

# Australian Sports Rotorcraft Association Inc.

## Aviation Legal Liability Policy



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## **INTRODUCTION**

### **About this Policy**

This Policy contains two separate parts: General Information and the Policy Terms and Conditions.

### **General Information**

This part contains information you need to know when arranging insurance. Please read it carefully before taking out this insurance.

### **Policy Terms and Conditions**

This part contains the Policy Terms, General Conditions and Exclusions relating to the Policy. It forms part of Your legal contract with Us.

If We issue You with an insurance Policy, You will be given a Policy Schedule. The Policy Schedule sets out the specific terms applicable to Your cover and should be read together with the Policy Terms and Conditions.

The Policy Terms and Conditions and the Policy Schedule We send to You form Your legal contract with us so please keep them in a safe place for future reference.

If you require further information about this product, please contact Your Financial Services Provider.

### **About QBE Australia**

QBE Insurance (Australia) Limited is a member of the QBE Insurance Group (ASX : QBE). QBE Insurance Group is Australia's largest international general insurance and reinsurance group, and one of the top 25 insurers and reinsurers worldwide. The company has been operating in Australia since 1886 and continues to provide industry-leading insurance solutions that are focused on the needs of intermediaries and their clients.

QBE is a household name in Australian insurance, backed by sizeable assets, and well known as a strong and financially secure organisation.

## GENERAL INFORMATION

### General Information for Aviation Legal Liability Policy

The information contained in this part is general information only and does not form part of Your contract with Us. The Policy Terms and Conditions in the rest of this booklet contain the details of Your contract.

### Duty of Disclosure – What you must tell us

Under the Insurance Contracts Act 1984 (the Act), you have a Duty of Disclosure. You are required before you enter into, renew, vary, extend or reinstate your Policy, to tell us everything you know and that a reasonable person in the circumstances could be expected to know, is a matter that is relevant to our decision on whether to insure you, and anyone else to be insured under the Policy, and if so, what terms.

- **You do not have to tell us about any matter**
  - that diminishes the risk
  - that is of common knowledge
  - that we know or should know in the ordinary course of our business as an insurer, or
  - which we indicate we do not want to know.
  
- **If you do not tell us**

If you do not comply with your Duty of Disclosure we may reduce or refuse to pay a claim or cancel your policy. If your non-disclosure is fraudulent We may also have the option of avoiding the contract from its beginning.

### Privacy

Privacy legislation regulates the way private sector organisations can collect, use, keep secure and disclose personal information. We are bound by the Privacy Act 1999 (Cth.), when collecting and handling Your personal information. QBE has developed a privacy policy which explains what sort of personal information we hold about You and what we do with it.

We will only collect personal information from or about You for the purpose of assessing Your application for insurance and administering your insurance policy, including any claims You make or claims made against you. We will only use and disclose Your personal information for a purpose You would reasonably expect.

We may need to disclose personal information to Our reinsurers (who may be located overseas), insurance intermediaries, insurance reference bureaux, credit reference agencies, Our advisers and those involved in the claims handling process (including assessors, investigators and other insurers), for the purposes of assisting Us and them in providing relevant services and products, or for the purposes of recovery or litigation. We may disclose personal information to people listed as co-insured on Your policy and to family members or agents authorised by You. Computer systems and support services may be provided to us by related companies within the QBE Group that may be located overseas. We may also disclose information to organisations which conduct customer service surveys on Our behalf. We will request your consent to any other purpose.

By providing Your personal information to us, You consent to us making these disclosures. Without Your personal information We may not be able to issue insurance cover to You or process Your claim.

You also have the opportunity to find out what personal information We hold about You and, when necessary, correct any errors in this information. Generally We will do this without restriction or

change. For further information about our Privacy Policy or to access or correct your personal information, please contact The Compliance Manager, QBE Insurance (Australia) Limited, GPO Box 82, Sydney NSW 2001. Telephone: (02) 9375-4656 or email: [compliance.manager@qbe.com](mailto:compliance.manager@qbe.com).

### **The General Insurance Code of Practice**

QBE Insurance (Australia) Limited is a signatory to the General Insurance Code of practice. The Code aims to:

- promote more informed relations between insurers and their customers;
- improve consumer confidence in the general insurance industry;
- provide better mechanisms for the resolution of complaints and disputes between insurers and their customers; and
- commit insurers and the professionals they rely upon to higher standards of customer service.

