient repair and

availability of the Machine; and

- d. No indemnity shall be provided by this extension if a replacement or alternative Machine is available at no cost.

Terms of Extension 7:

1. No indemnity shall be provided under Extension 7 above for the reimbursement of any **deductible** or **excess** applying under any other section or Extension of this **policy**;
2. The provisos contained within Extension 7 above, are conditions precedent to cover under those clauses. If they are not complied with, then no cover will be available;
3. Unless otherwise agreed by **us**, **our** total liability under Extension 7 above shall not exceed;
  - a. \$5,000 per week; nor
  - b. \$50,000 per claim; nor
  - c. \$250,000 in the aggregate in any one **period of insurance**.
4. The indemnity period shall not exceed six months;
5. The **excess** applying to this Extension shall be a 14-day time **excess**;
6. Subject to the **excess**, indemnity under this Extension will commence on the date of **loss** or when **we** have been notified of **Your** claim (whichever is later) and end when repairs to **your machine** have been completed or settlement has been made to **you** (whichever is earlier).

## 8. Emergency Services

It is hereby understood and agreed that all cover provided by this **policy** will remain in effect and shall not be prejudiced where any organisation requiring emergency assistance, has used or commandeered **your machine** or requested or instructed **you** to use or operate **your machine** in a hazardous environment for the express purpose of preventing **loss** or damage PROVIDED the right of recovery against the organisation has not been prejudiced.

## 9. Employee Death by Accident

In the event of a work related **accident** resulting in the death of an employee, **we** agree to pay to that employee:

1. \$50,000; and
2. Reasonable funeral costs, up to a maximum of \$5,000.

Such payments being in addition to any payments under the *Accident Compensation Act 2001*, equivalent legislation or other applicable insurances.

Provided that:

- a. This extension is limited to an aggregate of \$100,000 for death and \$10,000 for funeral costs. Extension 18 (reinstatement) does not apply;
- b. If one incident results in the death of two or more employees then any indemnity entitlement between those employees will be shared equally;
- c. Exclusion 19 does not apply to this extension HOWEVER no cover will be provided if the employee that suffers death was under the influence of alcohol, drugs or other intoxicating substances at the time of the incident. If other employees suffer death as the result of the actions of an employee under such influence those employees will be covered unless also under such influence and that was a factor in their death.

## Definitions

For the purposes of this extension, the following definitions apply:

1. Employee means a direct employee of the **insured** under a contract of paid employment and includes that employee's estate. For the avoidance of doubt contractors or other staff retained on an ad-hoc basis are not employees;
2. Funeral Costs includes travel costs for the employee's immediate family which shall be limited to their father, mother, brother, sister, spouse or children;
3. Work Related **accident** means any injury which is caused by immediate, violent, external and visible means which
  - a. occurs during the ordinary course of employment or while the employee was undertaking an activity at the specific direction of the employer; and
  - b. is the direct cause of the employee's death within 12 calendar months of the incident.

### 10. Goods and Services Tax

Provided GST is recoverable by the **insured** under the *Goods and Services Tax Act 1985*, then:

1. all Sums **insured** exclude GST;
2. GST will be added, where applicable, to claim payments.

### 11. Hired or Borrowed Plant (Liability)

Unless otherwise agreed, this **policy** includes cover for items of Plant hired or borrowed for a maximum period of

90 consecutive days and not otherwise **insured**, for **your** Liability to the owner of the machine for:

1. Loss or damage to any one machine limited to \$250,000 any one machine; and
2. Loss or damage up to a maximum total value at risk of \$250,000; and
3. consequential losses caused by a loss for which a claim is payable under a) above, subject to a limit any one claim of \$25,000.

If the total combined value of all hired in or borrowed **plant** is in Excess of \$250,000, then payment for any claim will be reduced in proportion to the amount at risk.

### 12. Hired-In Plant

Notwithstanding anything contained in this **policy** to the contrary, cover is extended to include **loss** or damage to any item of Plant that is hired, leased or rented from another party. Such cover is subject to:

1. A formal written hire, lease or rental agreement signed by both parties being in place at the time of loss; and
2. Loss or damage to any one machine being limited to \$250,000 any one claim, and \$250,000 in the aggregate, or as otherwise stated within the **schedule**; and
3. Maximum period on hire being 90 days; and
4. Consequential losses (as covered under Standard **Policy** Extension 7) incurred by the owner of the machine being caused by a Loss for which a claim is payable under (ii) above, subject to a limit any one claim of \$50,000, and \$250,000 in the aggregate, and
5. The excess applying to any claim under this extension shall be the same as that applying to the main **schedule** of the **policy**, subject to a minimum of 1% of the machine value stated in the hire agreement, minimum \$500 for any one machine hired in; and 10% of the machine value stated in the hire agreement, minimum \$2,500 for cover provided for Consequential Loss under clause (d) above.

