

Tokio Marine & Nichido Fire Insurance Co.,Ltd.



**AIRPORT OWNERS OPERATORS  
/HANGARKEEPER'S  
/MANUFACTURER'S AND REPAIRER'S  
LIABILITY INSURANCE**

**PLEASE READ YOUR POLICY**

and if incorrect return for immediate rectification. Carefully note conditions requiring immediate notice of every accident, of every claim and of every suit.

Whereas the above-named Assured has made to TOKIO MARINE & NICHIDO FIRE INSURANCE COMPANY LIMITED (hereinafter called "the Company") a written proposal and declaration, bearing the date specified in the DECLARATIONS, which is hereby agreed to be the basis of this contract and is deemed to be incorporated herein, and has paid to the Company the premium or consideration (subject to adjustment as hereinafter provided) specified in the DECLARATIONS.

## **PART I. STANDARD POLICY**

### **AIRPORT OWNERS OPERATORS /HANGARKEEPER'S /MANUFACTURER'S AND REPAIRER'S LIABILITY INSURANCE**

Now the Company hereby agree to the extent and in the manner hereinafter provided, to indemnify the Assured all sums which the Assured shall become legally obligated to pay or by final judgment be adjudged to pay up to but not exceeding the amounts specified in the DECLARATIONS, to any person or persons in respect of damages

- (a) for bodily injury including death at any time resulting therefrom (hereinafter referred to as bodily injury) or
- (b) for loss of or damage to property of others (hereinafter referred to as property damage)

caused by accident occurring during the period mentioned in the DECLARATIONS and arising out of the hazards set forth in Section 1, 2 and 3 below.

#### **SECTION 1 AIRPORT LIABILITY INSURANCE**

Bodily injury or property damage

- (a) in or about the premises specified in the DECLARATIONS, as a direct result of the services granted by the Assured
- (b) elsewhere in the course of any work or of the performance or any duties carried out by the Assured or his employees in connection with the business or operations specified in the DECLARATIONS,

caused by the fault or negligence of the Assured or any of his employees engaged in the Assured's business or by any defect in the Assured's premises, ways, works, machinery or plant used in the Assured's business.

**This section is subject to the following exclusions:-**

1. Loss of or damage to property owned or occupied by or in the care, custody or control of the Assured or of any servant of the Assured, but this exclusion shall be deemed not to apply to vehicles that are not the property of the Assured whilst on the premises specified in the DECLARATIONS.
2. Bodily injury or property damage caused by
  - (a) any mechanically propelled vehicle which the Assured may cause or permit any other person to use on the road in such a manner as to render them responsible for insurance under any domestic or international law appertaining to road traffic, or where no such law exists, whilst such vehicle is on any public highway.
  - (b) any Ships, Vessels, Craft or Aircraft owned, chartered, used or operated by or on account of the Assured, but this exclusion shall be deemed not to apply to aircraft owned by others which are on the ground and for which indemnity is otherwise granted under Section 2 of this Policy, whether such Section is insured hereunder or not.

3. Bodily injury or property damage arising out of any Airmeet, Air Race, or Air Show, nor any stand used for the accommodation of spectators in connection therewith, unless previously agreed by the Company.
4. Bodily injury or property damage arising out of construction of, demolition of or alterations to Buildings, Runways, or Installations by the Assured or his contractors or sub-contractors (other than normal maintenance operations) unless previously agreed by the Company.
5. Bodily injury or property damage arising out of any goods or products manufactured, constructed, altered, repaired, serviced, treated, sold, supplied or distributed by the Assured or his employees after such goods or products have ceased to be in the possession or under the control of the Assured, but this exclusion shall be deemed not to apply to the supply, by the Assured, of food or drink at the premises specified in the DECLARATIONS.

## **SECTION 2 HANGARKEEPER'S LIABILITY**

Loss of or damage to Aircraft or Aircraft equipment, not the property of the Assured, whilst on the ground in the care, custody or control of the Assured.