More information about the General Insurance Code of Practice is available by contacting the Financial Ombudsman Service, on 1300 780 808. Email: [info@fos.org.au](mailto:info@fos.org.au) or visit [www.codeofpractice.com.au](http://www.codeofpractice.com.au).

### **Dispute Resolution**

We will do everything possible to provide a quality service to you. However, We recognise that occasionally there may be some aspect of Our service or decision we have made that you wish to query or draw to Our attention.

We have a Complaints and Dispute Resolution Procedure which undertakes to provide an answer to Your complaint within 15 working days.

If you would like to make a complaint or access our internal dispute resolution service please contact your nearest QBE aviation office.

## **POLICY TERMS AND CONDITONS**

### **Insurer**

This Policy is underwritten by QBE Insurance (Australia) Limited, ABN 78 003 191 035, AFS Licence No. 239545 of 2 Park Street, Sydney.

### **Preamble**

Headings are inserted for the purpose of convenient reference only and are not to be deemed part of this Policy.

Certain words and phrases used in this Policy gave special meanings which can be found later in this section under "Definitions".

### **Our Agreement with You**

This Policy is a legal contract between You and Us. You pay Us the premium, and We provide You with the cover You have chosen as set out in the Policy, during the Period of Insurance shown on Your Policy Schedule or any renewal period.

The Definitions, Exclusions and General Conditions apply to all sections of this Policy.

### **Other Party's Interests**

You must not transfer any interests in this Policy without our written consent.

Any person whose interest you have told us about and we have noted on your Policy Schedule is bound by the terms of this Policy.

### **Paying your Premium**

You must pay Your premium, any adjustments of premium, GST and other amounts charged for this Policy and any renewal, extension or endorsement to this Policy by the due date. If We do not receive Your premium by this date or Your payment is dishonoured this Policy will not operate and there will be no cover.

### **How Goods and Services Tax affects any Payments we make**

The amount of premium payable by You for this Policy includes an amount on account of the GST on the premium.

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

When You are:

- (a) not registered for GST, the amount We pay is the Limit of Liability or the other limits of insurance cover including GST
- (b) registered for GST, We will pay the Limit of Liability or the other limits of insurance and where You are liable to pay an amount for GST in respect of an acquisition relevant to Your claim, We will pay for the GST amount.

We will reduce the GST amount We pay for by the amount of any input tax credits to which You are or would be entitled if You made a relevant acquisition. In these circumstances, the input tax credit may be claimable through Your business activity statement (BAS).

You must advise Us of Your correct Australian business number and taxable percentage.

Any GST liability arising from Your incorrect advice is payable by You.

Where the settlement of Your claim is less than the Limit of Liability or the other limits of insurance cover, We will only pay an amount for GST (less Your entitlement for input tax credit) applicable to the settlement. This means that if these amounts are not sufficient to cover Your loss, We will only pay the GST relating to Our settlement of the claim.

We will (where relevant) pay You on Your claim by reference to the GST-exclusive amount of any supply made by any Business of Yours which is relevant to Your claim.

GST, input tax credit (ITC), business activity statement (BAS) and acquisition have the same meaning as given to those expressions in A New Tax System (Goods and Services Tax) Act 1999 and related legislation as amended from time to time.

Taxable percentage is Your entitlement to an input tax credit on Your premium as a percentage of the total GST on that premium.

## DEFINITIONS

**Some of the words in this Policy have a special meaning. Wherever the following words or terms are used in the Policy, their meaning is as set out below:**

“Aircraft” means any Aircraft administered by ASRA and complying with the definition of Aircraft in the Operations Manual ASRA.

“ASRA” means the Australian Sports Rotorcraft Association Inc. and/or subsidiary companies including those acquired or incorporated during the period of insurance and/or its Committees of Management, Directors and/or Officers and/or Employees and/or Officials.

“Australia” means continental Australia and extending 100kms into territorial waters, external territories (excluding Australian Antarctica, Macquarie Island, Heard Island and McDonald Island) and passage between continental Australia and the external territories (other than the excluded territories).

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

“Compensation” means monies paid or agree to be paid by judgment, award or settlement for Bodily Injury and Property damage. Provided that Compensation is only payable in respect of an Occurrence to which this Policy applies and does not include punitive, exemplary or aggravated damages.

“Flight” means the time commencing with the actual take-off run of the Aircraft and continuing thereafter until the Aircraft has completed the landing run.

“Geographical Limits” means anywhere within the Commonwealth of Australia and its Territories.

