



# Aircraft Insurance Policy

Issued by Agile Underwriting Services Pty Ltd

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## Important Notices

### Duty of Disclosure

Before you enter into a contract of insurance with us, you have a duty, under the Insurance Contracts Act 1984, to disclose to us every matter that you know, or could reasonably be expected to know, is relevant to our decision whether to accept the risk of the insurance and, if so, on what terms.

You have the same duty to disclose those matters to us before you renew, extend, vary or reinstate the contract.

This duty of disclosure applies until the contract is entered into (or renewed, extended, varied or reinstated as applicable).

Your duty however does not require disclosure of any matter:

- that diminishes the risk to be undertaken by us; or
- that is of common knowledge; or
- that we know or, in the ordinary course of our business as an insurer, ought to know; or

If you fail to comply with your duty of disclosure, we may be entitled to reduce our liability under the contract in respect of a claim, cancel the contract, or both.

If your non-disclosure is fraudulent, we may also have the option of avoiding the contract from its beginning.

### Privacy

At Agile Underwriting Services Pty Ltd, we are committed to protecting your privacy in accordance with the Privacy Act 1988 (Cth). We use your personal information to assess the risk of and provide insurance and other insurance services to service your account.

We may use your contact details to send you information and offers about products and services that we believe will be of interest to you. If you don't provide us with full information, we may not be able to provide insurance or assess a claim to service your account. If you provide us with information about someone else you must obtain their consent to do so.

We provide your information to the insurer we represent when we issue and administer your insurance. We are part of the Agent Zero Group and may provide your information to the entity who provide us with business support services. We may also provide your information to your broker and contracted third party service providers (e.g. Loss adjuster companies), but will take all reasonable steps to ensure that they comply with the Privacy Act.

Our Privacy Policy contains information about how you can access the information we hold about you, ask us to correct it, or make a privacy related complaint. You can obtain a copy from our Privacy Officer by telephone 1300 475 092 email ([privacy@agileunderwriting.com](mailto:privacy@agileunderwriting.com)) or by visiting our website ([www.agileunderwriting.com](http://www.agileunderwriting.com)).

By providing us with your personal information, you consent to its collection and use as outlined above and in our Privacy Policy.

## Complaints and Dispute Resolution

Agile Underwriting Services Pty Limited and certain underwriters at Lloyds’s take 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 475 092 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.

## Claims Notifications

The policyholder and/or any insured must notify us in writing of any claim which may trigger this policy as soon as is reasonably practicable after they first become aware of the incident within the insurance period.

The written notice should include, so far as is reasonably practicable and so far as the relevant insured is aware:

- a) the identity of the claimant if relevant;
- b) an outline of the factual matrix; and
- c) an estimate of the likely quantum of any loss.

The notice must be delivered by email to [aviationclaims@agileunderwriting.com.au](mailto:aviationclaims@agileunderwriting.com.au)

Any written notice will be considered effective from the date such notice is first received by us.

## Financial Strength Rating

Lloyds has a A+ financial strength rating given by Standard & Poor’s.

The rating scale in summary form is:

AAA	Extremely Strong	B	Weak
AA	Very Strong	CCC	Very Weak
A	Strong	CC	Extremely Weak
BBB	Good	R	Regulatory Action
BB	Marginal		

Plus (+) or minus (-): Ratings from “AA” to “CCC” may be modified by the addition of a plus (+) or minus (-) sign to show relative standings within the major rating categories.

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## Definitions

**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 continental 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 Safety Authority or any successor or equivalent body and any organisation where self-administration has been delegated by the Civil Aviation Safety 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.

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## 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 certain underwriters at Lloyds and wherever the terms Insured, you or your are used, these shall refer to the person, persons or organisations named in the Schedule.

## 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.



## 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 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 loss and value to support any claim made for loss or damage to such equipment. 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 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. 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 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) Loss of or damage to any Unit during and resulting from maintenance, inspection or repair of the Aircraft due to the fault or negligence of your maintenance provider;
- (d) consequential loss or economic loss, whether direct or indirect and including loss of value of the Aircraft;
- (e) Loss of or damage to Aircraft documentation;
- (f) 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),(b) or (c) 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;
  - (c) any liability to passengers under the Civil Aviation (Carriers' Liability) Act 1959 (Cth) or the corresponding Act of any Australian State or Territory in force from time to time unless such cover is endorsed on this policy.

## 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.

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;

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- 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>	Maximum permissible level of non-fixed radioactive surface contamination
<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.

# Aircraft Insurance Policy

Version 201701

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## 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 additional 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:

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



- (f) 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 Insurer 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 or regulation.

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 Insurer 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 Insurer 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 Insurer a minimum of 30 days notice in writing be given. In the event of

cancellation by either the Insured or the Insurer, the Insurer 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 Insurer, 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 Insurer shall be effective even though the Insurer 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.