


Hangar Keepers Liability

Combined Policy Wording and
Product Disclosure Statement (PDS)

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



Powered by  AGILE.

Coverholder at 

HANGAR KEEPERS LIABILITY POLICY WORDING & PRODUCT DISCLOSURE STATEMENT (PDS)

Prepared on 1st November 2018

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 |
|---|--|
| General enquiries, including policy questions and coverage, and policy amendments. Any questions, just call or email. | 1300 475 092 aviation@agileunderwriting.com |
| Cancelling your policy You can cancel your policy at any time. | 1300 475 092 aviation@agileunderwriting.com |
| Making a claim online You can claim directly through our online portal. | agileunderwriting.com/how-to-claim support.agileunderwriting.com |
| Making a claim Get in touch straight away and we can help. | 1300 475 092 aviation@agileunderwriting.com |
| Making a complaint If you're not happy...we want to know. | 1300 475 092 complaints@agileunderwriting.com |

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 (the Insurer).

In all aspects of this Policy, AGILE acts as agent for the Insurer 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 475 092
E-mail: service@agileunderwriting.com
Website: www.agileunderwriting.com

3. ABOUT 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. stamp duty and 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.

This document contains important information required under the *Corporations Act 2001* (Cth) (the Act) and has been prepared to assist You in understanding your policy and making an informed choice about Your insurance requirements. It is up to You to choose the cover You need. 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 Section 7, 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. If you find you need to change the cover for whatever reason, get in contact with us.

General Insurance Code of Practice

Lloyd's is a signatory to the General Insurance Code of Practice (the Code). and Agile supports the Code. The Code sets out minimum standards that We will uphold in respect of the products and services that We provide. Further information about the Code is available at www.codeofpractice.com.au and on request.

6. YOUR DUTY OF DISCLOSURE

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 Australia.

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.

Australian Law

This Policy is subject to the laws of Australia. Any dispute relating to the Policy shall be submitted to the exclusive jurisdiction of a Court within the State or Territory of Australia in which the Policy was issued.

Australian Currency

All payments by You to Us and Us to You or someone else under Your Policy must be in Australian currency.

Cooling off period

You have fourteen (14) days from the date We confirmed, electronically or in writing, that You are covered under Your Policy to decide if the Policy meets Your needs. You may cancel Your Policy simply by calling Us on 1300 475 092 or advising Us in writing within those fourteen (14) days to cancel it. If You do this, We will refund any premiums You have paid during this period. These cooling off rights do not apply if You have made or You are entitled to make a claim during this period.

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 or calling 1300 475 092.

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 Australian Eastern 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 can cancel Your Policy by giving You written notice to the address on file and in accordance with the *Insurance Contracts Act 1984* (Cth), including where You have:

- (a) breached the Duty of Disclosure;
- (b) breached a provision of Your Policy (including one requiring payment of premium);
- (c) made a fraudulent claim under any policy of insurance. If We cancel, We will refund the premium for Your Policy less an amount to cover the period for which You Were insured.
- (d) undertaken Deception, Fraud and Illegal Use. We may be entitled to avoid this policy or withdraw from it in the event of intentional misrepresentation or deception, or in the event that the Goods are wholly or partly used in the course of, or to facilitate, a criminal activity. If a fraudulent Claim is made, entitlements and benefits will be forfeited and information may be forwarded to the police and the prosecuting authorities.

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;
2. As soon as is 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. In the event of theft, inform the police as soon as possible and take all reasonable measures to recover lost or stolen property;
5. Not admit liability to any loss, damage or injury, or settle or attempt to settle any defend any claim without our written consent;
6. Immediately send us any legal document or other communication you receive about the accident;
7. When other parties may be liable to You for the loss or damage You must not agree to release those parties from liability;
8. 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 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.

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 475 092 or 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 Limited
Level 5, 63 York St, Sydney 2000

Telephone: 1800 815 675

Email: complaints@agileunderwriting.com

We will respond to Your complaint within fifteen (15) business days, or if further investigation or information is required, We will work with You to agree on reasonable alternative timeframes.

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 Australia Limited
Level 9, 1 O’Connell Street Sydney NSW 2000
Telephone: (+61 2) 8298 0783
Email: ldraustralia@lloyds.com

Following receipt of your complaint, you will be advised whether your matter will be handled by Lloyd’s Australia or the Lloyd’s Complaint team in London, or what other avenues are available to you. Your complaint will be acknowledged within 5 business days of receipt, and you will be kept informed of the progress of the review of your complaint at least every 10 business days.