“Occurrence” means an accident or a continued or repeated exposure to conditions during the Policy period which results in Bodily Injury or Property Damage during the Policy period, provided that 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.

“Passenger” means any person who is entering, on board, or alighting from an aircraft, including a Student Pilot under instruction, excluding a Pilot/Approved Pilot.

“Period of Insurance” means the period shown in the schedule.

“Pilot/ Approved Pilot” means any Pilot holding an appropriate Pilot Certificate who is a member of ASRA and responsible for the operation and safety of an Aircraft (as defined) during flight or operating an Aircraft with the owners’ permission.

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

“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.

“Policy Schedule” the schedule of insurance and/or any endorsement schedule We give You.

“Property Damage” means physical damage to or physical loss or physical destruction of tangible property including any resulting loss of use of that property.

“You, Your, Insured” shall mean the person(s), company(ies) or firm(s) named on the current Policy Schedule as the ‘Insured’.

“We, Our, Us” QBE Insurance (Australia) Limited ABN 78 003 191 035 AFS Licence Number 239545

## **INSURED**

1. Australian Sports Rotorcraft Association Inc (ASRA);
2. Individual financial members of Australian Sports Rotorcraft Association Inc., and/or member State Associations and/or member schools/clubs affiliated with ASRA including their Committee Members, Directors, Officers, Employees, Officials, and/or Volunteers acting within the scope of their duties in such capacity; and
3. Any company who conducts training as an ASRA approved training facility provided that such training is the primary business activity; each for their respective rights and interest.

## **ACTIVITIES**

Aviation activities including but not limited to:

1. All Flight activities as captured under the auspices of ASRA;
2. Training and instruction when accompanied by a qualified instructor of ASRA and/or instructed by radio by a qualified Instructor of ASRA;
3. General flying, including competitions, displays and events;
4. Airside activities including ownership, maintenance, operation or use of:-
  - (a) any airport, aerodrome, airstrip, heliport or any other area where aerial devices take off or land;
  - (b) any aircraft hanger or any other area used for storing, sheltering, servicing, maintaining or parking aircraft or aerial devices.

## **SECTION 1: LEGAL LIABILITY TO THIRD PARTIES (OTHER THAN PASSENGERS)**

### **1. Coverage**

We will cover your legal liability to pay all sums as Compensation for accidental bodily Injury (fatal or otherwise) and accidental property damage arising out of an Occurrence caused by any of the Insured's Activities as listed in the Schedule

#### **1.1. Limit of Liability**

Our Limit of Liability in respect of any claim or any series of claims for Bodily Injury and Property damage caused by or arising out of one Occurrence shall not exceed the Limit of Liability stated in the Policy schedule.

Our total aggregate Liability during any one Period of Insurance for all claims arising out of Aviation Legal Liability shall not exceed the Limit of Liability stated in the Policy Schedule.

#### **1.2. Legal Costs**

In addition, the company will defray any legal costs and expenses incurred with its written consent in defending any action which may be brought against the insured in respect of any claim for compensatory damages covered by this Section, but should the liability of the insured or the amount paid or awarded in settlement of such claim exceed the Limit of Indemnity then the liability of the Company in respect of such legal costs and expenses shall be limited to such proportion of the said legal costs and expenses as the Limit of Indemnity bears to the amount paid to dispose of the claim.

## **SECTION 2: LEGAL LIABILITY TO PASSENGERS**

### **2. Coverage**

We will cover your legal liability to pay all sums as Compensation for accidental bodily injury (fatal or otherwise) to passengers whilst entering, on board , or alighting from the Aircraft arising out of an Occurrence caused by any of the Insured's Activities as listed in the Schedule

#### **2.1. Limit of Liability**

Our Limit of Liability in respect of any claim or any series of claims for Bodily Injury to passengers caused by or arising out of one Occurrence shall not exceed the Limit of Liability stated in the Policy schedule.

Our total aggregate Liability during any one Period of Insurance for all claims arising out of Aviation Legal Liability shall not exceed the Limit of Liability stated in the Policy Schedule.

#### **2.2. Legal Costs**

In addition, the company will defray any legal costs and expenses incurred with its written consent in defending any action which may be brought against the insured in respect of any claim for compensatory damages covered by this Section, but should the liability of the insured or the amount paid or awarded in settlement of such claim exceed the Limit of Indemnity then the liability of the Company in respect of such legal costs and expenses shall be limited to such proportion of the said legal costs and expenses as the Limit of Indemnity bears to the amount paid to dispose of the claim.

