

# Aircraft Insurance


Combined Policy Wording and  
Product Disclosure Statement (PDS) – New Zealand Risks

Issued by Agile Underwriting Services Pty Ltd  
ABN 48 607 908 243 — AFSL 483374

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Prepared on: 1/07/2021



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Coverholder at 

# AIRCRAFT INSURANCE POLICY WORDING & PRODUCT DISCLOSURE STATEMENT (PDS)

Prepared on 1<sup>st</sup> July 2021

Any general advice that may be contained within this Policy Wording and Product Disclosure Statement (PDS) or accompanying material doesn't take into account Your individual objectives, financial situation or needs. You need to decide if the limits, type and level of cover are appropriate for You.

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# PART A - PRODUCT DISCLOSURE STATEMENT

## 1. WHO CAN I CONTACT IF I HAVE QUESTIONS?

We've simplified our contact points so you can easily get in touch with us.

FOR ENQUIRIES RELATING TO	PLEASE CONTACT
<b>General enquiries, including policy questions and coverage, and policy amendments.</b> Any questions, just call or email.	1300 705 031 <a href="mailto:help@agileunderwriting.com">help@agileunderwriting.com</a>
<b>Cancelling your policy</b> You can cancel your policy at any time.	1300 705 031 <a href="mailto:cancel@agileunderwriting.com">cancel@agileunderwriting.com</a>
<b>Making a claim online</b> You can claim directly through our online portal.	<a href="http://www.agileunderwriting.com/claims/guide-to-making-a-claim/support.agileunderwriting.com">www.agileunderwriting.com/claims/guide-to-making-a-claim/support.agileunderwriting.com</a>
<b>Making a claim</b> Get in touch straight away and we can help.	1300 705 031 <a href="mailto:claims@agileunderwriting.com">claims@agileunderwriting.com</a>
<b>Making a complaint</b> If you're not happy...we want to know.	1300 705 031 <a href="mailto:complaints@agileunderwriting.com">complaints@agileunderwriting.com</a>

## 2. ABOUT AGILE UNDERWRITING SERVICES

This insurance is issued by **Agile Underwriting Services Pty Ltd** (ABN 48 607 908 243, AFS Licence No. 483374) (**AGILE**). AGILE arranges policies for and on behalf of certain Underwriters at Lloyd's.

In all aspects of this Policy, AGILE acts as agent for the Insurers and not for the Insured. In this PDS, "We", "Us", "Our" means Agile Underwriting Services Pty Ltd. Our contact details are:

**Head Office:** Level 5, 63 York St, SYDNEY NSW 2000  
**Postal Address:** Level 5, 63 York St, SYDNEY NSW 2000  
**Telephone:** 1300 705 031  
**E-mail:** [service@agileunderwriting.com](mailto:service@agileunderwriting.com)  
**Website:** [www.agileunderwriting.com](http://www.agileunderwriting.com)

### 3. ABOUT THE INSURERS

Your policy is insured with APRA Approved and regulated Insurers—certain **Underwriters at Lloyd’s**.

**Lloyd’s** is the world’s specialist insurance and reinsurance market. With expertise earned over centuries, Lloyd’s is the foundation of the insurance industry and the future of it. Led by expert underwriters and brokers who cover more than 200 territories, the Lloyd’s market develops the essential, complex and critical insurance needed to underwrite human progress.

Backed by diverse global capital and excellent financial ratings, Lloyd’s works with a global network to grow the insured world – building resilience for businesses and local communities and strengthening economic growth around the world.

### 4. ABOUT THIS POLICY

We agree to provide You with insurance in accordance with the terms, Conditions of Cover and exclusions of the Policy based on the information You have provided or was provided on Your behalf to Us subject to payment of the Premium required. The Policy consists of this document, the Schedule and any endorsements affixed (or intended to be affixed) to it and the Application. All of them should be read as if they were one document. This Policy is subject to Australian law and practice.

#### **Your certificate of insurance**

Your certificate of insurance contains important details about your policy such as the period of insurance, your premium, what cover options and excesses will apply, and any changes to the policy wording.

#### **What makes up your premium**

Your premium is determined by a number of factors and of course, the higher the risk is, the higher the premium. Your premium also includes amounts that we are required to pay, such as government charges, taxes or levies (e.g. GST) that apply to your policy. You will find these amounts on your certificate of insurance.

## 5. IMPORTANT INFORMATION ABOUT THIS POLICY WORDING AND PRODUCT DISCLOSURE STATEMENT

This document is a PDS and is also Our insurance Policy Wording.

It is important that You carefully read and understand this document before making a decision. Other documents may form part of Our Policy Wording and PDS and if they do, We will tell You in the relevant document.

In return for You paying Us a premium, as set out in Part B, We insure You for the Events described in the Policy Wording and PDS, subject to the terms, conditions and exclusions of Your Policy. Please keep this document, Your Policy Schedule and any other documents that We tell You form part of Your Policy in a safe place in case You need to refer to them in the future. Please check these documents to make sure all the information in them is correct. Please let Us know straight away if any alterations are needed or if You change Your address or payment details. For certain types of cover under the Policy, We will require You to provide receipts and other documentary evidence to Us before We pay a claim.

### Check Your documents

It's important that you check all the details on the documents we send you. If you notice an error or if you have a question, please contact us at [www.agileunderwriting.com/contact](http://www.agileunderwriting.com/contact). If you find you need to change the cover for whatever reason, get in contact with us.

### New Zealand Fair Insurance Code

Lloyd's is a signatory to the Insurance Council of New Zealand (ICNZ) Fair Insurance Code (Code), which is a code of practice that sets minimum standards for insurance companies, describes the responsibilities that the insured and insurers have to each other, and encourages professionalism in the insurance industry. The Code covers all insurance products, except for health insurance and life insurance, in relation to policyholders who are individuals or entities with 19 or fewer employees.

Lloyd's has been granted a partial exemption from the application of the Code in respect of open market business written on a direct market basis or by coverholders located overseas. Where Lloyd's benefits from the exemption, policy documentation should clearly state that it is not subject to the protections afforded by the Code. Business written by coverholders domiciled in New Zealand is still subject to the Code.

## 6. YOUR DUTY OF DISCLOSURE

This Policy is subject to the *Insurance Law Reform Act (1977)*. The Insured has a duty of disclosure. Before the Insured enters into a contract of insurance they have a duty to tell the Insurer everything that the Insured knows, or could reasonably be expected to know, that is relevant to the Insurer's decision to provide this Policy. If the Insured is not sure whether something is relevant they should inform the Insurer anyway. The Insured has the same duty to inform the Insurer of those matters before they renew, extend, vary, or reinstate this Policy. The Insured's duty however does not require disclosure of matters that:

1. reduce the risk;
2. are common knowledge;
3. the Insurer knows or, in the ordinary course of business, should know;
4. or — the Insurer has indicated they do not want to know.

If the Insured does not comply with their duty of disclosure obligations, the Insurer may be entitled to:

1. reduce their liability for any claim; or
2. cancel this Policy; or
3. refuse to pay a claim; or
4. avoid this Policy from its beginning, if the Insured's non-disclosure was fraudulent.

### What You must tell Us

We will ask You various questions when You apply for cover. When You answer those questions, You must be honest and You have a duty under law to tell Us anything known to You, and which a reasonable person in the circumstances, would include in answer to the question. We will use the answers in deciding whether to insure You, and anyone else to be insured under the Policy, and on what terms. You have this same duty to disclose those matters to Us before You renew, extend, vary or reinstate Your Policy.

### If You do not tell Us

If You do not answer Our questions in this way, We may reduce Our liability under contract in respect of a claim or refuse to pay a claim, or cancel the Policy. If You answer Our questions fraudulently, We may refuse to pay a claim and treat the Policy as never having commenced.