**This section is subject to the following exclusions:-**

- (a) Loss of or damage to robes, wearing apparel, personal effects or merchandise of any description.
- (b) Loss of or damage to Aircraft or Aircraft equipment, hired or leased by or loaned to the Assured.
- (c) Loss of or damage to any Aircraft while in flight as defined.

## **SECTION 3 AVIATION PRODUCTS LIABILITY**

Bodily injury or property damage arising out of the possession, use, consumption or handling of any goods or products manufactured, constructed, altered, repaired, serviced, treated, sold, supplied or distributed by the Assured or his employees, but only in respect of such goods or products which form part of or are used in conjunction with aircraft, and then only after such goods or products have ceased to be in the possession or under the control of the Assured.

**This section is subject to the following exclusions:-**

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

- (d) Loss of use of any Aircraft not actually lost or damaged in an accident giving rise to a claim hereunder.

**Exclusions applicable to all sections of this policy:-**

1. THIS POLICY DOES NOT COVER liability for bodily injury to any person, who at the time of sustaining such injury is engaged in the service of the Assured or acting on his behalf, or liability for which the Assured or his insurer may be held liable under any workmans compensation, unemployment compensation or disability benefits law or any similar law.
2. THIS POLICY DOES NOT COVER the cost of making good any faulty workmanship for which the Assured, his employees, contractors or subcontractors may be liable (but this limitation shall not exclude resulting damage arising out of such faulty workmanship).
3. THIS POLICY DOES NOT COVER liability assumed by the Assured by Agreement under any Contract unless such liability would have attached to the Assured even in the absence of such Agreement.
4. THIS POLICY DOES NOT COVER liability of the Assured directly or indirectly occasioned by, happening through or in consequence of War, invasions, act of foreign enemy, hostilities (whether War be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power:
5. THIS POLICY DOES NOT COVER liability arising out of the operation of an airfield control tower unless previously agreed by the Company.
6. Each section of this Policy excludes liability which is or would be covered under any other section of the Policy, whether such other section is insured hereunder or not.

**Payment of Costs:-**

In addition to the limits set out in the DECLARATIONS, the Company will pay all legal and other costs incurred with their consent in the defence of any claim made against the Assured.

**PROVIDED THAT**

in the event of their requiring any claim to be contested

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

**Definition:-**

1. ACCIDENT. The word "accident" shall be understood to mean an accident or series of accidents arising out of one event or occurrence.
2. FLIGHT. The term "in flight" means the time commencing with the actual take off run of the aircraft and continuing thereafter until it has completed its landing run.

**General conditions:-**

1. Upon the happening of any accident likely to give rise to a claim under this Policy or upon the receipt by the Assured of notice of any claim or of any other subsequent proceedings, notice in writing with full particulars shall be given to the Company as soon as possible after same shall come to the knowledge of the Assured or the Assured's representative. Every letter, claim, writ, summons or process shall be forwarded to the Company immediately on receipt by the Assured.
2. All notices as specified above shall be given by the Assured to the person(s) or firm named for the purpose in the DECLARATIONS.
3. If any claim under this Policy is also covered in whole or in part by any other insurance, the liability of the Company shall be limited to their rateable proportion of such claim.
4. If the Assured 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.
5. This Policy may be cancelled at any time at the written request of the Assured or may be cancelled by or on behalf of the Company provided 15 days notice in writing be given. (Where 15 days notice is contrary to the law or statute then the minimum period that is permitted shall be substituted therefor.)

If the Policy shall be cancelled by the Assured the Company shall retain the earned premium hereon for the period that this Policy has been in force calculated in accordance with the basis in the DECLARATIONS, or the short rate proportion of the minimum premium, calculated in accordance with the customary scale whichever is the greater.

If the Policy shall be cancelled by the Company they shall retain the earned premium hereon for the period that this Policy has been in force, calculated in accordance with the basis in the DECLARATIONS or pro rata of the minimum premium whichever is the greater. Notice of cancellation by the Company shall be effective even though the Company make no payment or tender of return premium.