### 13. Hoists and Hydraulic Lifting Equipment

Notwithstanding General Exception 12 this **policy** is extended to include mechanical breakdown or failure of hoists and hydraulic lifting equipment permanently attached to an **insured** machine, which is not due to wear and tear PROVIDED **Our** total Liability for any one **loss** shall not exceed \$5,000 and subject always to a \$1,000 **excess**.

#### 14. Increased Value

This **policy** is extended to include the increased value of **your machine** which is taken off the road during the **period of Insurance** for the purpose of a major overhaul, refit or modification whereby the Sum **insured** shall be automatically increased by the value of the work undertaken PROVIDED that the Sum **insured** shall not exceed the market value and WARRANTED that **you** declare amendments of value to **us** at each renewal date or immediately where such improvements increase the existing value by more than 10%.

#### 15. Interest Clause

Should **your machine** be subject to any lease, hire or other financial agreement this **policy** notes such interests and **loss** if any may be payable to the lessor or unpaid vendor whose receipt shall be a full discharge. Should **you** instruct **us** to cancel this **policy**, **we** hereby undertake to advise any interested party by giving 30 days notice of cancellation Provided that:

1. the interested party has requested their interest to be noted on this **policy**;
2. **your** instruction to cancel this **policy** is given within the **period of insurance**.

#### 16. Mutually Acceptable Loss Adjusters

It is noted and understood that the appointment of any **loss** Adjuster to any claim under this **policy** shall be mutually acceptable and agreeable to both **you** and **us**.

#### 17. No Excess for Fire or Theft

Where **your machine(s)** is fitted with a manufacturer (or authorised agent thereof) approved and operational fire suppression or theft prevention system, it is agreed that no **excess** will be deducted from any claim directly resulting from the risk of fire PROVIDED that the fire suppression and theft prevention systems are regularly serviced and checked by the manufacturer (or authorised agent thereof) at intervals of no more than 6 months.

#### 18. Progress Payments

In the event of damage or destruction to **your machine**, for which **liability** is admitted by **us**, **you** shall be entitled to progress payments PROVIDED that an interim statement of **loss** is supplied by **you** and approved by the assessor.

#### 19. Proportional Premium Refund - Total Loss

Following an **accident** for which a claim has been accepted under this **policy** it is agreed that if an **insured** item suffers a **total loss** whereby the market value is less than the Sum **insured** then **we** agree to refund to **you** the proportion of premium being the amount of difference between market

value and the Sum **insured** multiplied by the incepting rate of insurance prorated from the date of **loss** through to the expiry of cover.

#### 20. Reinstatement of Amount of Insurance

In the event of a **loss** under this **policy** the amount of such **loss** is automatically reinstated after its occurrence and prior to any additional premium required for such reinstatement.

#### 21. Replacement Cost on Parts

Where a claim has been accepted under this **policy**, it is agreed that **we** will pay the repair costs in line with the following bases of settlement clause: Bases of settlement

1. Where damage to an **insured** item can be repaired **we** will pay all expenses necessarily incurred to restore **your** damaged machine to its state of serviceability immediately before the occurrence of damage. If the repairs are executed by **you**, **we** will pay the cost of materials and wages incurred for the purpose of the repairs, plus a reasonable allowance to cover overhead charges.
2. Where damage has occurred to the engine, transmission or drive train the basis of settlement for any replacement parts shall be;
  - a. the replacement cost of such parts less an allowance for depreciation to account for wear and tear; OR
  - b. the market value of such parts as may be available at the time of repair; whichever is the less.
3. Where the item **insured** is more than 15 years old from the date of manufacture the basis of settlement for any replacement parts shall be;
  - a. the replacement cost of such parts less an allowance for depreciation to account for wear and tear; OR
  - b. the market value of such parts as may be available at the time of repair; whichever is the less.
4. If any parts are found to be unprocurable **our liability** for these parts shall be limited to the manufacturers or suppliers latest list price.
5. Where **your machine** is totally destroyed **we** will at **our** own option either;
  - a. pay the Agreed Value of **your machine** immediately before the occurrence of damage; OR
  - b. supply an equivalent replacement item similar in type capacity and condition to **your machine** immediately before the occurrence of damage and pay any costs for ordinary

freight and installation. An item will be deemed to be totally destroyed if the cost of repairs as detailed in paragraph (a) equals or exceeds the Agreed Value of the **insured** item.