## 7. WHO CAN PURCHASE THIS POLICY

Certain eligibility criteria apply. This policy can only be purchased by customers domiciled in New Zealand.

## 8. GENERAL CONDITIONS

### Commencement and Period of Your Policy

Your Policy begins on the Commencement Date or on the latest Renewal Date, whichever is the later, and continues for one (1) calendar year (being the Period of Insurance) after which time it expires, or until it is cancelled.

### Renewal of Your Policy

This insurance may be renewed for further consecutive yearly periods upon payment of the premium. Payment of Your premium is deemed to be acceptance of an offer of renewal for a further yearly period. If You continue to pay Your premium, then unless Your Policy is cancelled or We advise You prior to the Renewal Date that We will be updating Your policy or not be renewing, a policy on the same terms and conditions automatically comes in to existence for one (1) year from the Renewal Date.

### Expiry of Your Policy

Your Policy expires at the end of the Period of Insurance. We may decide not to renew Your Policy. If We decide not to renew Your Policy, We will send You an expiry notice at least fourteen (14) days before the expiry of Your Policy. If Your Policy is cancelled or otherwise terminated, the Period of Insurance will be from the Commencement Date or Renewal Date, whichever is the later, up to and including the date of cancellation or termination.

### Jurisdiction and Law & Practice

This Policy shall be subject to New Zealand Law and Practice.

Any dispute, of whatever nature, arising out of or in relation to any matter relating to this Policy shall be determined by court proceedings issued in New Zealand. New Zealand courts shall have exclusive jurisdiction to hear and determine any such proceedings and resolve any such dispute.

### Currency

All payments by You to Us and Us to You or someone else under Your Policy must be in the currency outlined on the Schedule.



## 9. CANCELLATION OF YOUR POLICY

Your Policy may be cancelled in one of two (2) ways:

### When You can cancel

You can cancel Your Policy at any time by emailing Us at [cancel@agileunderwriting.com](mailto:cancel@agileunderwriting.com) or calling + 61 (0)2 8074 5942.

If You:

- (a) pay Your premium by instalments and wish to cancel, We will cancel on the date to which You have paid Your premium in advance.
- (b) do not pay Your premium by instalments, the cancellation will take effect at 4pm New Zealand Standard Time on the day We receive Your notice of cancellation. We will refund the premium for Your Policy, less an amount which covers the period for which You were insured. However, we will not refund any premium if We have paid or are obliged to pay a benefit under Your Policy.

### When We can cancel

We may cancel the Policy by informing You in writing, subject to any relevant law. We will give You this notice in writing to Your intermediary or to Your address last known to Us.

If We cancel, We will refund the Premium for Your Policy less an amount to cover the period for which You were insured.

Nothing shall override the cancellation provisions contained in the Nuclear Risks Exclusion Clause AVN38B or the Extended Coverage (Aviation Liabilities) AVN52E of this Policy if endorsed on Your Policy.

## 10. CLAIMS

In the event of an Accident which may result in a claim under Your Policy You must take the following steps:

1. Take all reasonable measures to avert or minimise any loss or damage covered by the Policy. We will in addition to any loss recoverable under the Policy reimburse You for any costs properly and reasonably incurred in connection with the loss;
2. As soon as reasonably practicable advise Us of the Accident. We may decide to appoint a surveyor to inspect the damage to determine the cause, and who might

be responsible for it. You should co-operate fully with the surveyor to avoid any delays in adjusting Your claim;

3. Co-operate fully with us in any investigation, negotiation, defence or settlement of any claim. This may include attending court to give evidence;
4. When your insured property is damaged, You must retain the damaged items for inspection by Our surveyor unless advised otherwise. In addition, You cannot authorise the repair or replacement of the property without Our agreement;
5. In the event of theft, inform the police as soon as possible and take all reasonable measures to recover lost or stolen property;
6. Not admit liability to any loss, damage or injury, or settle or attempt to settle any defend any claim without our written consent;
7. Immediately send us any legal document or other communication you receive about the accident;
8. When other parties may be liable to You for the loss or damage You must not agree to release those parties from liability;
9. Comply with all Policy terms and Conditions of Cover.

## **Documentation**

To facilitate the settlement of Your claim, please provide Us with the following:

- a written claim report detailing the nature and extent of the loss or damage
- copies of all correspondence exchanged with any third party
- repair quotations
- details of any other insurance that may exist on the insured property.

## **GENERAL CLAIMS CONDITIONS**

### **Recovery rights**

We have the right to take action or institute legal proceedings, in Your name, for the recovery of payments made and expenses incurred in relation to any claim covered by this Policy, against any third party liable to You in respect of that claim. You must provide Us with full information and all reasonable assistance in the recovery of those payments or expenses. We will have full discretion in the conduct of any legal proceedings in connection with the claim.

### **How much We will pay**

Subject to the terms, Conditions of Cover, exclusions, any Warranty(ies) contained in the Schedule and the Sum Insured of this Policy, we will pay claims up to the amounts shown in the Schedule.

### **Processing and payment of claims**

We will settle your claim in accordance with the benefit sections of Your Policy. We will take all reasonable steps to pay a valid claim promptly. If We pay for or replace Your Equipment or Accessories, the originals become Our property unless We agree with You otherwise.

### **Payment of Premium**

If Your Policy premium is payable on an instalment basis, should a claim occur which exceeds the instalments paid on the policy, the instalments of premium outstanding that relate to the aircraft subject of the claim will become payable immediately. Policy is cancelled this does not affect Your rights to make a claim under Your Policy if the Event occurred before the date of cancellation.

## **11. COMPLAINTS AND DISPUTE RESOLUTION**

AGILE takes the concerns of its customers very seriously. AGILE has detailed complaint handling and dispute resolution procedures that You may access, at no cost to You. To obtain a copy of Our procedures, please contact Us on 1300 705 031 or [complaints@agileunderwriting.com](mailto:complaints@agileunderwriting.com). To assist AGILE with Your enquiries, please provide Us with Your claim or policy number (if applicable) and as much information You can about the reason for Your complaint or dispute. AGILE's complaints and dispute procedures are as follows:

### **Stage 1 - Complaint Handling Procedure**

If You are dissatisfied with any of AGILE's products or services and You wish to lodge a complaint, please contact Us at:

**Postal address:** The Complaints Officer  
AGILE Underwriting Services Pty Ltd  
Level 5, 63 York St, Sydney NSW 2001

**Telephone:** + 61 (0)2 8074 5942

**Email:** [complaints@agileunderwriting.com](mailto:complaints@agileunderwriting.com)

We will respond to Your complaint within ten (10) business days, or if further investigation or information is required, We will work with You to agree on reasonable alternative timeframes. You will be kept informed of the progress of your complaint.

## **Stage 2 – Dispute Resolution Procedure**

If You are dissatisfied with Our response to Your complaint, You may ask that Your complaint be referred to:

**Postal address:** Lloyd’s General Representative in New Zealand  
c/- Hazelton Law  
Level 29, Plimmer Towers, 2-6 Gilmer Terrance, Wellington

**Telephone:** (+64) 4 472 7582

**Email:** [idrnz@lloyds.com](mailto:idrnz@lloyds.com)

When You lodge Your dispute with Lloyd’s, they will usually require the following information:

- (a) Name, address and telephone number of You or the person making a claim;
- (b) The type of insurance policy involved;
- (c) Details of the Policy concerned (Policy and/or claim reference numbers, etc.);
- (d) Name and address of the insurance intermediary through whom the Policy was obtained;
- (e) Details of the reasons for lodging the complaint;
- (f) Copies of any supporting documentation You believe may assist Lloyd’s in addressing Your dispute appropriately.

