

AIRCRAFT BUILDERS COUNCIL – PRODUCTS LIABILITY POLICY

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AIRCRAFT BUILDERS COUNCIL – PRODUCTS LIABILITY POLICY

POLICY NUMBER:

DECLARATIONS

Item 1. Name of Insured:

Address:

Item 2. Policy Period:

Effective Date:	12.01 a.m. _____	<u>20</u>	Standard time at the address of the first named Insured.
Expiration Date:	12.01 a.m. _____	<u>20</u>	

Item 3. Premium:

Item 4. Estimated Sales during 12 month period from inception of this policy:

Sales

(A) Non-Military Aircraft Products

Airframes (wide body) USD _____

Airframes (narrow body) USD _____

Engines USD _____

Helicopters USD _____

Propellers USD _____

Components USD _____

Commercial Spacecraft USD _____

Commercial Shuttle USD _____

Total Non-Military Sales USD _____

(B) Military Aircraft Products*

Airframes USD _____

Engines USD _____

Helicopters USD _____

Propellers USD _____

Components USD _____

Missiles/Spacecraft USD _____

Total Military Sales USD _____

*Direct Foreign Military Hulls USD _____

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Item 5. Limits of Liability:

Coverage A - Combined Single Limit Personal Injury/Property Damage

USD

Aggregate

Coverage B - Grounding

USD

Aggregate

Combined Single Limit Coverage A and Coverage B

USD

Aggregate

Item 6. Geographical Limits:

Item 7. Authorized Agent:

Name:

Address:

Dated in London, the

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POLICY WORDING

WHEREAS the Insured set forth in the Declarations has paid or agreed to pay the Premium or consideration set forth in the Declarations to the Insurers, subject to the terms, conditions, limitations and exclusions hereinafter mentioned, the Insurers hereby agree:

INSURING AGREEMENTS

With respect to the Insurance afforded by the terms of this policy:

I. COVERAGE A - PRODUCTS LIABILITY

To pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay as damages because of personal injury, sickness or disease, including death at any time resulting therefrom sustained by any person (herein referred to as “Personal Injury”) and because of injury to or destruction of property including the loss of use thereof (herein referred to as “Property Damage”), caused by an Occurrence arising out of the Products Hazard.

II. COVERAGE B - GROUNDING LIABILITY

To pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay as damages for the loss of use of aircraft occurring after delivery to and acceptance by a purchaser or purchasers or operator or operators of such aircraft in respect of a Grounding that results from an Occurrence arising out of the Products Hazard to which this Insurance applies.

The date of loss of all claims arising from the Grounding shall be the date on which the last Occurrence takes place which gives rise to the first airworthiness directive or mandatory order imposing the Grounding.

III. DEFENCE - OTHER PAYMENTS

To defend any claim or suit against the Insured alleging such Personal Injury, Property Damage or Grounding of completed aircraft occurring after delivery to and acceptance by a purchaser or operator of such aircraft for flight operations, and seeking damages on account thereof, even if such claim or suit is groundless, false or fraudulent, and to pay all expenses incurred in the investigation, negotiation, settlement or other disposition of such claim or suit, including all costs taxed against the Insured, all interest on the claim or any judgment rendered thereon, all premiums on bonds to release attachments for an amount not in excess of the applicable limit of this policy, all premiums on appeal bonds required in any such suit but without any obligation to apply for or furnish any such bond; but the Insurers may make such investigation, negotiation, settlement or other disposition of such claim or suit as they deem expedient.

The amounts incurred under this Insuring Agreement III, except settlement of claims and suits, are payable by the Insurers in addition to the applicable Limits of Liability stated in Item 5 of the Declarations.

IV. REIMBURSEMENT OF INSURED'S EXPENSES

To reimburse the Insured for reasonable expenses incurred at the Insurers' request, other than

- (i) loss of earnings to the Insured, and
- (ii) expenses incurred for the elimination of the cause of loss of use.

The amounts incurred under this Insuring Agreement IV are payable by the Insurers in addition to the applicable Limits of Liability stated in Item 5 of the Declarations.

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V. LIMITATIONS

Once the applicable Limits of Liability of this policy have been exhausted by payment of judgments or settlements as provided for in Insuring Agreements I and II, above, then the Insurers' obligations under this policy shall have been fully discharged, and they shall not have any further obligation to investigate, negotiate, settle or otherwise dispose of any claim or suit made or brought against the Insured, or to pay for the expenses thereof, or to pay on behalf of the Insured any claim or judgment, or to reimburse the Insured for any of its expenses incurred in connection with any claim or suit.