Where your complaint is eligible for referral to the Australian Financial Complaint Authority (AFCA), your complaint will be reviewed by a person at Lloyd’s Australia with appropriate authority to deal with your dispute.

If Your complaint or dispute is not resolved to Your satisfaction or a final response has not been provided within 45 days, You may refer the matter to the Australian Financial Complaints Authority (AFCA) for review. AFCA can be contacted at:

Postal address: Australian Financial Complaints Authority
GPO Box 3, Melbourne VIC 3001
Telephone: 1800 931 678
email: info@afca.org.au

AFCA provides fair and independent financial services complaint resolution that is free to consumers. Your dispute must be referred within 2 years of the date of Lloyd’s final decision. Determinations made by AFCA are binding.

Customers not eligible for referral to AFCA may be eligible for referral to the UK Financial Ombudsman Service. Such referral must occur within 6 months of the final decision by the Complaints team at Lloyd’s. Further details will be provided with their final decision to you.

12. SERVICE OF SUIT CLAUSE

The Underwriters hereon agree that:

1. In the event of a dispute arising under this Insurance, the Underwriters at the request of the Assured 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 Australia
Lloyd's Australia Limited
Level 9, 1 O'Connell Street Sydney NSW 2000

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 one of the Underwriters, all Underwriters hereon will abide by the final decision of such Court or any competent Appellate Court.

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 1300 475 092.

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. PRIVACY STATEMENT

At AGILE, 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 that provides 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) or by visiting our website (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.

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 accident or series of accidents arising out of one event.

Bodily Injury means bodily injury (fatal or otherwise) but excludes nervous shock or psychological injury unaccompanied by, or not 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 or Taxiing as defined. GST, and input tax credit have the meaning given in *A New Tax System (Goods and Services Tax) Act 1999*.

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

Occurrence means an accident, or a continual or repeated exposure to conditions occurring during the period of Insurance, which results in Bodily Injury or Property Damage, provided the Bodily Injury or Property damage is accidentally caused. All damages arising out of such exposure to substantially the same general conditions shall be deemed to arise out of one occurrence.

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.

Statutory 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 temporarily halting of the aircraft.

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.

SEVERAL LIABILITY NOTICE LSW 1001 (Insurance) 08/94

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.

PART B - POLICY WORDING

Agreement to Insure

In consideration of the payment of the premium, the Insurers hereby agree to the extent and in the manner hereinafter provided, to pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay or by final judgment be adjudged to pay up to but not exceeding the amounts specified in the Schedule, to any person or persons as damages:

(a) for bodily injury; or

(b) for loss of or damage to property of others (hereinafter referred to as property damage), caused by an accident occurring during the period mentioned in the Schedule and arising out of the hazards set forth in Sections 1, 2 and 3 below, provided that cover for any Section is only available if an amount is shown against that Section on the Schedule.

(c) Provided further that the Insured shall first pay the amount shown as the deductible for each Section as shown on the Schedule, for each and every claim paid or payable by the Insurer under this Policy.

SELECTING YOUR COVER

Section 1: Bodily Injury or Property Damage

- (a) In or about the premises specified in the Schedule, as a direct result of the services granted by the insured.
- (b) Elsewhere in the course of any work or of the performance of any duties carried out by the Insured or his employees in connection with the business or operations specified in the Schedule caused by the fault or negligence of the Insured or any of his employees engaged in the Insured's business or by any defect in the Insured's premises, ways, works, machinery or plant used in the Insured's business.

This Section is subject to the following exclusions

- 1) Loss of or damage to property owned, rented, leased or occupied by; whilst in the care, custody or control of; whilst being handled, serviced or maintained by the Insured or any servant of the Insured, but this exclusion shall be deemed not to apply to vehicles that are not the property of the Insured whilst on the premises specified in the Schedule.