## **12. SERVICE OF SUIT CLAUSE**

**Lloyd’s Underwriters** accepting this Insurance agree that:

1. In the event of a dispute arising under this Insurance, Lloyd’s Underwriters at the request of the Insured will submit to the jurisdiction of any competent Court in the Commonwealth of Australia. Such dispute shall be determined in accordance with the law and practice applicable in such Court.
2. Any summons notice or process to be served upon the Underwriters may be served upon:

**Postal address:** Lloyd's General Representative in New Zealand  
c/- Hazelton Law  
Level 29, Plimmer Towers, 2-6 Gilmer Terrace, Wellington

who has authority to accept service and to enter an appearance on the Underwriters' behalf, and who is directed at the request of the Assured to give a written undertaking to the Assured that he will enter an appearance on the Underwriters' behalf.

3. If a suit is instituted against any of the Underwriters, all Underwriters participating in this Insurance will abide by the final decision of such Court or any competent Appellate Court.

In the event of a claim arising under this Insurance NOTICE should be given as soon as possible to:

Claims Services Pty Ltd  
Level 5, 63 York Street,  
Sydney, NSW, 2000, Australia

## 13. UPDATING OUR PDS

We may update the information contained in Our PDS when necessary. A paper copy of any updated information is available to You at no cost by calling Us on + 61 (0)2 8074 5942.

We will issue You with a new PDS or a supplementary PDS where the update is to rectify a misleading or deceptive statement or when an omission is materially adverse from the point of view of a reasonable person deciding whether to buy this product.

## 14. DATA PRIVACY POLICY

This Privacy Policy document contains types of information that is collected and recorded by us and how we use it.

## Introduction

The privacy of your personal information is very important to **Agile Underwriting Services Pty Ltd** ('us', 'our' or 'we'). This Privacy Policy details how Agile Underwriting Services Pty Ltd collects, uses and protects an individual's personal information in accordance with our obligations under the *Privacy Act 2020 (NZ)* ("Privacy Act").

The terms of our Privacy Policy may change from time to time. The current terms will be displayed on the website.

## About the Privacy Act

The New Zealand Privacy Act is regulated through the *Privacy Regulations 2020*, which regulates the way both public and private sector agencies can collect, use, keep, secure and disclose personal information about a person (either alive or deceased).

Personal information includes information that can be used to identify an individual e.g. name, address, telephone number, age, and details about your devices.

The aim of the law is to ensure that private organisations that hold personal information about people, handle that information responsibly. It also gives people some control over the way information about them is handled. For example, it gives individuals the right to know what personal information an organization holds about them and a right to correct that information if it is wrong.

## Information Collected

We collect personal information from you that is relevant to providing products and services to you. Where possible, we collect it directly from you.

We will only do so with your consent, or otherwise in accordance with the Privacy Act. That consent may be express, or implied, such as when you have been informed verbally, or when you continue a telephone call with our staff, after you have heard a recorded message.

## Online Privacy

We may collect some personally identifiable information about you at different times depending on how you choose to access our website.

If you submit your e-mail address for a request it will be used to complete that request and send a reply. If you submit your email address for the purpose of purchasing

membership on-line, we may also use it to provide you with specific information regarding your membership products.

We may request your e-mail address for the inclusion into a mailing list. If you choose to submit your e-mail address an option to remove this address from our database will be offered to you via e-mail correspondence. All opt-in e-mails sent to the mailing list will comply with the New Zealand Unsolicited Electronic Messages Act 2007.

## **Use of Cookies**

From time to time, we may use data collection devices such as 'cookies' in conjunction with our website. Cookies are commonly used on the internet. They are a small file placed onto a computer by a server. A cookie can later be identified by a server. We may use both 'persistent' and 'session cookies'. We use the services of a marketing company to help us measure the effectiveness of our advertising and how visitors use our site. Although our marketing company manages the information coming from our site on our behalf, we control how that data may and may not be used. Any information that is collected in this way is used in an aggregated form, we do not use it to identify you as an individual.

### **We may use cookies for various purposes such as:**

- to provide you with better and more customised service and a more effective website.
- collecting anonymous statistical information on things such as how many visitors our sites receive, how those visitors use the sites and where they came from.
- If you wish, you can configure your browser so it does not accept cookies, but this may affect the functionality of the website.

## **Use of Information**

We use the personal information we collect to provide quotations and to issue policies. We also use that information to administer your policy, to process any claims you may have and to enhance our relationship with you. In addition, we may use the information to provide you with updates of our products and services, and products and services provided by affiliated companies.

## **Disclosure to Other Parties**

The personal information that we collect from you may be disclosed to other parties which are involved with the provision of our products and services to you. Such parties include the insurance administrator and underwriter. We may also obtain information about you from some of the above parties. Where you provide us with personal

information about other people you must have their consent to do this, and to provide it on their behalf. If not, you must tell us.

Personal information may also be provided to our affiliated companies to enable them to offer products and services directly to you.

We will also disclose your personal information where the disclosure is required or authorised by or under law. As an example, we may disclose information to government agencies.

Any third parties we provide information to, can use or disclose personal information provided to them, only for the specific purpose for which it was provided.

### **Access to Personal Information**

You can request access to the personal information we hold about you. Access will not be denied unless there are exceptional circumstances as allowed for under the Privacy Act. For example, where we are involved in legal proceedings or where the request is frivolous. We may charge a fee for access and if we do, we will advise you of the fee prior to proceeding with the request.

### **Accuracy of Information**

We will take reasonable measures to ensure that the personal information we hold about you is accurate and up to date. If you believe your personal information is not accurate and up to date, please inform us. We will promptly update any information that is incorrect.

### **Information Security**

We will take reasonable precautions to ensure that the personal information that we have about you is protected against any unlawful use or access and is kept safe and secure.

While we undertake reasonable steps to protect your personal information, no guarantee can be given that information sent over the internet is always 100% secure. Sending and receiving information over the internet is at the user's own risk, however we will take all reasonable steps to ensure your data security once we receive it.

Please [get in touch](#) with us if you have any questions.



<b>FOR ENQUIRIES RELATING TO PRIVACY</b>	<b>PLEASE CONTACT</b>
Contact our Privacy Office at Agile by Email	<a href="mailto:privacy@agileunderwriting.com">privacy@agileunderwriting.com</a>
Contact our Privacy Office at Agile by Phone	+ 61 (0)2 8074 5942
Contact our Privacy Office at Agile by Mail by writing to	Privacy Officer, Agile Underwriting Services Pty Ltd Level 5, 63 York Street Sydney NSW 2000

## 15. WORDS WITH SPECIAL MEANINGS

Throughout this document, certain words begin with capital letters. These words have special meaning and are included in the Definitions, in Section 16 of this Policy Wording and PDS. Please refer to the Definitions for their meaning. Any reference to an Act, legislation or legislative instrument in this document also refers to that Act, legislation or legislative instrument as amended and may be in force from time to time.

## 16. DEFINITIONS

Please use this Definitions section to find the meaning of these words throughout this document.

**Accident** means any one accident or series of accidents arising out of one event.

**Aircraft** means the aircraft described in the Schedule together with the engine(s) and standard instruments and equipment usually installed and recorded in the aircraft log books.

**Bodily Injury** means bodily injury (fatal or otherwise) but excludes nervous shock or psychological injury unless accompanied by and directly caused by, physical injury.

**Compensatory Damages** does not include punitive, exemplary or aggravated damages.

**Flight** means from the time the Aircraft moves forward in taking off or attempting to take off, whilst in the air, and until the Aircraft completes its landing run. A rotary wing aircraft shall be deemed to be in Flight when the rotors are in motion as a result of engine power, the momentum generated therefrom, or autorotation.