6. It is a condition precedent to the right of the Assured to be indemnified under this Insurance that
  - (a) If after this Insurance has been effected, the risk is materially altered, such alterations must be notified in writing to the Company immediately.
  - (b) No liability shall be admitted and no admission, arrangement, offer, promise or payment shall be made by the Assured without the written consent of the

Company, who shall be entitled, if they so desire, to take over and conduct in the name of the Assured the defence of any claim or to prosecute in the name of the Assured for their own benefit any claim for indemnity or damages or otherwise against any third party, and shall have full discretion in the conduct of any negotiations or proceedings or the settlement of any claim, and the Assured shall give all such information and assistance as the Company may require.

- (c) The Assured shall and will at all times exercise reasonable care in seeing that the ways, implements, plant, machinery and appliances used in the Assured's business are substantial and sound and in proper order, and fit for the purpose for which they are used, and that all reasonable safeguards and precautions against accidents are provided and used.
- (d) The Assured shall comply with all International and Government Regulations and Civil Instructions.

7. This policy shall be construed and governed by Japanese laws.

## **PART II. STANDARD CLAUSES**

### **1. NUCLEAR RISKS EXCLUSION CLAUSE (AVN38B)**

(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 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.

(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 Assured under this Policy is also an assured or an additional assured 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 Assured 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 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 Assured against the Company or by any claimant against the Assured 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> <u>(IAEA Health and Safety Regulations)</u>	<u>Maximum permissible level of non-fixed</u> <u>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) notwithstanding the cancellation provision contained in this Policy, the cover afforded hereby may be cancelled at any time by the Company giving seven days' notice of cancellation.

## **2. NOISE AND POLLUTION AND OTHER PERILS EXCLUSION CLAUSE (AVN46B)**

- (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.
- (2) With respect to any provision in this Policy concerning any duty of the Company to investigate or defend claims, such provision shall not apply and the Company shall not be required to defend
- (a) claims excluded by Paragraph (1) or
  - (b) a claim or claims covered by this Policy when combined with any claims excluded by Paragraph (1) (referred to below as "Combined Claims").



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

- (i) damages awarded against the Assured and
- (ii) defence fees and expenses incurred by the Assured.

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

### **3. WAR, HIJACKING AND OTHER PERILS EXCLUSION CLAUSE (AVIATION) (AVN48B)**

(This Clause replaces the Article 4 of Exclusions applicable to all Sections of the STANDARD POLICY)

This Policy does not cover claims caused by

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

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

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

#### **4. DATE RECOGNITION EXCLUSION CLAUSE (AVN2000A)**

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 Assured 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 Assured 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 Assured 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 Company to investigate or defend claims shall not apply to any claims so excluded.

#### **5. 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 Assured 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, the Company will have no duty to investigate, defend or pay defence costs in respect of any claim excluded in whole or in part under paragraphs (a) or (b) hereof.

## **6. WILFUL MISCONDUCT EXCLUSION CLAUSE**

This Policy does not cover any liability for bodily injury or property damage caused by wilful misconduct of the Assured.

## **7. PUNITIVE AND THE LIKE DAMAGES EXCLUSION CLAUSE**

This Policy does not cover any claims for fines, penalties, or punitive, vindictive or exemplary damages.

## **8. SPACE VEHICLE AND LAUNCH VEHICLE EXCLUSION CLAUSE [ APPLICABLE TO SECTION 3 ONLY ]**

This Policy does not cover claims caused by

- (a) damage to or destruction of, or loss of use thereof, of
  - (i) any space vehicle or satellite or any Product forming a part of such space vehicle or satellite whether partially or wholly completed nor to any expenses incurred incidental to or resulting from the replacement or repair of such space vehicle or satellite and
  - (ii) any space vehicle or satellite belonging to a third party whether partially or wholly completedafter such space vehicle or satellite has been delivered to a launch site, but this exclusion shall not apply if such damage, destruction or loss of use is caused by an aircraft or a Product forming a part of such aircraft manufactured by the Assured, and covered under Products Liability Policy issued by the Company.
- (b) damage to or destruction of or loss of use of any launch vehicle or any Product forming a part of such launch vehicle or to any expenses incurred incidental to or resulting from the replacement or repair of such launch vehicle, but this exclusion shall not apply if such damage, destruction or loss of use is caused by an aircraft or a Product forming a part of such aircraft manufactured by the Assured, and covered under Products Liability Policy issued by the Company.