- 2) Bodily injury or property damage caused by:
 - a) any mechanically propelled vehicle which the Insured may cause or permit any other person to use on the road in such a manner as to render them responsible for insurance under any domestic or international law appertaining to road traffic, or where no such law exists, whilst such vehicle is on any public road;
 - b) any Ships, Vessels, Craft or Aircraft owned, chartered, used or operated by or on account of the Insured, but this exclusion shall be deemed not to apply to aircraft owned by others which are on the ground and for which indemnity is otherwise granted under Section 2 of this Policy, whether such Section is insured hereunder or not.
- 3) Bodily injury or property damage arising out of any Airmeet, Air Race, or Air Show, nor any stand used for the accommodation of spectators in connection therewith, unless previously agreed by Insurers.
- 4) Bodily injury or property damage arising out of construction of, demolition of or alterations to Buildings, Runways, or Installations by the Insured or his contractors or sub-contractors (other than normal maintenance operations) unless previously agreed by Insurers.
- 5) Bodily injury or property damage arising out of any goods or products manufactured, constructed, altered, repaired, serviced, treated, sold, supplied, or distributed by the Insured or his employees after such goods or products have ceased to be in the possession or under the control of the Insured, but this exclusion shall be deemed not to apply to the supply, by the Insured, of food or drink at the premises specified in the Schedule.

Section 2: Property in Care Custody or Control

Loss of or damage to Aircraft or Aircraft equipment, not owned, rented, operated or leased by the Insured, whilst on the ground or during a test flight in the care, custody or control of or whilst being serviced, handled or maintained by the Insured or any servant of the Insured.

This Section is subject to the following exclusions

- (a) Loss of or damage to robes, wearing apparel, personal effects or merchandise of any description.
- (b) Loss of or damage to Aircraft or Aircraft equipment, hired or leased by or loaned to the Insured.

Section 3 – Aircraft Maintenance Sales and Repairs

- a) Bodily injury or property damage arising out of the possession, use, consumption or handling of any goods or products manufactured, constructed, altered, repaired, serviced, treated, sold, supplied or distributed by the Insured or his employees, but only in respect of such goods or products which form part of or are used in conjunction with aircraft, and then only after such goods or products have ceased to be in the possession or under the control of the Insured.
- b) Liability under Schedule 2 Part 3.5 of the *Competition & Consumer Act 2010*, except as a deemed manufacturer pursuant to the provisions of that Act.

This Section is subject to the following exclusions

- (a) Damage to the property of the Insured or to property within his care, custody or control.
- (b) The cost of repairing or replacing any defective goods or products manufactured, constructed, altered, repaired, serviced, treated, sold, supplied or distributed by the Insured or any defective part or parts thereof.
- (c) Loss arising out of improper or inadequate performance, design or specification but this exclusion shall be deemed not to apply to bodily injury or property damage as insured hereby resulting therefrom.
- (d) Loss of use of any Aircraft not actually lost or damaged in an accident giving rise to a claim hereunder.

Section 4: Exclusions applicable to all Sections of this Policy

Workers compensation

1. THIS POLICY DOES NOT COVER liability for bodily injury to any person, who at the time of sustaining such injury is engaged in the service of the Insured or acting on his behalf, or liability for which the Insured or his insurer may be held liable under any workers compensation, employee's compensation, accident compensation or any other similar law other than a subrogated claim brought by an insurer to recover sums paid pursuant to such legislation.

Faulty workmanship

2. THIS POLICY DOES NOT COVER the cost of making good any faulty workmanship for which the Insured or his employees may be liable (but this limitation shall not exclude resulting damage arising out of such faulty workmanship).

Contractual liability

3. THIS POLICY DOES NOT COVER liability assumed by the Insured by Agreement under any Contract unless such liability would have attached to the Insured even in the absence of such Agreement.

War, Hi-jacking and Other Perils Risks Exclusion Clause

4. THIS POLICY DOES NOT COVER liability of the Insured directly or indirectly occasioned by, happening through or in consequence of War, invasions, act of foreign enemy, hostilities (whether War be declared or not), civil war, rebellion, revolution, insurrection, or military or usurped power

Control tower

5. THIS POLICY DOES NOT COVER liability arising out of the operation of an airfield control tower unless previously agreed by Insurers.

Chemicals, fertilizers and the like

6. THIS POLICY DOES NOT COVER liability arising out of the possession, handling, storage, sale, dealing in or distribution (by aircraft or otherwise) of agricultural fertilizers, chemicals, herbicides and/or insecticides.

Professional indemnity

7. THIS POLICY DOES NOT COVER liability arising out of the provision of advice, the failure to advise or any breach of any professional duty owed by the Insured or by the Insured's employees or agents.

Jurisdiction

8. 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.

Other insurance

9. THIS POLICY DOES NOT COVER claims which are payable under any other policy or policies of insurance except in respect of any excess beyond the amount which would have been payable under such other policy or policies had this Policy not been effected, provided always that the Insurer shall not be liable to pay any amount in excess of the relevant amount specified in the Schedule.