**Ground** means whilst the Aircraft is not in Flight, Taxiing or Moored as defined.

**Insured** means the Insured named in the Schedule and includes any directors, employees, or partners of the Insured whilst acting in the scope of their duties.

**Moored** means, in the case of aircraft designed to land on water, whilst the aircraft is afloat and is not in Flight or Taxiing as defined, and includes the risk of launching and hauling up.

**New Zealand** means New Zealand and extending 100kms into territorial waters.

**Overhaul Cost** means the costs of labour and materials which are or would be incurred in overhaul or replacement (whichever is necessary) at the end of the Overhaul Life of the damaged or a similar Unit.

**Overhaul Life** means the amount of use, or operational and/or calendar time which, according to the Regulatory requirements or manufacturer's recommendations, determines when overhaul or replacement of a Unit is required.

**Policy** includes the Schedule, together with any endorsements shown in the Schedule as included, all of which attach to and form part of this Policy.

**Property Damage** means physical loss of or damage to or destruction of tangible property including loss of use thereof.

**Regulatory Authority** means aviation administration organisations, the Civil Aviation Authority or any successor or equivalent body and any organisation where self-administration has been delegated by the Civil Aviation Authority or any successor or equivalent body.

**Regulatory Requirements** includes all legislation and delegated legislation (including applicable legislation of another country) and orders, rules, directions, notices, approvals, certificates and licences issued by a competent authority.

**Taxiing** means movement of the Aircraft under its own power other than in Flight as defined. Taxiing shall not be deemed to cease merely by reason of a temporary halting of the Aircraft.

**Uses:**

**Business** means the uses specified in Private Pleasure and use of the Aircraft for business or professional purposes including use for the transportation of employees and/or guests of the Insured and their accompanying baggage and cargo but NOT use for hire or reward.

**Commercial** means the uses stated in Private Pleasure and Business and use for the carriage by you of passengers, baggage accompanying passengers and cargo for hire or reward.

**Private Pleasure** means the use for private purposes, but NOT use for any business or profession, nor for hire or reward.

**Rental** means rental, lease, charter or hire by you to any person, company or organisation for Private Pleasure and Business uses only, where the operation of the Aircraft is not under your control. Rental for any other purpose is NOT insured under this Policy unless specifically declared and agreed by us.

**Instruction** means any formal flight training activity for the purposes of licence issuance or the acquisition of a rating or endorsement.

**Ab-Initio Instruction** means all phases of flight training undertaken prior to the issue of a Recreational Pilots licence or equivalent.

*The uses defined above constitute Standard Uses and do not include Aerobatics, Hunting, Mustering, Patrol, Fire-fighting, the intentional dropping, spraying or release of anything, any form of experimental or competitive flying, air racing and any other use involving abnormal hazard, but when cover is provided details of such use(s) are to be stated in the Schedule. The Aerobatics Exclusion herein is deleted insofar as permitted under your Aircraft's Certificate of Airworthiness or Permit to Fly. However aerobatic competitions and displays are excluded unless specified under Uses.*

**Unit** means a part or an assembly of parts (including any sub-assemblies) of your Aircraft which has been assigned an Overhaul Life as a part or an assembly.

Nevertheless, an engine, complete with all parts normally attached when removed for the purpose of overhaul or replacement, shall together constitute a single Unit.

**In this Policy, wherever the terms Insurers, We, Us or Our are used, these shall refer to Agile Underwriting Services Pty Ltd AFS Licence 483374, ABN 48 607 908 243 on behalf of the Insurers and wherever the terms Insured, You or Your are used, these shall refer to the person, persons or organisations named in the Schedule.**

#### **SEVERAL LIABILITY CLAUSE**

The subscribing insurers' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

**LSW 1001 (Insurance) 08/94**

# PART B - POLICY WORDING

## Agreement to Insure

We agree, in consideration of the payment of premium to Us and upon the basis of Your declarations incorporated herein to indemnify You against loss, damage, liability or expense arising out of an Accident occurring during the Policy Period, subject to the Policy terms, conditions, limitations, exclusions and endorsements.

## SELECTING YOUR COVER

### Section 1: Loss of or Damage to Your Aircraft Coverage

1. We will at our option pay for, replace or pay for the repair of accidental loss of or damage to your Aircraft described in the Schedule arising from the risks covered, including disappearance if your Aircraft is unreported for fifteen days after the commencement of Flight, but not exceeding the agreed value and subject to any amounts to be deducted.
2. In addition, we agree that in the event of an insured Aircraft making a forced landing in any place where subsequent safe take-off is impossible we will pay all reasonable costs, expenses or expenditure for the removal of the Aircraft to the nearest suitable take-off area provided always that our liability for such costs, expenses or expenditure shall not exceed the agreed value of the Aircraft as declared in the Policy.
3. Units, parts or components temporarily removed from the aircraft for repairs or maintenance or safe keeping shall be covered unless replaced on the Aircraft in which case the replacement Units, parts or components shall be covered under this Policy.

### Additional coverages applicable to this Section only

#### Air freight of parts

4. If we pay for the repair of any Aircraft insured on this Policy we will also pay, at our discretion, for the extra cost of air freighting necessary replacement parts. This coverage is limited to a maximum amount equivalent to ten percent of the amount shown on the Schedule as the agreed value of your Aircraft.

### **Flying and ancillary equipment**

5. We will indemnify you and/or permitted pilots and/ or passengers against loss or damage by theft or fire (or damage if your Aircraft is damaged) in respect of:
- (a) flying clothing, maps, navigational equipment and instruments, headsets or similar equipment (not being fixtures in your aircraft), electronic flight bags and your baggage (including contents) actually in or on your aircraft being your property or of any permitted pilot and/or passenger, but excluding money, credit cards, securities, jewellery, and furs of all kinds;
  - (b) life jackets, life rafts, tools and tie downs kits (including protective covers) and survival beacons and the like;
  - (c) pilot and crew parachutes, excluding parachutes worn by and for the use of skydivers.

This coverage is limited to a maximum of \$10,000 any one Accident and excludes any liability covered under Section 3, Coverage 1(b). The Insured is required to produce proof of purchase to support any claim made for loss or damage to such equipment. The basis of settlement will be the current market value or equivalent. The applicable deductible in respect of this cover is \$250 each and every claim.

### **Supplementary Payments (AVN76 amended)**

6. We will indemnify you in respect of the following:
- (a) any reasonable expenses incurred for the purpose of search and rescue operations for your Aircraft determined to be missing and unreported after the computed maximum endurance of the flight has been exceeded;
  - (b) any reasonable expenses incurred for the purpose of runway or aircraft foaming to prevent or mitigate possible loss or damage because of malfunction or suspected malfunction of your Aircraft;
  - (c) any reasonable expenses incurred for the purpose of attempted or actual raising, removal, disposal or destruction of the wreck of your Aircraft and the contents thereof;
  - (d) any reasonable expenses which you may be called upon to pay in respect of any public enquiry or enquiry by the Civil Aviation Safety Authority or any other relevant authority into an Accident involving your Aircraft;
  - (e) any reasonable emergency expenses you incur for the immediate safety of your Aircraft consequent upon damage or forced landing;

Our liability shall not exceed ten percent of the amount shown on the Schedule as the agreed value of your Aircraft in respect of all paragraphs 6(a) to (e) above, any one Accident and in the aggregate annually.

### **Reasonable expenses**

7. We will reimburse you for your reasonable expenses for food, travel and lodgings of permitted pilots and/ or passengers, incurred from the place where the Aircraft suffers an Accident that results in a claim under this policy to its final destination or, back to the place they originally boarded the Aircraft if the trip is discontinued. This coverage is limited to a maximum of \$10,000 in total any one Accident.