## **9. THE ASSURED'S DUTIES AND PAYMENT OF EXPENSES CLAUSE**

(1) In the event of any accident which gives rise or may give rise to a claim under this Policy:

- (a) Immediate notice of such accident shall be given to the Company to whom the Assured, thereafter without delay, shall furnish full particulars in writing of such accident and forward notice of any claim or prosecution against the Assured with letters of documents relating thereto. The Assured shall render such further information and assistance as the Company may reasonably require (including the supply of documents or evidence) and co-operate with the Company for any investigation and defence of any claim.
- (b) The Assured shall endeavour to prevent or minimize any loss, damage or liability

which may result in a claim hereunder.

- (c) The Assured shall do whatever is necessary for the preservation or exercise of any of their rights of recovery against any person(s) or organization.
- (2) The Company will pay the following expenses, within and as a part of the applicable limit of liability specified in the DECLARATIONS:-
- (a) Sue and Labour Charges necessary or useful for preventing or minimizing loss, damage or liability.
  - (b) Expenses incurred for first aid, medical care, nursing or other immediate relief even if the liability of the Assured for such alleged damages shall have thereafter been found not to exist.
  - (c) Expenses (Other than for loss of earnings or for wages or salaries of any employee of the Assured) for preservation or exercise of any right of recovery.

#### **10. SEVERABILITY OF INTEREST CLAUSE**

Where more than one Assured is included hereunder, this insurance shall operate in all respects as if a separate policy had been issued covering each party insured.

Notwithstanding the foregoing the total liability of the Company in respect of any and all Assureds shall not exceed the applicable limit of liability specified in the DECLARATIONS.

#### **11. DEFINITION OF "PROPERTY DAMAGE" CLAUSE [ APPLICABLE TO SECTION 1&3 ONLY ]**

Notwithstanding the definition in the Standard Policy, the term "property damage" shall be amended to mean loss of or damage to property of others, including the loss of use thereof.

#### **12. DEFINITION OF "IN FLIGHT" CLAUSE [ APPLICABLE TO SECTION 2 ONLY ]**

Notwithstanding the definition of the word "Flight" in the Standard Policy, an aircraft shall be deemed to be "In Flight" 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.

#### **13. SAME COMMON CAUSE CLAUSE [ APPLICABLE TO SECTION 1 &3 ONLY ]**

If food or food products from one prepared or acquired lot produce bodily injury covered

by this Policy of more than one person, all such bodily injuries proceeding from the same common cause shall be deemed to be caused by one accident.

**14. LOSS OF OR DAMAGE TO AIRCRAFT BEING THE SUBJECT OF SERVICES CLAUSE  
[ APPLICABLE TO SECTION 1 ONLY ]**

For the purpose of application of Exclusion 1 to Section 1 of the Standard Policy, it is hereby understood and agreed that aircraft which is not the property of the Assured and is the subject of the services, work, performance or duties granted or carried out by the Assured or his employees in connection with the business or operations specified in the DECLARATIONS shall be deemed not to be owned or occupied by or in the care, custody or control of the Assured or of any servant of the Assured.

**15. PREMIUM ADJUSTMENT CLAUSE**

This Clause shall only be applicable where the premium hereunder is computed based on Turnover.

(1) Definition:

The term "Turnover" hereunder means the gross amount of money including taxes charged by the Named Assured or by others trading under his name for all business or operations specified in the DECLARATIONS and for all goods or products specified in the DECLARATIONS.

(2) Where the premium adjustment is defined in the DECLARATIONS and/or any other part of this Policy, the deposit premium shall be adjusted at expiry based on the actual Turnover for the Policy Period, subject to any applicable minimum premium stated in the DECLARATIONS.