### **SECTION 3(A): GENERAL EXCLUSIONS APPLICABLE TO ALL PARTS OF THE POLICY**

This Policy does not apply:

#### **Illegal Uses**

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

#### **Geographical Limits**

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

#### **Operational Requirements**

3. Whilst the Aircraft is landing on or taking off or attempting to do so from a place or in a manner which does not comply with the Operational Requirements except as a result of force majeure.

#### **Property**

4. To loss of or damage to any property belonging to or in the care, custody or control of the Insured.

#### **Professional Liability**

5. This policy excludes liability arising out of the provision of advice, the failure to advise or any breach of a professional duty owed by you or by your employees, agents or contractors except for in relation to the operational duties performed by Flying Instructors, Duty Pilots & Safety Pilots.

#### **Employees and Others**

6. To liability arising under any Workers' Compensation, employees' compensation, accident compensation, occupational health and safety or similar legislation, other than a subrogation claim brought by an insurer to recover sums paid pursuant to such legislation.

#### **Contractual Liability**

7. To liability assumed or rights waived by you by agreement under any contract unless such liability would have attached to you even in the absence of such agreement.

#### **Non-Contribution**

8. To claims which are or would be 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 Policy not been effected, provided always that the Insurer shall not be liable to pay any amount in excess of any relevant amount specified in the Policy Schedule.

#### **Nuclear Risks**

9. To:
  - (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; or
  - (ii) any legal liability of whatsoever nature

directly or indirectly caused by or contributed to by or arising from:

- (a) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

- (b) 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;
- (c) ionizing radiations or contamination by radioactivity from, or the toxic explosive or other hazardous properties of, any other radioactive source whatsoever.

It is understood and agreed that such radioactive material or other radioactive source in paragraph 9(b) and 9(c) above shall not include:

- (i) depleted uranium and natural uranium in any form;
- (ii) radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical agricultural, commercial, educational or industrial purpose.

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) you are 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) you as the Insured under the Policy is, or had this Policy not been issued would be, entitled to indemnification from any government or agency thereof.

Loss, destruction, damage, expense or legal liability in respect of the nuclear risks not excluded by reason of paragraph (i) and (ii) above 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 shall in all respects have complied with the full International Civil Aviation Organisation "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 you against us or by any claimant against you 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:

<u>Emitter</u>  (IAEA Health and Safety Regulations)	<u>Maximum permissible level of non-fixed radioactive surface contamination</u> <u>(Averaged over 300 cm<sup>2</sup>)</u>
Beta, gamma and low toxicity alpha emitters	Not exceeding 4 Becquerels/cm <sup>2</sup> (10 <sup>-4</sup> microcuries/cm <sup>2</sup> )
All other emitters	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 us giving seven days' notice of cancellation.

### **War, Hijacking And Other Perils**

10. To 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 your consent.

Furthermore this Policy does not cover claims arising whilst the Aircraft is outside of your control by reason of any of the above perils.

The Aircraft shall be deemed to have been restored to your control on the safe return of the Aircraft to you 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).

### **Noise and Pollution and Other Perils**

11. To claims directly or indirectly occasioned by, happening through or in consequence of:

- (a) noise (whether audible to the human ear or not), vibration, sonic boom and any phenomena associated therewith;
- (b) pollution and contamination of any kind whatsoever;
- (c) electrical and electromagnetic interference;
- (d) 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.

With respect to any provision in the Policy concerning any duty on our part to investigate or defend claims, such provision shall not apply and we shall not be required to defend

- (a) claims excluded by Paragraph A; or
- (b) a claim or claims covered by the Policy when combined with any claims excluded by Paragraph A (referred to below as "Combined Claims").

In respect of any Combined Claims, we shall (subject to proof of loss and the limits of the Policy) reimburse you for that portion of the following items which may be allocated to the claims covered by the Policy:

- (i) damages awarded against you; and
- (ii) defence fees and expenses incurred by you.

Nothing herein shall override any radioactive contamination or other exclusion clause attached to or forming part of this Policy.

#### **Date Recognition**

12. To claims, 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 your possession 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 your possession 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 yours or of any third party related to any such change of year, date or time; and any provision in this Policy covering any duty of ours to investigate or defend claims shall not apply to any claims so excluded.

#### **SECTION 3(B): CONDITIONS PRECEDENT APPLICABLE TO ALL PARTS OF THE POLICY**

It is necessary that you observe and fulfil the following Conditions before we have any liability to make any payment under this Policy.