Damages

10. THIS POLICY DOES NOT COVER liability to pay punitive, exemplary or aggravated damages.
11. Each Section of this Policy excludes liability which is or would be covered under any other Section of the Policy, whether such other Section is insured hereunder or not.

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 1; or
 - ii. a claim or claims covered by the Policy when combined with any claims excluded by Paragraph 1 (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.

Nuclear Risks Exclusion Clause (AVN38B)

13.

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:
 - 1. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
 - 2. 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;
 - 3. ionizing 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
 - i. (b) and (c) above shall not include:
 - ii. depleted uranium and natural uranium in any form;
 - iii. 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:

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

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

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.

Asbestos Exclusion Clause (AVN96)

15. 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 15(1) or (2) hereof.

Sanctions and Embargo Clause AVN111

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

- 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

17. 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.

Section 5 – Payment of costs

In addition to the limits set out in the Schedule, Insurers will pay all legal and other costs incurred with their consent in the defence of any claim made against the Insured, PROVIDED THAT in the event of their requiring any claim to be contested.

- (a) If the claim be successfully resisted by the Insured the Insurers will pay all costs, charges and expenses incurred by the Insured in connection therewith up to but not exceeding the sum insured under this Policy.
- (b) If a payment exceeding the sum insured has to be made to dispose of a claim, the liability of Insurers to pay any costs, charges and expenses in connection therewith shall be limited to such proportion of the said costs, charges and expenses as the sum insured by this Policy bears to the amount paid to dispose of the claim.

Section 6 – General conditions

Claims

- 1. Upon the happening of any accident likely to give rise to a claim under this Policy or upon the receipt by the Insured of notice of any claim or of any other subsequent proceedings, notice in writing with full particulars shall be given to Insurers as soon as possible after the same shall come to the knowledge of the Insured or the Insured's representative. Every letter, claim, writ, summons or process shall be forwarded to Insurers immediately on receipt by the Insured.
- 2. All notices as specified above shall be given by the Insured to the person(s) or firm named for the purpose in the Schedule

Fraudulent claims

- 3. 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.

Conditions precedent

4. It is a condition precedent to the right of the Insured to be indemnified under this Insurance that
 - a. If after this Insurance has been effected, the risk is materially altered, such alterations must be notified in writing to the Insurers immediately.
 - b. No liability shall be admitted and no admission, arrangement, offer, promise or payment shall be made by the Insured without the written consent of Insurers, who shall be entitled, if they so desire, to take over and conduct in the name of the Insured the defence of any claim or to prosecute in the name of the Insured for their own benefit any claim for indemnity or damages or otherwise against any third party, and shall have full discretion in the conduct of any negotiations or proceedings or the settlement of any claim, and the Insured shall give all such information and assistance as Insurers may require.
 - c. The Insured shall and will at all times exercise reasonable care in seeing that the ways, implements, plant, machinery and appliances used in the Insured's business are substantial and sound and in proper order, and fit for the purpose for which they are used, and that all reasonable safeguards and precautions against accidents are provided and used.
 - d. The Insured shall comply with all Statutory Requirements which affect the maintenance, repair, inspection and safe operation of aircraft, the operation and conditions of places of work and the qualifications and supervision of engineers.

Limits of Indemnity

5. Notwithstanding the inclusion herein of more than one Insured, whether by endorsement or otherwise, the total liability of the Insurers in respect of any or all Insured's shall not exceed the limit(s) of liability stated in this Policy.
6. The inclusion of more than one person as insured under this Policy shall not affect the rights under this Policy in respect of any claim brought by another insured or by an employee of another insured.

Cancellation

7. 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.

In the event that You have made a claim under this Policy, no return of premium will be made for any unused portion of the premium for the Sections under which the claim has been paid.

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 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 7 shall override the cancellation provisions contained in the Nuclear Risks Exclusion Clause AVN83B or the Extended Coverage (Aviation Liabilities) AVN52G of this Policy if endorsed hereon.

Applicable law and jurisdiction

- 9. This Policy shall be construed in accordance with Australian Law.

10. 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 judgement obtained in the United States of America or Canada.

Association membership liability

11. In accordance with Section 4.9 of this Policy, the Indemnity provided to the Insured under this Policy shall come into effect only after the Insurance available to the Insured, via the Insured's membership of Recreational Aviation Australia, the Gliding Federation of Australia and/or other similar membership group, has been exhausted.

This clause does not absolve the Insured from their obligations under Section 6 of this Policy.