### **Malicious Acts**

8. Notwithstanding the contents of the War, Hijacking and Other Perils Exclusion Clause forming part of this policy (Section 5.13), it is hereby understood and agreed that this Policy is extended to cover claims caused by a malicious act or act of sabotage. PROVIDED ALWAYS THAT the above extension shall only apply to the extent that the loss or damage is not otherwise excluded by (a), (b), (d), (f) or (g) of the War, Hijacking and Other Perils Exclusion Clause (Section 5.13).

### **Exclusions applicable to this Section only**

9. We will not pay for:
  - (a) wear and tear, deterioration, breakdown, defect or failure however caused, whether by maintenance or modification, in any Unit of your Aircraft and the consequences thereof within such a Unit;
  - (b) damage to any Unit by anything which has a progressive or cumulative effect, but damage attributable to a single recorded incident is covered;
  - (c) consequential loss or economic loss, whether direct or indirect and including loss of value of the Aircraft;
  - (d) loss of or damage to Aircraft documentation;
  - (e) any form of unrepaired damage that has not otherwise affected the airworthiness of the aircraft such as hail damage, ultra violet light damage and the like that has already been the subject of an appropriately settled insurance claim, including cash settled claims.
10. Accidental loss of or damage to your Aircraft, consequent upon 9(a) and (b) above is covered.

## Conditions applicable to this Section only

11. If your Aircraft is damaged:
  - (a) you must not commence any dismantling or repairs without our consent, except as necessary in the interests of safety, to prevent further damage, or to comply with orders issued by the appropriate authority;
  - (b) we will only pay for repairs, acquisition of materials and transport of labour and materials by the most economical method unless we agree otherwise with the insured.
  
12. If we exercise our option to pay for your Aircraft:
  - (a) we will pay you the Agreed Value of the Aircraft as stated in the Policy Schedule less any applicable deductible;
  - (b) we may take your Aircraft (together with all documents of record, registration and title) as salvage;
  - (c) the cover afforded by this Section is terminated in respect of your Aircraft even if you retain it for valuable consideration or otherwise.
  
13. If we exercise our option to replace your Aircraft, the replacement aircraft shall be of the same make and type and in at least equal to or better condition than your aircraft immediately before the accident giving rise to the claim under this policy, unless otherwise agreed with you.
  
14. Except where we exercise our option to pay for your Aircraft, we will deduct from the claim:
  - (a) the amount specified in the Schedule as the deductible, and
  - (b) such a proportion of the Overhaul Cost of any Unit repaired or replaced as the used time bears to the Overhaul Life of the Unit.

In the event of a claim involving the application of more than one deductible, only one deductible will apply, being the highest deductible applicable to the Accident. This deductible will be applied as an aggregate deductible for all claims arising out of that Accident.

15. Unless we take your Aircraft as salvage, it will at all times remain your property and you will not have any right of abandonment to us. Any cost associated with maintenance and or preservation works which affect the safety or maintenance or operation of the Aircraft (including but not limited to while the aircraft is being



assessed for and/or undergoing repairs for loss or damage) is not included within any claim made or notified under this Section.

16. No claim will be payable if any other Insurance is payable in respect of the loss or damage covered or shall be effected by you or on your behalf without our knowledge or consent. See also Section 5.

## **Section 2: Your Legal Liability to third parties (Other than passengers)**

### **Coverage**

1. We will indemnify you for all sums which you shall become legally liable to pay, and shall pay, as Compensatory Damages (including costs and interest awarded against you) up to but not exceeding the amount specified in the Schedule in respect of accidental Bodily Injury and accidental loss of or damage to the property of others caused by the Aircraft or objects falling from the Aircraft.

### **Exclusions applicable to this Section only**

2. We will not pay for:
  - (a) Bodily Injury and/or Property Damage sustained by any passenger whilst entering, on board, or alighting from your Aircraft;
  - (b) Property Damage to any property belonging to you or in your care, custody or control.

### **Chemical Liability**

3. This Policy does not cover claims for Bodily Injury and/ or Property Damage directly or indirectly occasioned by any chemicals, compounds, seeds, insecticides, herbicides, baits, defoliants, desiccants and/ or germicides or by the application, spraying, spreading, dropping, drifting or use of such matter.

## Section 3: Your Legal Liability to passengers

### Coverage

1. We will indemnify you for all sums which you shall become legally liable to pay, and shall pay, as Compensatory Damages (including costs and interest awarded against you) up to but not exceeding the amount specified in the Schedule in respect of Accidental Bodily Injury and/or Property Damage:
  - (a) to passengers including, where permitted under the Uses, student pilots under instruction, whilst entering, on board, or alighting from your Aircraft; in the event of there being an instructor and a student pilot on board the Aircraft, the instructor shall be deemed to be the pilot and the student pilot the passenger;
  - (b) to baggage and personal articles of passengers arising out of an Accident to your Aircraft. Provided always that:
    - i. before a passenger boards the Aircraft the Insured shall take such measures as are necessary to exclude or limit liability for claims under (a) and (b) above to the extent permitted by law;
    - ii. if the measures referred to in proviso (i) above include the issue of a passenger ticket/baggage check, the same shall be delivered correctly completed to the passenger within a reasonable time before the passenger boards the Aircraft.

In the event of failure to comply with proviso (i) or (ii) the liability of the Insurers under this Section shall not exceed the amount of the legal liability, if any, that would have existed had the proviso been complied with.

## Additional coverages applicable to Sections 2 and 3 only

### Non Owned Aircraft Liability (AVN54)

2. We will cover your liability for Aircraft which you do not own, provided you:
  - (a) have no interest in the Aircraft as owner in whole or in part;
  - (b) exercise no part in the servicing or maintenance of the Aircraft;
  - (c) exercise no part in the appointment or provision of personnel for the operation of the Aircraft;

This coverage does not apply:

- i) to liability arising out of any product manufactured, sold, handled or distributed by you;
- ii) to any Aircraft having a seating capacity in excess of the declared maximum number of passenger seats, any one aircraft, specified in the Schedule;
- iii) to liability for loss of or damage to the Aircraft or any consequential loss;
- iv) when you use the Aircraft for hire or reward.

### **Pilot Indemnity Clause AVN74 (amended)**

3. The Sections of this Policy covering Bodily Injury liability, including passengers, and property damage liability are extended to cover, as if he/she were the Insured, any pilot authorised by the Insured under the terms of the Policy in respect of injury or damage arising out of the operation of the Aircraft described in the Schedule to the Policy, but not so as to increase the liability of Insurers beyond the amount which would otherwise have been payable under this policy had liability been incurred by the Insured. Provided always that at the time of any accident giving rise to a claim under this Clause the said pilot:
- (a) shall as though he/she were the Insured, observe, fulfil and be subject to the terms, conditions and exclusions contained in the Policy, and
  - (b) is not entitled to indemnity under any other policy. In the event of an award being made both against the Insured (or his/her estate) and the pilot (or his/her estate), the named Insured shall to the extent of his/ her liability be entitled to priority in respect of any indemnity payable by us.

### **Additional exclusions applicable to Sections 2 and 3 only**

4. We will not pay for Bodily Injury or Property Damage sustained by any:
- (a) of your directors, employees or partners in your business whilst acting in the course of their employment or duties for you; or for any liability under or by any reason of any workers compensation, unemployment compensation or disability benefits law other than a subrogation claim by an Insurer or an authority for recovery of an amount paid pursuant to such legislation or where the director, employee or partner is not covered by such legislation;
  - (b) member of the operational crew whilst engaged in the operation of your Aircraft, other than as covered under Section 3, Coverage 1(a) above.