VI. POLICY PERIOD

Coverage A of this policy applies only with respect to Occurrences which take place during the Policy Period; provided that an Occurrence involving a missing or unreported aircraft shall be deemed to occur at the time such aircraft commences flight, or is last reported, whichever last occurs.

Coverage B of this policy applies only with respect to Groundings which result from an Occurrence during the Policy Period, regardless of the duration of each such Grounding.

DEFINITIONS

(A) AIRCRAFT PRODUCTS

"Aircraft Products" means an aircraft or Missile or spacecraft or satellite or spaceship or Launch Vehicle and any ground support or control equipment used therewith, and any article furnished by the Insured or the Insured's predecessors in business and installed in, or used in connection with, or for spare parts for an aircraft or Missile or spacecraft or satellite or spaceship or Launch Vehicle and any ground support or control equipment used therewith or tooling used for the manufacture thereof, including ground handling tools and equipment. "Aircraft Products" also means training aids, instruction, manuals, blueprints, engineering or other data, and/or any article in respect of which engineering or other advice and/or services and/or labor have been given or supplied by the Insured or the Insured's predecessors in business relating to such aircraft or Missile or spacecraft or satellite or spaceship or Launch Vehicle and any ground support or control equipment used therewith.

(B) CERTIFIED AIRCRAFT

"Certified Aircraft" means an aircraft for which a type certificate or supplemental type certificate has been issued by a civil aviation authority and shall include a military derivative of such aircraft.

(C) GROUNDING

"Grounding" means a withdrawal from all flight operations of a Certified Aircraft imposed by an airworthiness directive or mandatory order which:

- i. is issued by a Regulatory Authority because of an existing, alleged or suspected condition affecting the safe operation of such aircraft; and
- ii. does not permit flight operations for more than 48 consecutive hours or 5 flight cycles or 10 flight hours, before the withdrawal from all flight operations is imposed.

A Grounding shall commence on the date on which the affected aircraft ceases all flight operations in accordance with the first airworthiness directive or mandatory order imposing the Grounding.

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If the first airworthiness directive or mandatory order imposing the Grounding is preceded by:

- i. an airworthiness directive or mandatory order issued by another civil aviation authority; or
- ii. a service bulletin or equivalent issued by the Insured

in respect of the same existing, alleged or suspected condition affecting the safe operation of aircraft and which does not permit flight operations for more than 48 consecutive hours or 5 flight cycles or 10 flight hours, before the withdrawal from all flight operations is imposed

that results from an Occurrence arising out of the Products Hazard to which this Insurance applies, then the Grounding shall be deemed to commence on the date on which the affected aircraft ceases all flight operations in accordance with such earlier airworthiness directive or mandatory order or service bulletin or equivalent.

A Grounding shall be deemed to continue notwithstanding any operation of affected aircraft for non-commercial, non-revenue flights that are permitted by the airworthiness directive or mandatory order, or by other specific approval issued by the civil aviation authority with jurisdiction over the affected aircraft.

A Grounding shall cease on the earlier of the date when:

- i. the affected aircraft is no longer withdrawn from all flight operations by the terms of any airworthiness directive or mandatory order issued by a Regulatory Authority in respect of the existing, alleged or suspected condition; or
- ii. all airworthiness directives and mandatory orders issued by Regulatory Authorities in respect of the existing, alleged or suspected condition are withdrawn or become ineffective in respect of the affected aircraft.

(D) IN FLIGHT

"In Flight", as applied to aircraft, means from the start of its actual take-off run until it has completed its landing run, or in the case of a helicopter, from the time the rotors of the helicopter start to revolve preparatory to take-off until its rotors cease revolving after landing. A VTOL aircraft shall be deemed "In Flight" from the time commencing when engine thrust is applied in attempting to lift the aircraft from a supporting surface and continuing thereafter until the aircraft is again returned to the condition of being supported by a surface.

(E) INSURED

The unqualified word "Insured" means the Insureds named in Item 1 of the Declarations and also includes any partner, executive officer, employee, director or stock holder thereof, while acting within the scope of his duties as such. Such insurance as is afforded any employee, other than an executive officer, of the Insured by virtue of this paragraph (E) shall not apply to Personal Injury sustained by another employee of the same Insured in the course of and arising out of his employment by such Insured.