(3) Except in the case stipulated in the preceding Article, the premium shall be fixed at inception based on the actual Turnover latest available on the basis of the Named Assured's fiscal year or such period as agreed by the Company.

**16. PAY ON BEHALF OF CLAUSE**

(1) (a) Notwithstanding the provision of the Company to indemnify the Assured all sums which the Assured shall become legally obligated to pay or by final judgment be adjudged to pay up to but not exceeding the amounts specified in the DECLARATIONS, to any person or persons in respect of damages, it is hereby understood and agreed that the Company shall have the right and obligation to defend at their cost and expense in the name of and on behalf of the Assured any suit or other proceedings, even if groundless, false or fraudulent, brought against the Assured. However, the Company shall have the right to make such investigation, negotiation and settlement of any claim or suit as it deems expedient. Furthermore, the Company shall pay all expenses incurred by the Assured with the Company's approval (other than salaries of the Assured's employees and the Assured's normal office expenses) in respect of

- any such suit or other proceedings brought against the Assured.
- (b) The Company's obligation to defend on behalf of the Assured shall apply only to the claim, the amount of which is exceeding any deductible amounts shown in the DECLARATIONS.
- (2) The amounts incurred hereunder, except settlements of claims and suits, are payable by the Company in addition to the applicable limit of the Company's liability stated in the DECLARATIONS herein. However:
- (a) if a payment in excess of the Company's limit of liability has to be made to settle a claim, the liability of the Company to pay any costs or expenses shall be limited to the proportion that the Company's limit of liability bears to such total amount.
  - (b) with respect to any coverage of this Policy which is subject to an applicable limit the Company shall not be obligated to defend any suit nor to pay any costs or expenses after the applicable limit of liability under this Policy has been exhausted and in this event the Assured shall have the right to take over control of proceedings from the Company.
- (3) The Company shall have no obligations to defend, as detailed in paragraphs (1) and (2) above, in respect of any suit or claim brought or made against the Assured within any territories where the Company is prevented by law or otherwise from performing the obligation to defend. However, the Company will reimburse reasonable expenses incurred by the Named Assured in relation to a settlement or judgement, but only where such expenses are incurred with the written consent of the Company. Such expenses are payable in addition to the applicable limit of liability of the Policy. It is further understood and agreed that if there is any provision contained in this Policy contrary to this paragraph (3), it is to that extent null and void.

## **17. JAPANESE INSURANCE CONTRACT ACT CLAUSE A**

It is hereby understood and agreed that this clause shall override anything contained to the contrary in any other part of this Policy.

### **Duty of Disclosure**

- (1) The person effecting the Policy or the Assured must disclose to the Company, before the Policy is concluded, every material circumstance (which is known to the person effecting the Policy and/or the Assured), and the person effecting the Policy and/or the Assured is deemed to know every circumstance which, in the ordinary course of business, ought to be known by the person effecting the Policy or the Assured. Every circumstance is material which would influence the judgment of the Company in fixing the Policy terms and conditions, or determining whether the Company will take the risk.
- (2) In the event the person effecting the Policy and/or the Assured do not disclose every material circumstance by a willful or malicious act when the Policy is concluded, the Company shall be entitled to cancel this Policy, by giving notice in writing, regardless of notice to the Company by the Assured.

- (3) The provision written in (2) above shall not apply in any of the following cases:
  - (a) When the circumstance written in (2) above dissolve.
  - (b) When the Company has already acknowledged the circumstance written in (2) above and expressly waived the breach or the Company has not acknowledged the circumstance by fault.
  - (c) When the person effecting the Policy and/or the Assured give notice of any material change or alteration in the circumstances or nature of risks to the Company and the said change or alteration has been expressly approved by the Company prior to a loss occurring. Provided always that the said change or alteration is deemed to be approved by the Company.
  - (d) In the event that after a month has passed from the time when the Company notified the circumstance set out in (2) above occurred or in case five years had passed from the time at which this Policy was concluded.
- (4) The Company shall not apply the provision set out in (2) above in the event that the aforementioned material circumstances or nature of risks shall be irrelevant to the 'significant circumstances' listed in the document which is provided by the Company when the Policy is concluded. However, provided always that the provision set out in (2) above shall apply to any material circumstances or nature of risks of any other similar Policy.
- (5) The Company shall not pay any insurance proceeds in the event the Company cancels the Policy by the reason set out in (2) above. In case the Company has already paid any proceeds, the Company is entitled to ask for the return of the said amount and that amount shall be due to be repaid to the Company.