### **Limits of indemnity applicable to Section 2 and 3**

5. Our liability under these Sections will not exceed the amounts less any deductible stated in the Schedule. We will defray in addition any legal costs and expenses incurred with our written consent in defending any action which may be brought against you in respect of any claim for Compensatory Damages covered by these Sections, but should the amount paid or awarded in settlement of such claims exceed the limit of indemnity, then our liability in respect of such legal costs and expenses shall be limited to such proportion of the legal costs and expenses as the limit of indemnity bears to the amount paid for Compensatory Damages.

## **Section 4: Additional coverages applicable to your Policy**

### **Unauthorised use**

1. We will indemnify you when your Aircraft was used in a place or in a manner by a person not permitted by this Policy provided such use was not authorised by you and you had taken reasonable precautions to prevent such unauthorised use. Any permission given by your employees or agents outside the normal scope of their authority shall not be deemed to be your authorisation.

### **Mogas**

2. You may operate your Aircraft using automotive fuel (MOGAS) in place of aviation fuel (AVGAS), provided you hold the appropriate Supplemental Type Certificate allowing its use in your Aircraft or your Aircraft is appropriately certified for its use.

### **Flight reviews**

3. You are permitted to undertake flight reviews, rating renewals and continuation training and/or advanced training of pilots authorized under the terms of the Policy, at which time any qualified instructor or authorized testing officer is included as a pilot authorised under the terms of the Policy. Both the pilot under instruction or review and the pilot conducting the review or training shall be deemed to be pilots for the purposes of the Policy.

## Section 5: General exclusions applicable to all Sections of Your Policy

This Policy does not apply:

### Illegal uses

1. Whilst your Aircraft is being used for any illegal purpose or for any purposes other than those stated in the Schedule.

### Geographical limits

2. Whilst your Aircraft is outside the geographical limits stated in the Schedule, unless due to force majeure.

### Pilots

3. Whilst your Aircraft is being piloted by any person other than as stated in the Schedule, however your Aircraft may be operated on the ground by any person competent for that purpose.

### Transportation by other means

4. Whilst the Aircraft is being transported by any means of conveyance except as the result of an Accident giving rise to a claim under Section 1 of this Policy. However this exclusion does not apply in respect of aircraft being moved about an airfield by means of an aircraft tug, tractor, tow motor or the like.

### Landing and take-off areas

5. Whilst your Aircraft is landing, taking off, or attempting to do so from a place which does not comply with the relevant Regulatory Requirements or the recommendations laid down by the manufacturer of your Aircraft, except as a result of force majeure.

### Contractual Liability

6. To liability assumed or rights waived by you under any agreement, except to the extent that such liability would have attached to you in the absence of such agreement.

### Number of passengers

7. Whilst the total number of passengers being carried in your Aircraft exceeds the declared maximum number of passengers stated in the Schedule except that if

there is no violation of the Regulatory Requirements the Company's liability in respect of each passenger shall be calculated by dividing the limit of liability of the Company in respect of passengers for any one accident as stated in the Schedule by the number of passengers actually in the Aircraft at the time of the accident.

### **Other insurance**

8. To claims which are or would have been covered or payable under any other policy or policies except in respect of any excess beyond the amount which would have been payable under such other policy or policies had this insurance not been effected.

### **Over-night Mooring**

9. The cover afforded by this policy excludes overnight mooring of any aircraft designed to land on water except as a result of force majeure.

### **Asbestos Exclusion Clause (2488AGM00003)**

10. This Policy does not cover any claims of any kind whatsoever directly or indirectly relating to, arising out of or in consequence of:

- (a) the actual, alleged or threatened presence of asbestos in any form whatsoever, or any material or product containing, or alleged to contain, asbestos; or
- (b) any obligation, request, demand, order, or statutory or regulatory requirement that any Insured or others test for, monitor, clean up, remove, contain, treat, neutralize, protect against or in any other way respond to the actual, alleged or threatened presence of asbestos or any material or product containing, or alleged to contain, asbestos.

However, this exclusion shall not apply to any claim caused by or resulting in a crash fire explosion or collision or a recorded in-flight emergency causing abnormal aircraft operation. Notwithstanding any provisions of this Policy, Insurers will have no duty to investigate, defend or pay defence costs in respect of any claim excluded in whole or in part under paragraphs (a) or (b) hereof.

### **Nuclear Risks Exclusion Clause (AVN38B)**

- 11.

- (a) This Policy does not cover
  - i) loss of or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss

- ii) any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:
  - iii) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
  - iv) the radioactive properties of, or a combination of radioactive properties with toxic, explosive or other hazardous properties of, any other radioactive material in the course of carriage as cargo, including storage or handling incidental thereto;
  - v) ionising radiations or contamination by radioactivity from, or the toxic, explosive or other hazardous properties of, any other radioactive source whatsoever.
- (b) It is understood and agreed that such radioactive material or other radioactive source in paragraph (a) (iv) and (v) above shall not include:
- i) depleted uranium and natural uranium in any form;
  - ii) radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial, educational or industrial purpose.
- (c) This Policy, however, does not cover loss of or destruction of or damage to any property or any consequential loss or any legal liability of whatsoever nature with respect to which:
- i) the Insured under this Policy is also an insured or an additional insured under any other insurance policy, including any nuclear energy liability policy; or
  - ii) any person or organisation is required to maintain financial protection pursuant to legislation in any country; or
  - iii) the Insured under this Policy is, or had this Policy not been issued would be, entitled to indemnification from any government or agency thereof.
- (d) Loss, destruction, damage, expense or legal liability in respect of the nuclear risks not excluded by reason of paragraph (b) shall (subject to all other terms, conditions, limitations, warranties and exclusions of this Policy) be covered, provided that:
- i) in the case of any claim in respect of radioactive material in the course of carriage as cargo, including storage or handling incidental thereto, such carriage shall in all respects have complied with the full International Civil Aviation Organization “Technical Instructions for the Safe Transport of Dangerous Goods by Air”, unless the carriage shall

- have been subject to any more restrictive legislation, when it shall in all respects have complied with such legislation;
- ii) this Policy shall only apply to an incident happening during the period of this Policy and where any claim by the Insured against the Insurers or by any claimant against the Insured arising out of such incident shall have been made within three years after the date thereof;
  - iii) in the case of any claim for the loss of or destruction of or damage to or loss of use of an aircraft caused by or contributed to by radioactive contamination, the level of such contamination shall have exceeded the maximum permissible level set out in the following scale:

<b>Emitter</b>	<b>Maximum permissible level of non-fixed radioactive surface contamination</b>
<b>(IAEA Health and Safety Regulations)</b>	(Averaged over 300cm <sup>2</sup> )
<b>Beta, gamma and low toxicity alpha emitters</b>	Not exceeding 4 Becquerels/cm <sup>2</sup> (10 <sup>-4</sup> microcuries/cm <sup>2</sup> )
<b>All other emitters</b>	Not exceeding 0.4 Becquerels/cm <sup>2</sup> (10 <sup>-5</sup> microcuries/cm <sup>2</sup> )

- iv) the cover afforded hereby may be cancelled at any time by the Insurers giving seven days' notice of cancellation.

### **Noise and Pollution and Other Perils Exclusion Clause (AVN46B)**

12.

- (a) This Policy does not cover claims directly or indirectly occasioned by, happening through or in consequence of:
  - i) noise (whether audible to the human ear or not), vibration, sonic boom and any phenomena associated therewith,
  - ii) pollution and contamination of any kind whatsoever,
  - iii) electrical and electromagnetic interference,
  - iv) interference with the use of property; unless caused by or resulting in a crash fire explosion or collision or a recorded in-flight emergency causing abnormal aircraft operation.



- (b) With respect to any provision in the Policy concerning any duty of Insurers to investigate or defend claims, such provision shall not apply and Insurers shall not be required to defend:
  - i) claims excluded by Paragraph (a), or
  - ii) a claim or claims covered by the Policy when combined with any claims excluded by Paragraph (a) (referred to below as “Combined Claims”).
  