The first Insured named in Item 1 of the Declarations shall be liable to the Insurers for the payment of the policy premium and shall alone be entitled to receive any return premium due from the Insurers. Every notice required or permitted by this policy to be given to or by the Insured shall be sufficient if given to or by the first Insured named in Item 1 of the Declarations.

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(F) LAUNCH VEHICLE

"Launch Vehicle" as applied to Aircraft Products means any vehicle, including parts detached en route, designed, constructed or intended to place into space any spacecraft or satellite or spaceship and shall include both manned and unmanned vehicles.

(G) MILITARY

"Military" as applied to Aircraft Products means such products while owned or used by or in the possession of the Armed Services of the United States or of the armed services of any foreign government; provided that an Aircraft Product injured or destroyed while leased or chartered to the Armed Services of the United States or of any foreign government shall be deemed not to be a Military Aircraft Product. It is agreed that this insurance does not apply to nor does the premium charge contemplate Property Damage to property of the United States Government resulting from any defects or deficiencies in the Insured's products and occurring after final acceptance thereof by the United States Government, if such Insured's products are delivered under any procurement contract with the United States Government incorporating the clauses 52.246-23 or 52.246-24 prescribed by paragraph 46-805 of the Federal Acquisition Regulations in accordance with DOD FAR supplement 25.7308 or the predecessor clauses 7-104.45 (a) or 7-104.45 (b) prescribed by 1-330 of Defence Acquisition Regulations or its earlier provision the Armed Services Procurement Regulations.

(H) MISSILE

1. After arrival of a Missile at a launching site, such Missile shall be deemed not to be Owned By, loaned to, in the possession or control of the Insured.
2. When the Insured removes a Missile from the launching site or recovers a Missile after completion of its flight for the purpose of returning it to the Insured's premises other than a launching site, such Missile shall be deemed to be in the possession or control of the Insured (except when such Missile is being transported by others) until such Missile again arrives at a launching site or the Insured surrenders possession of such Missile to a person or organization who is not an Insured under the policy.

(I) OCCURRENCE

"Occurrence" means an accident including injurious exposure to conditions (other than a Grounding) which causes, during the Policy Period, Personal Injury or Property Damage which is neither expected nor intended from the standpoint of the Insured. A series of accidents or Occurrences following as a consequence of one Occurrence, shall, with such Occurrence, be deemed to be one Occurrence.

(J) OWNED BY

With respect to any Aircraft Product to which the Insured has retained title pursuant to

- (a) a conditional sales contract, chattel mortgage or similar lien, or
- (b) a lease agreement, or
- (c) a consignment agreement or similar contract of bailment,

such product shall be deemed not to be Owned By the Insured.

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(K) PRODUCTS HAZARD

"Products Hazard" means the handling or use of (other than by the Insured) or the existence of any condition in an Aircraft Product:

- (a) when such Aircraft Product is not in the possession of the Insured,
- and
- (b) when such Aircraft Product is away from premises owned, rented or controlled by the Insured,

except as otherwise provided for in Definition (J).

With respect to Coverage A Condition (b) above does not apply to a completed aircraft or to any Aircraft Product forming a part thereof.

With respect to Coverage B Conditions (a) and (b) above do not apply to a completed aircraft or any Aircraft Product forming a part thereof.

(L) REGULATORY AUTHORITY

“Regulatory Authority” means the European Aviation Safety Agency (EASA) or the Federal Aviation Administration of the United States of America (FAA) or the civil aviation authority that originally issued the type certificate for the airframe or engines of the affected aircraft or the civil aviation authority in any country where aviation products are produced by the Insured.

(M) SALES

The word "Sales", except with respect to those Aircraft Products distributed through the means indicated under Definition (J), means the gross amount of money charged by the Insured for all Aircraft Products including amounts charged for installing, servicing or repairing Aircraft Products, and taxes other than taxes which the Insured collects as a private item and remits directly to a governmental division.

With respect to those Aircraft Products distributed through the means indicated in Definition (J), the word "Sales" means the gross amount of money representing the full Sales price of such Aircraft Products at the time Aircraft Products are so first distributed, including amounts charged for installing, servicing or repairing Aircraft Products, and taxes, other than taxes which the Insured collects as a separate item and remits directly to a governmental division.