## 22. Salvage, Recovery and Re-Siting Costs

Subject to a claim being accepted under this **policy** it is agreed that cover will be extended to include the reasonable cost:

1. incurred in salvaging or recovering of the **insured** machine, including the costs of ensuring its safety and delivery to a place of suitable repair or inspection and re-siting any repaired item;
2. of recovery and/or withdrawal in the event of any item of machinery becoming unintentionally immobilised in or about the site of any contract, (such cost shall be deemed to be "damage" within the meaning of this **policy**). **You** shall be responsible for the standard **policy** Excess applying to the **insured** item subject to a minimum of \$2,500 of each and every claim.

Provided always that:

1. **Our liability** in respect of all such costs shall not exceed 20% of the Sum **insured** of the **insured** item subject to a maximum of \$50,000 any one claim;
2. any claim shall be subject to the General Exceptions contained within this **policy**.

## 23. Temporary Repairs

It is understood and agreed that the indemnity provided by this **policy** for **loss to your machine(s)** shall also include the reasonable additional cost incurred in effecting temporary repair of indemnifiable damage up to a limit of \$5,000 PROVIDING the prior approval of the Insurer has been obtained.

## 24. Third Party - Road Risk Only

This extension covers **your** Liability at law, including legal expense in defending any claim, to indemnify Third Parties for their **loss** or injury in the event of **accident**, caused by, or in connection with **your machine** only whilst on a road, including while it is being loaded or unloaded.

**We** will also indemnify any person who is driving **your machine** who has **your** permission to do so, but not during and in connection with the letting out on hire of **your machine** without a driver unless Liability was completely and directly attributable to the failure of **your machine** and outside the control of the hirer or other contracting party.

Provided **our** total **liability** will not exceed \$10,000,000 unless otherwise agreed and stated in the **schedule** (inclusive of all costs and expenses) in respect of any one

claim or claims arising from any one **accident**. If **our** total Liability is insufficient to cover both **you** and any other party entitled to cover under this **policy** it shall apply in priority to **you**.

Provided also that **we** shall not be liable in respect of:

1. **liability** in respect of property or injury to any person, who at the time of the **accident**, was in charge of **your machine**;
2. any person who at the time of the **accident** out of which bodily injury or damage arose was driving **your machine**;
3. **liability** directly or indirectly caused while any component on the **insured** machine is being used or operated for the purpose for which it has been designed (e.g. operation of a crane, log skidder, backhoe and the like);
4. **liability** in respect of any property which belongs to, or is in the care, custody or control of any **insured**, other than personal baggage and wearing apparel of any passenger, a building leased or rented by the **insured** or a machine (not being the property of the **insured** or **insured** under this **policy**) which is being towed by an **insured** machine.

However this does not apply to machines which are towed or recovered for reward where the **insured's** business includes a machine recovery service.

For the purposes of this extension only "Road" shall mean any place which the public have access to, whether as of right or not (e.g. service lane, street, motorway, or closed roads such as off highway service roads and the like). Subject always to the **excess** stated in the **schedule**.

## 25. Tyre Extension

Notwithstanding General Exception 17 this **policy** is extended to cover **accidental loss** to any tyre attached to an **insured** machine.

**We** will pay the replacement value of the tyre, less an allowance for depreciation to account for wear and tear.

The maximum payable for any one tyre under this extension shall not exceed the amount stated in the **schedule** and subject always to the **excess** stated in the **schedule**.

## 26. Uninsured Third Party Protection

In the event that a Third Party or their operator/driver has no valid or collectable insurance, this **policy** is extended to cover **your policy excess** and any uninsured **loss** that the **insured** may have incurred as a result of an **accident**, where:

1. the Third Party driver was at fault in the **accident**; and
2. the identity of the Third Party and the driver is established; and

- the **insured** is unable to make any recovery from the Third Party or the driver;

Provided **our** total **liability** does not exceed \$3,000 in respect of any one claim under this extension.

### 27. Windscreen

This **policy** is extended to cover **loss** that occurs solely to any windscreen or window glass. This **policy** will pay the cost of replacement and will be subject to the **excess** specified in the **schedule**. It is understood and agreed that this extension will only indemnify the **insured** in respect of the replacement of the actual glass damaged and not any superior alternative or temporary repair involving additional expense unless otherwise agreed by the Insurer.

Cover will only apply where an **insured** item has been specified within the **schedule** and:

- the maximum payable is limited to \$5,000 any one claim (or as otherwise agreed and specified within the **schedule**);
- the damage has not occurred whilst **your machine** is located in any forest;
- the Loss must be reported within 60 days of the damage occurring.