#### **Due Diligence**

1. You shall at all times use due diligence and do and concur in doing everything reasonably practicable to avoid accidents and to avoid an Occurrence or accidents or diminish any loss .

#### **Compliance with Statutory Requirements**

2. You shall comply with all Statutory Requirements and shall ensure that:
- (a) the Aircraft is airworthy at the commencement of each flight;
  - (b) all log book and other records in connection with the Aircraft shall be kept up to date and shall be produced to us or our agents on request;
  - (c) Employees and agents must comply with such orders and requirements.

#### **Claims Procedure**

3. Immediate notice of any event likely to give rise to a claim under this Policy shall be given to us at the address stated in the Policy Schedule and in all cases you shall:
- (a) furnish full particulars in writing of such event and forward immediately notice of any claim with any letters or documents relating thereto to the address in the Schedule;
  - (b) give notice of any impeding prosecution
  - (c) render such further information and assistance as we may reasonably require;
  - (d) be available and attend conferences and give evidence and/or instructions when required by us or our agents, ensure that any employees required by us are available to do likewise and

- take all reasonable steps to ensure that any other person connected with you is available and will assist and give evidence is so required;
- (e) not act in any way to the detriment or prejudice of our interests.

#### **Admission of Liability**

4. You shall not make any admission of liability or payment or offer or promise of payment without our written consent.

#### **Pilots**

5. Any pilot must be in possession of a current licence and a valid medical certificate.

### **SECTION 3(C): GENERAL CONDITIONS APPLICABLE TO ALL PARTS OF THE POLICY**

#### **Claims Control**

- 1.
- (a) We shall be entitled (if we so elect) at any time and for so long as necessary take absolute control of all negotiations and proceedings and in your name may settle, defend or pursue any claim. You authorise us to execute any documents in your name and as your duly appointed representative in the settlement, defence or pursuit of any claim.
- (b) We may at any time upon giving written notice to you, abandon the pursuit or the defence of any claim but shall (except where you, have been dishonest or withheld relevant information) pay our share of any costs incurred in connection with the pursuit or defence up to the date of giving notice.

#### **Subrogation**

2. Upon an indemnity being given or a payment being made by us under this Policy, we shall be subrogated to the rights and remedies available to you and you must co-operate with and do all things necessary to assist us to exercise such rights and remedies;

You shall in any proceedings brought by you and do all things necessary to recover and hold on trust for us any amount which we would be entitled to recover.

#### **Variation in Risk**

3. Should there be any change in the circumstances or nature of the risks which are the basis of this contract you shall give immediate notice thereof to us and no claim arising subsequent to such change shall be recoverable hereunder unless such change has been accepted by us.

#### **Cancellation**

- 4.
- (a) You may cancel this Policy by giving us 10 days notice in writing of such cancellation in which event the premium shall be adjusted on the basis that we retain the customary short-term premium, details of which are available on request.
- (b) We may cancel this Policy in the circumstances or upon the grounds permitted by the Insurance Contracts Act (Commonwealth) by giving notice in writing to your Appointed Broker.

#### **Assignment**

5. This policy shall not be assigned in whole or in part except with our prior consent and verified by an endorsement hereon.

#### **Not Marine Insurance**

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

#### **Governing Law**

7. This Policy will be construed in accordance with Australian Law whose courts shall have exclusive jurisdiction in any dispute or difference between you and us.

#### **False and Fraudulent Claims**

8. If any person or party covered by this policy shall make any claim knowing the same to be false or fraudulent as regards amount or otherwise we may be entitled to refuse to pay or to reduce the amount of the claim and cancel their interest in the policy.

#### **Joint Insured's/Cross Liability**

9. The inclusion of additional insureds under this Policy shall not preclude the right of recovery hereon by you as 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.

Notwithstanding the inclusion herein of more than one Insured, whether by endorsement or otherwise, our total liability in respect of any or all insureds shall not exceed the limit(s) of indemnity stated in this Policy.

10. This Policy does not cover and will not respond to legal liability to third parties or passengers resulting in legal proceedings, claims, demands or disputes arising in jurisdictions other than those referred to in the geographical limits set out in the Schedule.