#### **Duty of Notification**

- (1) Should there be any change in the content of disclosure during the period of this Policy, the person effecting the Policy and/or the Assured shall give notice in writing thereof and obtain the express approval of the Company, who shall be entitled to additional premium in consideration of such approval. Such notice shall be given as soon as practicable.
- (2) In case any change or alteration in the circumstances or nature of risks occurs during the currency of this Policy, the Company shall be entitled to cancel this Policy by giving notice of cancellation in writing, in accordance with policy conditions, regardless of notice of the circumstance to the Company by the person effecting the Policy and/or the Assured.
- (3) The Company shall not cancel this Policy in the event that a month had passed from the time the Company had been notified of the circumstance set out in (2) above occurred or if five years had passed from the date of any material change or alteration in the circumstances or nature of risks occurring.
- (4) Errors, omissions or failure to give any notice to the Company as required under this Policy shall not relieve the Company of liability under this Policy, provided that such error or omission is not occasioned by a willful or malicious act on the part of the person effecting the Policy and/or the Assured and shall be corrected as soon

as discovered.

### **Lien**

- (1) These paragraphs shall be applied in the event the Company becomes liable to indemnify the Assured for any damage caused by reason of the Assured becoming liable (hereinafter referred as "liability damage").
- (2) In case where the Liability Damage Claimant (who is defined as the person who has the right to demand from the Assured for liability damage, hereinafter to be so interpreted) has lien over the right of the Assured to claim insurance proceeds against the Company (which is limited to liability damage, hereinafter to be so interpreted) based upon the Insurance Contract Act in Japan, the Company shall pay insurance proceeds (which is limited to Liability damage, hereinafter to be interpreted) should any of the following cases apply:
  - (a) In the event that the Company pays liability damage to the Assured, after the Assured paid such damage to the Liability Damage Claimant. However, the indemnity to be paid by the Company shall be limited to the amount which the Assured has paid or is due to pay to the Liability Damage Claimant.
  - (b) In the event that the Company pays liability damage directly to the Liability Damage Claimant in accordance with the payment order by the Assured, before the Assured pays such damage to the Liability Damage Claimant.
  - (c) In the event that the Company pays liability damage directly to the Liability Damage Claimant by reason of the Liability Damage Claimant exercising lien over the right to claim insurance proceeds, before the Assured pays such damage to the Liability Damage Claimant.
  - (d) In the event that the Company pays liability damage to the Assured based upon the agreement by the Liability Damage Claimant for the Company to do so, before the Assured pays such damage to the Liability Damage Claimant. However, the indemnity to be paid by the Company shall be limited to the amount agreed by the Liability Damage Claimant.
- (3) The right of the Assured to claim insurance proceeds from the Company shall not be removed as a pledge except as set out in (c) above, provided always that the said right shall not convey to any other third parties except to the Liability Damage Claimant. However, always excepting the case when the Assured can claim insurance proceeds against the Company by the provision of (a) and (d) above.
- (4) In an instance where the Liability Damage Claimant has lien or the same kind of special right which shall limit the right of the Assured to claim insurance proceeds against the Company based upon Foreign Laws or Treaties, the indemnity to be paid by the Company shall be subject to such laws or treaties.

### **Right of Subrogation**

- (1) The Aircraft including Aircraft Equipment, Spacecraft including Launch Vehicle and Cargo shall at all times remain the property of the Assured. The Company may however at its option elect to take over the Aircraft including Aircraft Equipment, Spacecraft including Launch Vehicle and Cargo upon payment of a Total Loss or



Arranged Total Loss or Constructive Total Loss.