EXCLUSIONS

This policy does not apply:

- (a) to liability arising out of the handling or use of or the existence of any condition in any Aircraft Product, Owned By, loaned to, or, except with respect to Coverage B, in possession or control of or In Flight by the Insured; except as otherwise provided in the Definition "Products Hazard";
- (b) under Coverage B, to loss of use of any aircraft operated by or in the care, custody or control of the Insured other than aircraft temporarily in the care, custody or control of the Insured for modification, repair or inspection relating to Grounding;
- (c) to liability arising out of Property Damage to property owned, rented, leased, occupied or used by or in the care, custody or control of the Insured at the time of the Occurrence causing Property Damage to such property;
- (d) to any liability assumed by the Insured under any contract or agreement, including a warranty of Aircraft Products, other than as may be assumed under any standard

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commercial sales contract or sales agreement, greater than the liability which would have been imposed by law in the absence of any express contract or assumption of liability;

- (e) under Coverage B, to any liquidated or stipulated damages or penalties which the Insured is obligated to pay by reason of any contract or agreement which exceed any obligation the Insured would have had in the absence of such liquidated or stipulated damages or penalties in the contract or agreement;
- (f) under Coverage A, to any obligation for which the Insured or its insurer may be held liable under any worker's compensation law, unemployment compensation or disability benefits law or under any similar law, or to Personal Injury to any employee of the Insured arising out of and in the course of his employment by the Insured;
- (g) under Coverage A, to Property Damage to any Military Aircraft Products out of which the Occurrence arises, or any Military aircraft of which such Aircraft Product is a part, nor to any claim brought by the Owner and/or Operator of the said Military aircraft in respect of property and/or equipment and/or fittings carried in or on such Military aircraft nor to any expenses incurred incidental to or resulting from the replacement, repair or loss of use of such Military aircraft and/or property and/or equipment and/or fittings;
- (h) under Coverage A, to liability with respect to which insurance is or can be afforded under Coverage B, or to loss of use of any aircraft which has not been physically injured or destroyed;
- (i) under Coverage A, except for such Aircraft Product or products involved in an Occurrence arising out of the Products Hazard:
 - (i) to damages claimed for withdrawal from use of the Insured's products;
 - (ii) to costs and expenses incurred by the Insured in respect of inspection, repair, alteration, modification, replacement or loss of use of the Insured's product or products or work completed by or for the Insured or in connection with any aircraft of which such product or products or work form a part if such inspection, repair, alteration, modification, replacement or loss of use results solely from a known or suspected defect or deficiency therein;
- (j) under Coverage A, to liability imposed upon the Insured solely by reason of its ownership of an Aircraft Product;
- (k) under Coverage B, to loss of use of any Military derivative of a civil aircraft unless the Grounding also applies to the civil aircraft;
- (l) under Coverage B, to loss of use of any aircraft for any period which such aircraft is not available for flight operations for reasons other than a Grounding, or if the aircraft would not have been available for flight operations if no Grounding had occurred;
- (m) to loss of use of any aircraft attributable to a culpable failure by the Insured to perform any obligation with respect to making available or delivering Aircraft Products to the purchaser or owner or operator of such aircraft;
- (n) to loss of use of any aircraft occurring during the period that the Insured does not use all reasonable means to find and eliminate the cause of the loss of use;
- (o) to Personal Injury or Property Damage intentionally caused by the Insured;
- (p) to Property Damage to property or any Aircraft Product resulting from:

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- (1) a delay in or lack of performance by the Insured of any contract or agreement, or
- (2) the failure of any product furnished by the Insured or work performed by or for the Insured to meet the level of performance, quality, fitness or durability warranted or represented by the Insured;

but this exclusion does not apply to physical injury to or destruction of tangible property, or to the loss of use consequent thereon or costs and expenses associated therewith resulting from (1) or (2) as above;

(q) under Coverage A, to Property Damage to:

- (1) any spacecraft, satellite or spaceship and any article or Aircraft Product furnished for, used in connection with, relating to, or installed in any spacecraft, satellite or spaceship whether partially or wholly completed, and
- (2) any spacecraft, satellite or spaceship belonging to a third party whether partially or wholly completed,

after such spacecraft, satellite or spaceship has been delivered to a launch site, but this exclusion shall not apply if such Property Damage is caused by an aircraft or Aircraft Product forming a part of such aircraft;

(r) under Coverage A, to Property Damage to any Launch Vehicle, but this exclusion shall not apply if such Property Damage is caused by an aircraft or Aircraft Product forming a part of such aircraft;

(s) under Coverage B, to loss of use of any Missile or spacecraft or satellite or spaceship or Launch Vehicle;

(t) under Coverage B, to loss of use of any aircraft due to its certificate of airworthiness being withdrawn by reason of the aircraft's safe operational life having been reached or exceeded;