## **SECTION 4: ADDITIONAL CLAUSES APPLICABLE TO ALL PARTS OF THE POLICY**

### **1. Date Recognition Limited Coverage**

WHEREAS the Policy of which this clause forms part includes a Date Recognition Exclusion (General exclusion 12). It is hereby understood and agreed that, subject to all terms and provisions of this clause, General Exclusion 12 shall not apply:

1. to any accidental loss of or damage to an aircraft defined in the Policy Schedule (“Insured Aircraft”);
2. to any sums which you shall become legally liable to pay, and (if so required by the Policy) shall pay (including costs awarded against you) in respect of;
  - (a) bodily injury, fatal or otherwise, to passengers caused by an accident to an Insured Aircraft; and/or
  - (b) loss of or damage to baggage and personal articles of passengers, mail and cargo caused by an accident to an Insured Aircraft; and/or
  - (c) bodily injury, fatal or otherwise, and accidental damage to property caused by and Insured Aircraft or by any person or object falling therefrom.

PROVIDED THAT:

- (i) Coverage provided pursuant to this clause 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 clause extends coverage beyond that which is provided by the Policy.
- (ii) Nothing in this clause 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.
- (iii) You agree that you have an obligation to disclose in writing to us during the Policy period any material facts relating to the Date Recognition Conformity of your operations, equipment and products.

### **2. Extended Coverage clause (Aviation Liabilities)**

1. WHEREAS the Policy of which this clause forms part includes a War, Hi Jacking and Other Perils Exclusion (General Exclusion 10), it is hereby understood and agreed that with effect from inception, all sub-paragraphs other than (b) of General Exclusion 10 forming part of this Policy are deleted SUBJECT TO all terms and conditions of this clause.
2. EXCLUSION applicable only to any cover extended in respect of the deletion of sub paragraph (a) of General Exclusion 10. Cover shall not include liability for damage to any form of property on the ground situate outside Canada and the United States of America unless cause by or arising out of the use of aircraft.

### **3. LIMITATION OF LIABILITY**

The limit of Insurers’ liability in respect of the coverage provided by this clause shall be the applicable Policy limit any one Occurrence. To the extent coverage is afforded to an Insured under the Policy, this limit shall not apply to such Insured’s liability:

- (a) to the passengers (and for their baggage and personal effects) of any aircraft operator to whom the policy affords cover for liability to its passengers arising out of its operation of aircraft;
- (b) for cargo and mail while it is on board the aircraft of any aircraft operator to whom the policy affords cover for liability for such cargo and mail arising out of its operation of aircraft.

### **4. AUTOMATIC TERMINATION**

To the extent provided below, cover extended by this clause shall TERMINATE AUTOMATICALLY in the following circumstances:

- (i) All cover - upon the outbreak of war (whether there be a declaration of war or not) between any two or more of the following States, namely, France, the People's Republic of China, the Russian Federation, United Kingdom, the United States of America.
- (ii) Any cover extended in respect of the deletion of sub-paragraph (a) of General Exclusion 9 - upon the hostile detonation of any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter wheresoever or whensoever such detonation may occur and whether or not the Insured Aircraft may be involved.
- (iii) All cover in respect of any of the Insured Aircraft requisitioned for either title or use - upon such requisition PROVIDED THAT if an Insured Aircraft is in the air when (i), (ii) or (iii) occurs, then the cover provided by this clause (unless otherwise cancelled, terminated or suspended) shall continue in respect of such an Aircraft until completion of its first landing thereafter and any passengers have disembarked.

#### 5. REVIEW AND CANCELLATION

- (a) Review of Premium and/or Geographical Limits (7 days)  
Insurers may give notice to review premium and/or geographical limits – such notice to become effective on the expiry of seven days from 23.59 hours GMT on the day on which the notice is given.
- (b) Limited Cancellation (48 hours)  
Following a hostile detonation as specified in 4. (ii) above, Insurers may give notice of cancellation of one or more parts of the cover provided by paragraph 1 of this clause by reference to sub-paragraphs (c), (d), (e), (f) and/or (g) of paragraph 10 of Section IV (A) General Exclusions Applicable To All Sections - such notice to become effective on the expiry of forty-eight hours from 23.59 GMT on the day on which notice is given.
- (c) Cancellation (7 days)  
The cover provided by this clause may be cancelled by either Insurers or the Insured giving notice to become effective on the expiry of seven days from 23.59 hours GMT on the day on which such notice is given.
- (d) Notices  
All notices referred to herein shall be in writing.

#### 3. Asbestos Exclusion Clause

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.

Notwithstanding any other provisions of this Policy, we will have no duty to investigate, defend or pay defence costs in respect of any claim excluded in whole or in part under paragraphs (1) or (2) hereof.

All other Terms and Conditions remain unchanged.