### 28. Windscreen (Forestry Only)

Where damage has occurred to the windscreen or window glass of **your machine** whilst located in any forest, this **policy** is extended to cover **loss** that occurs solely to any windscreen or window glass. This **policy** will pay the cost of replacement and will be subject to the **excess** specified in the **schedule**. It is understood and agreed that this extension will only indemnify the **insured** in respect of the replacement of the actual glass damaged and not any superior alternative or temporary repair involving additional expense unless otherwise agreed by the Insurer.

Cover will only apply where an **insured** item has been specified within the **schedule** as having this extension and:

- the maximum payable is limited to \$5,000 any one claim (or as otherwise agreed and specified within the **schedule**);
- the Loss must be reported within 60 days of the damage occurring.

## Optional Policy Extensions

Subject to the same General Exceptions, General Conditions and Claims Conditions of the main wording, **we** will extend **your policy** to cover the following extensions which shall be payable in addition to the Sum **insured**.

### 1. Finance Payment Protection

In the event of **loss** or damage to the machine for which a claim is accepted, **we** will indemnify **you** (calculated on a daily prorata basis) against **your** obligation to meet payments on such machine under any finance or lease agreement

Provided that:

- the amount payable under this extension shall be based on the annual loan repayment amount and calculated on a daily prorata basis limited to the period as described in (e) below; and
- we** shall not be liable for any more than the limit shown for this extension; and
- we** shall not be responsible for the first 10% of such Loss with a minimum of \$2,500; and
- we** shall not be liable for any balloon or residual value payment that may be due during a repair or replacement period; and
- the indemnity provided by this extension shall cease after 6 consecutive months or when the **insured** item is repaired or replaced, whichever is the earlier; and
- no indemnity shall be provided by this extension unless the period of repair or replacement of the **insured** item exceeds 14 consecutive days.

### 2. Foreign Objects

Notwithstanding General Exceptions 8 and 12 this **policy** is extended to include **accidental loss** caused by the ingestion or entry of any foreign object subject always to the limits and **excess** stated in the **schedule**.

This extension shall only apply in respect of agricultural implements and machinery.

### 3. Goods On Hook

Notwithstanding anything contained in this **policy** to the contrary, cover is extended to include **accidental** direct damage to property belonging to **you** or in **your** care, custody or control while being handled by **your machine**.

PROVIDED **our** total **liability** for any one **loss** shall not exceed the amount stated in the **schedule** and subject always to the **excess** stated in the **schedule**.

Damage to property arising from a fault in or fragility of such property or its container is not covered.

### 4. Laid-Up Cover

It is agreed that a premium discount will be applied to any **insured** item nominated in the **schedule** as being 'Laid Up.'

Such discount to be calculated and refunded on a prorata

basis at the conclusion of any 'Laid Up' period or expiry of the **policy** period, whichever comes first PROVIDED that:

1. **We** accept a fully completed 'Laid Up' declaration prior to 'Laid Up' cover becoming effective;
2. the minimum 'Laid Up' period is 30 days;
3. any discount will be considered null and void should any item subject to this extension be used in a manner not considered to be 'Laid Up.'

For the purpose of this extension, the term 'Laid Up' shall be deemed to describe the condition whereby an **insured** item is out of operation for an extended period of time while being stored in a safe and secure environment. It shall not be considered a breach of this extension should any item be used in an incidental manner such as loading or unloading from a transporter or while being operated during routine servicing.

## 5. Machinery Breakdown

Notwithstanding General Exception 12 this **policy** is extended to include:

Machinery Breakdown (as defined below) of the item number(s) specified in the **schedule**.

Machinery Breakdown shall mean sudden and unforeseen physical **loss** or damage causing the actual breaking or burning out of any part of a machine necessitating repair or replacement before normal working can be resumed including (but not limited to) damage resulting from:

1. defects in material design, construction, erection or assembly;
2. fortuitous working **accidents** such as vibration, maladjustment, loosening of parts, molecular fatigue, centrifugal force, abnormal stresses, defective or **accidental** lack of lubrication, water hammer or local overheating, electronic, electrical or mechanical defects or failure of protection devices;
3. excessive electrical pressure from any cause, failure of insulation, short circuits, open circuits or arcing or the effects of static electricity in any case causing sudden stoppage of the machinery and necessitating repair or replacement before normal operation can be resumed.