(u) under Coverage B, to loss of use of any aircraft which is for a period of less than 48 hours;

(v) to liability excluded by the:

(1) War, Hi-jacking and Other Perils Exclusion Clause (Aviation) AVN 48B (Amended);

(2) Noise and Pollution and Other Perils Exclusion Clause AVN 46B (Amended);

(3) Nuclear Risks Exclusion Clause AVN 38B;

(4) Asbestos Exclusion Clause 2488AGM00003;

(5) Date Recognition Exclusion Clause AVN 2000A (Amended);

(6) Contracts (Rights of Third Parties) Act 1999 Exclusion Clause AVN 72;

(7) Electronic Data Event Liability Exclusion Clause LIIBA AVIATION 001 12.09.19;

attached to this policy.

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CONDITIONS

1. LIMITS OF LIABILITY

The Limits of Liability of the Insurers hereunder shall be as stated in Item 5 of the Declarations.

The aggregate Limits of Liability stated in the Declarations are applicable to all payments made under Insuring Agreement I, Coverage A and Insuring Agreement II, Coverage B, for all damages during the Policy Period.

Each of the several Insureds covered by this policy shall have the same protection as such Insured would have had had this policy been issued individually to each of them; provided however, that the inclusion hereunder of more than one Insured shall not operate to increase the total liability of the Insurers beyond the limits stated in Item 5 of the Declarations.

2. NOTICE OF OCCURRENCE OR GROUNDING

When an Occurrence or Grounding takes place, written notice shall be given by or on behalf of the Insured to the Insurers through their authorized agents as soon as practicable. Such notice shall contain particulars sufficient to identify the Insured and also all reasonably obtainable information respecting the time, date, place and circumstances of the Occurrence or Grounding.

Insofar as the Insured undertakes to supply the Insurers with all information in respect of Military claims arising under Coverage A as may be reasonably necessary and as may be permitted by the security regulations of any government, it is nevertheless understood and agreed that the Insurers hereby waive any right to make further or independent inquiry into such claims except as may have the specific and prior approval of the appropriate government agency or authority.

3. NOTICE OF CLAIM OR SUIT

If claim is made or suit is brought against the Insured the Insured shall as soon as practicable forward to the Insurers' authorized agents every demand, notice, summons or other process received by the Insured or the Insured's representative.

4. ASSISTANCE AND CO-OPERATION OF THE INSURED

The Insured shall co-operate with the Insurers and, upon the Insurers' request, shall attend hearings and trials and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits. The Insured shall not except at its own cost voluntarily make any payment, assume any obligation or incur any expense.

5. ACTION AGAINST INSURERS

No action shall lie against the Insurers unless as a condition precedent thereto, the Insured shall have fully complied with all the terms of this policy, nor until the amount of the Insured's obligation to pay shall have been finally determined either by judgment against the Insured after actual trial or by written agreement of the Insured, the claimant and the Insurers.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. Nothing contained in this policy shall give any person or organization any right to join the Insurers as a co-defendant in any action against the Insured to determine the Insured's liability.

Bankruptcy or insolvency of the Insured shall not relieve the Insurers of any of their obligations under this policy.

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6. PREMIUM

The Premium stated in the appropriate section of the Declarations.

7. INSPECTION

Subject to security regulations of the United States Government the Insurers or their representatives shall be permitted to inspect the Insured's premises and operations and to examine and audit the Insured's books and records at any time during the Policy Period and any extension thereof, and within three years after final termination of this policy, as far as they relate to the premium basis or the subject matter of this insurance.

8. OTHER INSURANCE

This policy shall not apply to any loss covered by this policy with respect to which the Insured has other valid and collectible insurance unless the total amount of such loss exceeds the amount of such other insurance and the Insurers hereon shall then be liable only for their share of loss in excess of such other insurance; but the foregoing shall not apply with respect to insurance specifically arranged by or for the Insured to provide cover only in excess of the total amount of insurance afforded by this policy.

9. SUBROGATION

In the event of any payment under this policy, the Insurers shall be subrogated to all the Insured's rights of recovery therefor against any person or organization and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Insured shall do nothing after loss to prejudice such rights.

Nothing herein contained, however, shall bar the Insured from waiving its rights of recovery against any government.

10. CLAIMS BETWEEN INSUREDS

The Insured, by acceptance of this policy, agrees that it will not bring a suit or claim against any person or organization insured under any other Aircraft Builders Council policy provided by the Aircraft Builders Council program with respect to any Occurrence or Grounding giving rise to a claim covered under this policy, except as provided under Condition 11 Arbitration between Insureds.