- (c) In respect of any Combined Claims, Insurers shall (subject to proof of loss and the limits of the Policy) reimburse the Insured for that portion of the following items which may be allocated to the claims covered by the Policy:
  - i) damages awarded against the Insured, and
  - ii) defence fees and expenses incurred by the Insured.
  
- (d) Nothing herein shall override any radioactive contamination or other exclusion clause attached to or forming part of this Policy.

### **War, Hi-jacking and Other Perils Risks Exclusion Clause (AVN48B)**

13. This Policy does not cover claims caused by:

- (a) war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, martial law, military or usurped power or attempts at usurpation of power;
- (b) any hostile detonation of any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
- (c) Strikes, riots, civil commotions or labour disturbances;
- (d) any act of one or more persons, whether or not agents of a sovereign Power, for political or terrorist purposes and whether the loss or damage resulting therefrom is accidental or intentional;
- (e) Any malicious act or act of sabotage;
- (f) Confiscation, nationalisation, seizure, restraint, detention, appropriation, requisition for title or use by or under the order of any government (whether civil, military or de facto) or public or local authority;
- (g) hi-jacking or any unlawful seizure or wrongful exercise of control of the Aircraft or crew in Flight (including any attempt at such seizure or control) made by any person or persons on board the Aircraft acting without the consent of the Insured.

Furthermore this Policy does not cover claims arising whilst the Aircraft is outside the control of the Insured by reason of any of the above perils. The Aircraft shall be deemed to have been restored to the control of the Insured on the safe return of the

Aircraft to the Insured at an airfield not excluded by the geographical limits of this Policy, and entirely suitable for the operation of the Aircraft (such safe return shall require that the Aircraft be parked with engines shut down and under no duress).

### **Date Recognition Exclusion Clause (AVN2000A)**

14. This Policy does not cover any claim, damage, injury, loss, cost, expense or liability (whether in contract, tort, negligence, product liability, misrepresentation, fraud or otherwise) of any nature whatsoever arising from or occasioned by or in consequence of (whether directly or indirectly and whether wholly or partly):
- (a) the failure or inability of any computer hardware, software, integrated circuit, chip or information technology equipment or system (whether in the possession of the Insured or of any third party) accurately or completely to process, exchange or transfer year, date or time data or information in connection with any change of year, date or time; whether on or before or after such change of year, date or time;
  - (b) any implemented or attempted change or modification of any computer hardware, software, integrated circuit, chip or information technology equipment or system (whether in the possession of the Insured or of any third party) in anticipation of or in response to any such change of year, date or time, or any advice given or services performed in connection with any such change or modification;
  - (c) any non-use or unavailability for use of any property or equipment of any kind whatsoever resulting from any act, failure to act or decision of the Insured or of any third party related to any such change of year, date or time; and any provision in this Policy concerning any duty of Insurers to investigate or defend claims shall not apply to any claims so excluded.

## Section 6: Conditions applicable to all Sections of Your Policy

### Conditions precedent

1. You must observe and fulfil the following Conditions before we have any liability to pay under this Policy:
  - (a) you must use due diligence and do everything reasonably practicable to avoid accidents and diminish any loss;
  - (b) you must comply with all Regulatory Requirements issued by any Regulatory Authority or other competent authority affecting the safe operation of your Aircraft and ensure that;
    - i. your Aircraft is airworthy at the commencement of each Flight;
    - ii. all log books and other records in connection with your Aircraft which are required by any Regulatory Requirements in force from time to time shall be kept up to date and shall be produced to us or our agents on request;
    - iii. your employees and agents must comply with such Regulatory Requirements;
  - (c) you must give immediate notice of any event likely to give rise to a claim under this Policy and;
    - i. give full details in writing of the event and immediately forward notice of any claim with any letters or documents relating to it;
    - ii. give notice of any impending prosecution;
    - iii. give further information and assistance as we may require; iv. not act in any way to the detriment or prejudice of our interests; You must not make any admission of liability, payment, offer, or promise of payment without our written consent;
  - (d) the pilots and crew must comply with the Pilots specifications in the Schedule and be in possession of current licenses, flight reviews, rating renewals and valid medical certificates issued by a Regulatory Authority as applicable.

## General conditions

### Claims control

2. We will be entitled to take absolute control of all negotiations and proceedings and in your name to settle, defend or pursue any claim. You authorise us to execute any document in your name and as your duly appointed representative in the settlement, defence or pursuit of any claim.

### Subrogation

3. Upon an indemnity being given or a payment made under this Policy, we will be subrogated to your rights and you will do everything necessary to assist us to exercise such rights.
4. You shall in any proceedings brought by you do all things necessary to recover and hold on trust for us any amount which we would have been entitled to recover in a subrogated action.

### Variation in risk

5. Should there be any changes in the circumstances or nature of the risks which are the basis of this contract, you must give immediate notice thereof to us and no claim arising subsequent to such changes will be recoverable unless such changes have been accepted by us.

### Cancellation

6. You may cancel Your Policy at any time by contacting Us. We have the right to cancel Your Policy where permitted by law. For example, We can cancel:
  - (a) If You failed to comply with Your Duty of Disclosure;
  - (b) Where You have made a misrepresentation to Us during negotiations prior to the issue of Your Policy;
  - (c) Where You have failed to comply with a provision of Your Policy, including the term relating to payment of premium; or
  - (d) Where You have made a fraudulent claim under Your Policy or under some other contract of insurance that provides cover during the same period of time that Our Policy covers You.

If We cancel the Policy, We will give thirty (30) days' notice in writing of such cancellation and will return a pro rata portion of the premium in respect of the unexpired period of the Policy. If You cancel the Policy, We may deduct a pro rata proportion of the premium for time on risk, reasonable administrative costs

related to the acquisition and termination of the Policy and any Government taxes, duties or fees paid in relation to the Policy that We cannot recover. There will be no return premium in respect of any Aircraft on which a loss is paid or is payable under this Policy.

7. If the Policy premium is payable on an instalment basis, should a claim occur which exceeds the instalments paid on the policy, the instalments of premium outstanding that relate to the aircraft subject of the claim will become payable immediately. Notwithstanding any other cancellation provision contained within the Policy, in the event of an instalment of premium not being paid by its due date, we will have the right to cancel the cover given under this Policy by giving ten (10) days' notice of cancellation, the notice being deemed to commence from the date the notice is given.
8. Nothing in General Conditions 6 and 7 shall override the cancellation provisions contained in the Nuclear Risks Exclusion Clause AVN38B or the Extended Coverage (Aviation Liabilities) AVN52E of this Policy if endorsed hereon.

### **Assignment**

9. This Policy will not be assigned in whole or in part except with our consent verified by endorsement hereon.

### **Marine insurance**

10. This Policy is not and the parties hereto expressly agree that it shall not be construed as a policy of marine insurance.

### **Applicable law and jurisdiction**

11. THIS POLICY DOES NOT COVER liability arising out of, created or determined by the laws, statutes or tribunals of the United States of America or Canada or any judgment obtained in the United States of America or Canada.
12. This Policy will be construed in accordance with New Zealand Law whose courts shall have exclusive jurisdiction in any dispute or difference between you and us.

### **More than one Aircraft**

13. When two or more Aircraft are insured hereunder the terms of this Policy apply separately to each.

### **Fraudulent claims**

14. If the insured shall make any claim knowing the same to be false or fraudulent as regards amount or otherwise this Policy shall become void and all claims hereunder shall be forfeited.

### **Goods and Services Tax (GST)**

15. Provided GST is recoverable by Us, the sum or sums insured by this Policy are exclusive of GST. In the event of a claim, We will pay a maximum of the sum insured plus GST to a maximum of the current rate of GST applied to that sum insured.