Provided that:

- a. **We** shall not be liable under this **policy** for any more than the manufacturer's or supplier's last published price for any part of any item of machinery that is no longer available to effect repair;
- b. **our** total **liability** under this extension in respect of any single occurrence of

breakdown shall not exceed the Sum **Insured** shown against each item in the Schedule.

Subject otherwise to the terms, conditions and exceptions of this **policy**.

The **excess** applying to all claims under this extension is as stated in the **schedule**.

## 6. Profit Share Clause

Where nominated in the **schedule** this extension is included subject to the completion of a full year of insurance and confirmation of the next renewal of this **policy**.

The **loss** ratio will be calculated by comparing the total premiums received to the total claims paid and outstanding. Should this **loss** ratio be less than 40% then a profit share of 15% of the difference between total premiums received and total claims paid and outstanding shall be refunded or deducted from the next renewal premium.

## 7. Tools and Sundry Equipment

This **policy** is extended to cover market value in respect of Plant, machinery, tools (including employees tools and other personal effects not otherwise **insured**), equipment, Mobile Plant and motor machine parts and accessories, tyres, stores of petrol, diesel and oil, mobile and radio telephones including base and handsfree units, office equipment including computers, **your** own or for which **you** are responsible anywhere in New Zealand PROVIDING not otherwise **insured**.

This extension does not provide indemnity in respect of buildings, structures or caravans, whether fixed to the ground or not UNLESS otherwise specified It is hereby understood that cover in respect of burglary and/or theft only applies where **loss** is resulting from violent and forcible entry or exit from any enclosed building and/or enclosed vehicle/machine.

**Our** total Liability for any one **loss** shall not exceed the amount stated in the **schedule** and subject always to the **excess** stated in the **schedule**.

# General Conditions

## 1. Cancellation

**You** may cancel the **policy** by giving written notice to **us** and **we** will (unless a **total loss** has been paid) refund 80% of the unused premium.

**We** may cancel the **policy** by giving **you** written notice. The notice may be delivered personally or by registered mail to **Your** last known postal address.

Cancellation will take effect at 4.00pm on the 30th day after the notice has been posted or delivered. If **we** cancel this



**policy we** will refund **you** all the unused part of the premium subject to any adjustment required by the terms of the **policy**.

## 2. Diligence

**You** must take all reasonable steps to protect **your machine** and will fully comply with the manufacturer's instructions and all legal requirements regarding the safety, maintenance and operation of **your machine**.

## 3. Disclosure

1. Representatives of TLC Insurance Limited and/or the Underwriter shall at any reasonable time have the right to inspect and examine the risk and the **insured** shall provide TLC Insurance Limited with all details and information necessary for the assessment of the risk.
2. **You** shall immediately notify TLC Underwriting Agency Limited in writing of any material change in the risk and cause at **your** own expense such additional precautions to be taken as circumstances may require, and the scope of cover and/or premium shall, if necessary, be adjusted accordingly.

## 4. Entitlement

Any other person entitled to cover under the **policy** is bound by the terms of the **policy**.

## 5. Joint Insurance

If there is more than one **insured** named on the **schedule** this **policy** insures the Insureds jointly. This means that if one of **you** does or fails to do anything so that there is no cover there will be no cover for any of **you**, not just the person or entity responsible.

## 6. Other Insurance

If at the time of any claim arising under the **policy**, there is any other valid and collectable insurance covering all or part of the same **loss** or **liability** this **policy** will apply only to the amount of any **loss** or **liability** in **excess** of that recoverable under the other insurance.

## 7. Subrogation

**We** have the sole right and option to act in **your** name and on **your** behalf to negotiate, defend or settle any claim and to take over for **our** own benefit any legal right of recovery **you** may have. If **we** do this, it will be at **our** own expense.

## 8. Transfer of Interest

No interest in the **policy** can be transferred without **our** written consent.

## 9. Fraudulent Claim Clause

If **You** shall make any claim knowing the same to be false or fraudulent, as regards amount or otherwise, then:

1. **We** shall be entitled to decline that claim in its entirety, regardless of any aspect of that claim not relating to the false or fraudulent activity or device and recover any payments already made;
2. **We** shall also be entitled to cancel this **policy**, in which case **we** will refund to **you** any pro-rated share of the premium for the period from the date of cancellation to the end of the **policy** period;
3. Regardless of General Condition 1, cancellation under (b) above shall be:
  - a. Effective if communicated by letter, fax or email, to **you** or **your** broker or agent to **your**, or their, last known address; and
  - b. Effective from the date of **loss**, claim, notification to **us**, or first fraudulent activity or device, whichever is the earlier.





HEAD OFFICE

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