11. ARBITRATION BETWEEN INSUREDS

The Insured, by acceptance of this policy, agrees to arbitrate any dispute concerning whether a particular claim should be settled under this policy, or under any other Aircraft Builders Council policy provided by the Aircraft Builders Council program, subject to the rules of arbitration on file with Fitzpatrick & Hunt, Pagano, Aubert, LLP at their offices at Tower 49, Twelve East 49TH Street, New York, NY 10017. If the value of the claim exceeds the Limits of Liability of this policy, suit or claim may be brought subject to all the Insurers' rights of subrogation, after judgment or settlement of the original claim.

12. ARBITRATION

- (1) The word "damages", wherever used in Insuring Agreements I and II and the phrase "judgment against the Insured after actual trial" in Condition 5 include an award:
 - (a) which is entered in an arbitration proceeding wherein any person or organization, pursuant to a written contract prior to a loss between such person or organization and the Insured seeks enforcement of a claim against the Insured for damages payable under the terms of the policy, and
 - (b) which becomes final, and
 - (c) is legally binding on the Insured in the jurisdiction in which it is made.

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- (2) The word "suit" wherever used in Insuring Agreement III includes any arbitration proceeding to which paragraph (1) hereof is applicable.
- (3) In any such arbitration proceedings the Insurers shall be entitled to exercise the Insured's right in the choice of arbitrators and in the conduct of such proceedings.
- (4) All of the provisions of the policy not inconsistent herewith shall be applicable to each such arbitration proceeding, to the claim or claims sought to be enforced and to any award entered therein.
- (5) By acceptance of this Condition the Insured agrees that any agreement to submit to arbitration a controversy to which this Condition may be applicable will specify that such arbitration shall be under the rules of a recognised plan or arbitration proceeding.
- (6) The Insurers shall not be liable under the policy to defend or to pay an award entered in an arbitration proceeding held pursuant to a contract which does not comply with paragraph (5) foregoing.

13. CHANGES

Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or prevent the Insurers from asserting any right under the terms of this policy, nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy.

14. ASSIGNMENT

No assignment of interest under this policy shall bind the Insurers until their consent is endorsed hereon. Promptly on execution of such an assignment the Insured shall send a copy thereof to the Insurers' authorized agents. If during the Policy Period an Insured shall die or be adjudged bankrupt, the Insurers, if such Insured's legal representatives or trustees in bankruptcy and their Insurers so agree, shall issue an endorsement to include such legal representatives or trustees as Insureds hereunder.

Otherwise, this policy shall terminate as of the date of such death or adjudication. In the event of such termination, the earned premium for the period the policy has been in force shall be computed pro rata.

15. CANCELLATION

It is understood and agreed that this policy is non-cancellable by either the Insured or the Insurers other than in the event of non-payment of premium or as detailed in any specific cancellation provision contained herein.

In the event that the premium (or any instalment thereof) is not paid by its due date, Insurers shall have the right to terminate the cover afforded by the policy to the Insured by the giving of not less than thirty (30) days notice to the Authorized Agent. All notices of cancellation served in accordance with any of the provisions of this clause shall be by means of instantaneous communication that provides a permanent record of such communication, and shall be deemed to be served upon despatch or where communications between the parties are interrupted upon attempted despatch.

If the period of limitation relating to the giving of notice is prohibited or made void by any law controlling the construction hereof, such notice shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

In the event the Insured pays the premium due within the notice period, the applicable notice of cancellation by the Insurers shall cease to have any force or effect.

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16. APPLICABLE LAW

This policy shall be governed by the laws of the State wherein the Insured has its principal place of business (as set forth in the Declarations) and will be subject to the jurisdiction of a court of competent jurisdiction as provided for in Condition 20 Service of Suit.

17. CONFLICTING STATUTES

The terms of this policy which are in conflict with the statutes of the State wherein the Insured has its principal place of business as set forth in the Declarations are hereby amended to conform to such statutes. However, the foregoing shall not apply to any type of coverage not afforded by this policy nor shall it apply to any amount or amounts in excess of the Limits of Liability as stated in Item 5 of the Declarations.

The Insured agrees to reimburse the Insurers for any payment made by the Insurers which the Insurers would not have been obligated to make under the terms of this policy but for the agreement contained in this paragraph.