- (2) The Company, upon an indemnity or a payment being made to the Assured under this Policy, or as stipulated within policy conditions, shall be subrogated to the extent of such indemnity or payment to any rights of recovery of the Assured.

**Time to Provide Insurance Benefits**

- (1) The Company shall pay no later than thirty (30) days after the invoice date but including the said date by confirming that the said loss or damage can be satisfactorily proved payable under this Policy as follows:
  - (a) Check for cause or circumstance of an Accident, damage or Injury and circumstance relevant to Assured in order to verify the said loss, damage or claim is an Accident which the Company shall indemnify.
  - (b) Check for cause or circumstance of an Accident in order to verify the said loss, damage or claim is an Accident not excluded from the policy coverage.
  - (c) Check for amount of damage, degree of injury, relationship between Accident and damage/claim and course of treatment in order to verify the amount payable by the Policy.
  - (d) Check for presence of circumstance which the Policy set as for events for cancellation or abeyance in order to verify the effect of the Policy.
  - (e) Check for existence of other similar policy(ies), the right of the Assured to claim proceeds against in order to verify the amount payable by the Policy excluding (a), (b), (c) or (d) above.
- (2) Notwithstanding of the provision of the preceding paragraph, in the event the Company shall need special investigation in order to verify (a), (b), (c), (d) or (e) stated above, the Company shall provide insurance benefits within one of the following periods from the invoice date but including the said date. The Company shall notify the Assured or the person who has a right to claim insurance proceeds against the Company the circumstance which needed to be investigated and the projected completion date. In the event several cases apply, the maximum amount of days shall be adopted.
  - (a) Referral to police, prosecutor, fire authority and any other public organizations in order to verify (a), (b), (c) and (d) in the preceding paragraph. Including referrals based on Lawyers Act and on any other laws: 180 days
  - (b) Referral to medical agency, inspection institute and any other specialized agencies in order to verify (a), (b), (c) and (d) in the preceding paragraph: 90 days
  - (c) Referral to medical agency or specialized agency in order to verify the content and the degree of residual disability stated in the preceding paragraph (c): 120 days
  - (d) Surveillance of disaster-stricken region where Disaster Relief Act is applied in order to verify (a), (b), (c), (d) and (e) in the preceding paragraph: 60 days

- (e) Investigation of (a), (b), (c), (d) and (e) in the preceding paragraph outside Japan when no other alternative measures exist within Japan: 180 days
  - (f) In addition to the provision of (a), (b), (c), (d) and (e) stated above, the Company shall require number of days in order to verify (a), (b), (c), (d) and (e) in the preceding paragraph, in the event the accident site is restricted by police, prosecutor, fire authority or any other public organizations for a long term, or in the event the damaged subject of insurance or the cause of the Accident is unique or a great number of subjects of insurance are damaged or a great number of claims of damage occur by a single Accident, or by any other similar circumstances: 180 days
- (3) The Company shall extend the period of investigation stated in the preceding paragraph by mutual agreement with the Assured or the person who has a right to claim insurance proceeds against the Company in the event it becomes apparent that insurance benefits shall not be provided within the period stated in the preceding paragraph.
  - (4) In the event the policyholder or the Assured prevents the Company from carrying out such an investigation or does not accept such an investigation without any good reason, the Company shall not be responsible for the period when the provision of insurance benefits is delayed as a result of such an act of prevention or none acceptance stated in the preceding paragraphs (1), (2) and (3) above.

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

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

- 1. If, by virtue of any law or regulation which is applicable to the Company 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, the Company 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 the Company to provide coverage under this Policy, but the payment of a valid and otherwise collectable claim may breach an embargo or sanction, then the Company 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 period of this Policy which will restrict the ability of the Company to provide coverage as specified in paragraph 1, then both the Insured and the Company shall have the right to cancel this Policy in accordance with the laws and regulations applicable to this Policy provided that in respect of cancellation by the Company a minimum of 30 days notice in writing be given.