### **Additions and Deletions (AVN19A)**

16.

- (a) The insurance afforded by this Policy is automatically extended to include at pro rata additional premium further Aircraft added during the currency of this Policy provided such Aircraft are owned or operated by the Insured and are of the same type and value as Aircraft already covered hereunder and of no greater seating capacity.
- (b) The inclusion of additional Aircraft of other types or different values or greater seating capacity shall be subject to written agreement and rating by Insurers prior to attachment.
- (c) Under the Aircraft loss or physical damage Section of this Policy Aircraft which have been sold or disposed of shall be deleted from this Policy and the Insured shall be entitled to pro rata return of premium provided no claim has arisen and become payable in respect of such Aircraft under the aircraft loss or physical damage Section of this Policy and that this Policy is not cancelled by virtue of such deletion.
- (d) Under the liability Section(s) of this Policy Aircraft which have been sold or disposed of shall be deleted from this Policy and the Insured shall be entitled to pro rata return of premium. Provided always that:
  - i. Notwithstanding the foregoing provisions for additions and deletions the premium in respect of each separate period of Flight risk insurance on any Aircraft covered during the currency of this Policy shall in no case be less than fifteen days' pro rata premium.
  - ii. In the event of a claim arising in respect of any Aircraft added hereto being settled on a total loss basis the full twelve months' Aircraft loss or physical damage premium shall be paid hereunder in respect of such Aircraft.

- iii. Notice of the addition or deletion of any Aircraft under the provisions of Paragraphs a, b and d respectively shall be given to the Insurers or their representatives in writing within ten days of attachment or deletion.

### **Cross liability**

17. The inclusion of additional Insureds under this Policy shall not preclude the right of recovery hereon by the Insured named in the Schedule in respect of claims made against them by such additional Insureds or the employees of such additional Insureds.

Where the coverage provided by this Policy is also provided by other policy or policies, then this Policy shall only pay that amount which is in excess of the amount(s) which would have been payable under such other policy(ies) had this insurance not been effected.

### **Limits of Indemnity**

18. Notwithstanding the inclusion of more than one Insured, our total liability in respect of any or all Insureds shall not exceed the Limit(s) of Liability in the Schedule.

### **Breach of Air Navigation Regulations Clause (AVN94)**

19. The cover afforded to each Insured by the Policy shall not be invalidated by any act or omission which results in a breach of any air navigation or airworthiness orders or requirements issued by any competent authority affecting the safe operation of the Aircraft provided that the Insured so protected has not caused, contributed to or knowingly condoned the said act or omission. Any Insured who has caused, contributed to or knowingly condoned the said act or omission shall not be entitled to indemnity under the Policy. Except as specifically varied by this clause, all other terms, conditions, limitations, warranties, exclusions and cancellation provisions of the Policy apply.

### **Date Recognition Limited Coverage Clause (AVN2001A)**

20. WHEREAS the Policy of which this Endorsement forms part includes the Date Recognition Exclusion Clause (Clause AVN 2000A), it is hereby understood and agreed that, subject to all terms and provisions of this Endorsement, Clause AVN 2000A shall not apply:

- (a) to any accidental loss of or damage to an aircraft defined in the Policy Schedule (“Insured Aircraft”);

- (b) to any sums which the Insured shall become legally liable to pay, and (if so required by the Policy) shall pay (including costs awarded against the Insured) in respect of:
- i. accidental bodily injury, fatal or otherwise, to passengers caused by an accident to an Insured Aircraft; and/or
  - ii. loss of or damage to baggage and personal articles of passengers, mail and cargo caused by an accident to an Insured Aircraft; and/or
  - iii. accidental bodily injury, fatal or otherwise, and accidental damage to property caused by an Insured Aircraft or by any person or object falling therefrom. Provided that:
    1. Coverage provided pursuant to this Endorsement shall be subject to all terms, conditions, limitations, warranties, exclusions and cancellation provisions of the Policy (except as specifically provided herein), and nothing in this Endorsement extends coverage beyond that which is provided by the Policy.
    2. Nothing in this Endorsement shall provide any coverage:
      - a. in respect of grounding of any aircraft; and/ or
      - b. in respect of loss of use of any property unless it arises out of physical damage to or destruction of property in the accident giving rise to a claim under the Policy.
    3. The Insured agrees that it has an obligation to disclose in writing to the Insurers during the Policy period any material facts relating to the Date Recognition Conformity of the Insured's operations, equipment and products.

### **Sanctions and Embargo Clause (AVN111)**

Notwithstanding anything to the contrary in the Policy the following shall apply:

21. If, by virtue of any law or regulation which is applicable to an Insurer at the inception of this Policy or becomes applicable at any time thereafter, providing coverage to the Insured is or would be unlawful because it breaches an embargo or sanction, that Insurers shall provide no coverage and have no liability whatsoever nor provide any defence to the Insured or make any payment of defence costs or provide any form of security on behalf of the Insured, to the extent that it would be in breach of such law In circumstances where it is lawful for an Insurer to provide coverage under the Policy, but the payment of a valid and



otherwise collectable claim may breach an embargo or sanction, then the Insurers will take all reasonable measures to obtain the necessary authorisation to make such payment.

In the event of any law or regulation becoming applicable during the Policy period which will restrict the ability of an Insurer to provide coverage as specified in paragraph 1, then both the Insured and the Insurers shall have the right to cancel its participation on this Policy in accordance with the laws and regulations applicable to the Policy provided that in respect of cancellation by the Insurers a minimum of 30 days notice in writing be given. In the event of cancellation by either the Insured or the Insurers, the Insurers shall retain the pro rata proportion of the premium for the period that the Policy has been in force. However, in the event that the incurred claims at the effective date of cancellation exceed the earned or pro rata premium (as applicable) due to the Insurers, and in the absence of a more specific provision in the Policy relating to the return of premium, any return premium shall be subject to mutual agreement. Notice of cancellation by the Insurers shall be effective even though the Insurers makes no payment or tender of return premium.

### **Contracts (*Rights of Third Parties*) ACT 1999 Exclusion Clause (AVN72)**

22. The rights of a person who is not a party to this insurance or reinsurance to enforce a term of this insurance or reinsurance and/or not to have this insurance or reinsurance rescinded, varied or altered without his consent by virtue of the provisions of the *Contracts (Rights of Third Parties) Act 1999* are excluded from this insurance or reinsurance.

### **Software Affirmation Clause (LMA5450)**

23.
  1. Subject to the Policy terms, conditions, limitations and exclusions, to the extent coverage is afforded under this Policy, in respect of claims caused by the use of or inability to use Software, coverage shall be afforded in accordance with the limit of Insurers' liability as stated in this Policy
  2. No additional limit(s) of coverage shall be conferred by paragraph 1 of this Clause.

3. For the purposes of this Clause, Software shall mean programs, source codes, scripts, applications, and other operating information used to instruct computers to perform one or more task(s).

### **Full Premium in the Event of a Claim Exceeding Premium Paid (AVN9)**

24. It is understood and agreed that in the event of a claim arising hereunder which exceeds the premium paid the balance of the agreed Full Annual Premium shall become due and payable forthwith.

### **Published/Recognised Landing Ground Suitability Clause (AVN23A -amended)**

25. It is understood and agreed that the landing and taking off of the insured Aircraft by day on landing grounds other than published and/or recognised airfields is covered under the Policy

Provided always that:

- (a) The Insured and/or pilot conducting the flight has ascertained the suitability of the landing ground;
- (b) The pilot conducting the flight has surveyed the landing ground by flypast or overflight immediately prior to landing.

In the event of a claim being made under this Policy in respect of an Accident occurring during the use of any such landing ground the onus of proving that (a) and (b) above had been complied with shall rest entirely on the Insured.