18. INADVERTENT ERRORS OR OMISSIONS

Inadvertent errors, omissions or failure to give notice to the Insurers as herein required shall not relieve the Insurers of liability under this policy, provided that any such error, omission or failure shall be corrected as soon as discovered.

19. DECLARATIONS

By acceptance of this policy the Insured agrees that the statements in the Declarations are its agreements and representations, that this policy is issued in reliance upon the truth of such representations and that this policy embodies all agreements existing directly between the Insured and the Insurers relating to this insurance.

20. SERVICE OF SUIT

It is agreed that in the event of the failure of the Insurers hereon to pay any amount claimed to be due hereunder, the Insurers hereon, at the request of the Insured, will submit to the jurisdiction of a Court of competent jurisdiction within the United States. Nothing in this Clause constitutes or should be understood to constitute a waiver of the Insurers' rights to commence an action in any Court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another Court as permitted by the laws of the United States or of any State in the United States. It is further agreed that service of process in such suit may be made upon

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New York, NY 10017

and that in any suit instituted against any one of them upon this contract, the Insurers will abide by the final decision of such Court or of any Appellate Court in the event of an appeal.

The above-named are authorized and directed to accept service of process on behalf of the Insurers in any such suit and/or upon the request of the Insured to give a written undertaking to the Insured that they will enter a general appearance upon the Insurers' behalf in the event that such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefor, the Insurers hereon hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Insured or any beneficiary hereunder arising out of this contract of insurance, and hereby

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designate the above named as the person to whom the said officer is authorized to mail such process or a true copy thereof.

21. FALSE AND FRAUDULENT

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.

22. SANCTIONS AND EMBARGO CLAUSE

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

- (1) 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.
- (2) 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.
- (3) 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.

AVN 111 01.10.10

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ATTACHMENTS

1. WAR, HI-JACKING AND OTHER PERILS EXCLUSION CLAUSE (AVIATION)

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 labor 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 an aircraft or crew In Flight (including any attempt at such seizure or control) made by any person or persons on board the aircraft.

AVN 48B 1.10.96 (Amended)

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2. NOISE AND POLLUTION AND OTHER PERILS EXCLUSION CLAUSE

1. This policy does not cover 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.
 - 1 (b) does not apply to pollution and contamination of a product or products sold or supplied by the Insured.
2. With respect to any provision in the policy concerning any duty of the Insurers to investigate or defend claims, such provision shall not apply and the Insurers shall not be required to defend
 - (a) claims excluded by Paragraph 1, or
 - (b) a claim or claims covered by the policy when combined with any claims excluded by Paragraph 1 (referred to below as "Combined Claims").
3. In respect of any Combined Claims, the 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.
4. Nothing herein shall override any radioactive contamination or other exclusion clause attached to or forming part of this policy.

AVN 46B 1.10.96 (Amended)

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3. NUCLEAR RISKS EXCLUSION CLAUSE

1. 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 naturedirectly 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.
2. It is understood and agreed that such radioactive material or other radioactive source in paragraph 1(b) and (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.
3. 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 organization 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.
4. Loss, destruction, damage, expense or legal liability in respect of the nuclear risks not excluded by reason of paragraph 2 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

AIRCRAFT BUILDERS COUNCIL – PRODUCTS LIABILITY POLICY

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 (IAEA Health and Safety Regulations)	Maximum permissible level of non-fixed radioactive surface contamination (Averaged over 300 cm²)
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.

AVN 38B 22.7.96

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4. 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:

- (1) the actual, alleged or threatened presence of asbestos in any form whatsoever, or any material or product containing, or alleged to contain, asbestos; or
- (2) 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 other 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 (1) or (2) hereof.

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5. DATE RECOGNITION EXCLUSION CLAUSE

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 the Insurers to investigate or defend claims shall not apply to any claims so excluded.

AVN 2000A 14.03.01 (Amended)

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6. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999 EXCLUSION CLAUSE**

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.

AVN 72 9.2.00

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7. ELECTRONIC DATA EVENT LIABILITY EXCLUSION

This Policy excludes:

(1) any form of mental injury, mental anguish, shock or fright, unless resulting from corporeal injury, caused by:

- (a) a delay in, cancellation of or non-provision of air transportation and associated services;
- (b) unauthorised access to and/or use of a person's or organisation's confidential, proprietary or personal information;

(2) Property Damage to Electronic Data

arising out of a Data Event.

However, this exclusion shall not apply to such liability otherwise covered by the operative section(s) of this Policy caused by or resulting in a crash fire explosion or collision or a recorded in-flight emergency causing abnormal aircraft operation.

As used herein:

“Data Event” means any access to, inability to access, loss of, loss of use of, damage to, corruption of, alteration to or disclosure of Electronic Data.

“Electronic Data” means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

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

LIIBA AVIATION 001 12.09.2019

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ENDORSEMENTS

INSURER DOWNGRADE CLAUSE

Each individual subscribing Insurer shall at all times during the Policy Period maintain an Insurer Financial Strength (IFS) rating from Standard & Poor's of 55 Water Street, New York, NY 10041 USA ("S&P") equal to or greater than A- as applied by S&P to that individual subscribing Insurer.

Any individual subscribing Insurer who does not have an IFS rating from S&P but who maintains during the Policy Period a rating from A.M. Best Company of Ambest Road, Oldwick, New Jersey 08858 USA ("Bests") shall also be considered as falling within the terms of this clause.

In the event that a rating should be given to an individual subscribing Insurer by both S&P and Bests which differ to the extent that one of the ratings is inferior to the other then the rating of S&P shall prevail.

In the event of any explicit downgrading of an individual subscribing Insurer to a rating lower than A- being applied by S&P or Bests the Insured may, subject to provisions of this endorsement, elect to cancel the participation of that individual subscribing Insurer. The effective date of such cancellation shall be determined at the discretion of the Insured provided that the date so determined shall not be earlier than the date upon which the Insured issues notice to the individual subscribing Insurers.

For the avoidance of doubt the status of Credit Watch as defined by S&P or a rating modifier of 'u' (Under Review) applied to a rated Company as defined by Bests shall not, of itself, be construed as a downgrading for the purposes of this clause.

With regard to any Lloyd's Underwriters participating hereunder the rating applicable to each individual Lloyd's Underwriter shall be the S&P IFS rating applicable to the Lloyd's Corporation as a whole.

If, for an Insurer with a rating lower than A- or no rating by S&P or Bests, in the judgement of the Insured the security of such Insurer has materially deteriorated since inception of this policy, the Insured shall have the same right of cancellation as set out above.

The Insured may also elect to cancel the participation of any individual subscribing Insurer that ceases underwriting. The effective date of such cancellation shall be determined at the sole discretion of the Insured provided that the date so determined shall not be earlier than the date upon which the Insured issues notice to the individual subscribing Insurer that has ceased underwriting.

After the date of cancellation, the liability of the individual subscribing Insurer hereunder shall cease outright other than in respect of losses which have occurred prior thereto.

All notices of cancellation served in accordance with any of the provisions of this clause shall be by means of instantaneous communication that provides a permanent record of such communication, and shall be deemed to be served upon despatch or where communications between the parties are interrupted upon attempted despatch.

All notices of cancellation served in accordance with any of the provisions of this clause shall be addressed to the party concerned at its Head Office or at any other address previously designated by that party.

In the event of this Insurer Downgrade Clause being invoked at any date prior to the Expiration Date of the Policy Period the premium due to the Insurer shall be calculated upon the Premium of the policy up to the date of cancellation or pro rata temporis of the minimum premium, whichever is the greater, or pro rata temporis of the flat premium, if applicable, however in the event that the Insured or his representative at any time give notice of a claim or suit arising out of an Occurrence under the

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policy prior to the date of cancellation, the Premium shall be deemed earned in full by the Insurer.

For the purposes of this Insurer Downgrade Clause where the participation by any individual subscribing company Insurer is accepted through the intermediary of an underwriting agent, the following shall apply:

- a) the underwriting agent shall be given the option to put forward alternative Insurer(s), provided that such alternative Insurer(s) shall comply with the criteria set out in this clause and be recognised as eligible surplus lines or admitted Insurer(s) at the Insured's address as stated in this policy.
- b) all notices of cancellation served in accordance with any of the provisions above shall be addressed to the underwriting agent at its Head Office or at any other address previously designated for such purpose.

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SOFTWARE AFFIRMATION CLAUSE

1. Subject to Policy terms, conditions, limitations and exclusions, to the extent coverage is afforded under this Policy, in respect of claims caused by the use of or inability to use Software, coverage shall be afforded in accordance with the limit of Insurers' liability as stated in this Policy.
2. No additional limit(s) of coverage shall be conferred by paragraph 1 of this Clause.
3. For the purposes of this Clause, Software shall mean programs, source codes, scripts, applications and other operating information used to instruct computers to perform one or more task(s).

LMA5450
5 October 2020