In the event of cancellation by either the Insured or the Company, the Company shall retain the pro rata proportion of the premium for the period that this 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 Company, and in the absence of a more specific provision in this Policy relating to the return of premium, any return premium shall be subject to mutual agreement. Notice of cancellation by the Company shall be effective even though the Company makes no payment or tender of return premium.

## **19. ELECTRONIC DATA EVENT LIABILITY EXCLUSION CLAUSE**

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 12.09.2019

## **PART III. SPECIAL CLAUSES**

### **1. ADDITIONAL ASSURED CLAUSE**

It is hereby understood and agreed that this Insurance is extended to cover the undermentioned as Additional Assured(s), but only with respect of specifics in the DECLARATIONS and only in respect of the coverage provided under this Policy.

It is further understood and agreed that notwithstanding the inclusion herein of more than one Assured, the total liability of the Company in respect of any or all Assureds shall not exceed the applicable limit of liability specified in the DECLARATIONS.

Subject otherwise to all the terms, conditions, exclusions and limitations of this Policy.

### **2. BAGGAGE, CARGO AND MAIL LIABILITY COVERAGE CLAUSE**

- (1) Notwithstanding of the provision of Exclusion 1 to Section 1 of the Standard Policy, it is hereby understood and agreed that the Company shall indemnify the Assured, subject to the provisions hereinafter, all sums which the Assured shall become legally liable to pay for loss of or damage to passenger baggage, cargo or mail, which is not owned, hired, leased by or loaned to the Assured, whilst in the care, custody or control by the Assured or of any servant of the Assured.
- (2) The extended coverage provided by the preceding Paragraph does not include any claim for indirect, consequential or economic loss in respect of the lost or damaged property.

### **3. BENEFITING POLICY CLAUSE**

Notwithstanding anything contained herein to the contrary, it is hereby understood and agreed that this Policy shall have the benefit of the insurance policy(ies) specified in the DECLARATIONS and does not cover any claim to the extent recoverable from such insurance policy(ies).

### **4. CLAIMS MADE BASIS CLAUSE**

- (1) This insurance applies only to claims made during the Policy Period against the Assured in respect of bodily injury or property damage caused by accident which occurs on and after the Retrospective Date specified in the DECLARATIONS, only provided that if any Assured did not know or could not have reasonably foreseen such accident prior to the inception date of the first policy issued by the Company.
- (2) A claim by a person or organization seeking damages will be deemed to have been made at either one of the following times, whichever comes first:
  - (i) when notice of such claim is received and recorded by the Company or by any Assured; or
  - (ii) when the Company notices or any Assured notices (or reasonably presumed

to have noticed) any circumstances which the Company considers may develop into such claim in the future.

## **5. CO-INSURANCE CLAUSE**

### **(1) Independent Liability**

This insurance contract is a co-insurance contract underwritten by the insurance companies described in the DECLARATIONS of this Policy (hereinafter referred to as “Co-insurers”) and the Co-insurers, each for its own part and not one for another, have rights and obligations emanating from this insurance contract severally and independently according to their respective participation shares as specified in the DECLARATIONS of this Policy.

### **(2) Matters handled by the Leading Insurer**

Tokio Marine & Nichido Fire Insurance Co., Ltd., as the Leading Insurer, handles the following matters for all the other Co-insurers.

- (a) Accepting filled-in application forms for insurance and issuing and delivering insurance policies and the like.
- (b) Receiving or returning insurance premiums.
- (c) Approval of changing the contents of insurance contract or canceling the insurance contract.
- (d) Receiving documents and the like concerning declaration and notice made subject to stipulations of the insurance contract and approving such declaration or notice.
- (e) Receiving documents and the like concerning notice of assigning rights of insurance claims and the like or approving such assignment, or receiving documents and the like concerning notice of putting in, assigning or extinction of pledge of insurance claims, and approving such putting in, assigning or extinction.
- (f) Issuing and delivering letters of approval or endorsing policies and the like concerning the insurance contract.
- (g) Investigating matters concerning the insurance contract such as the subject matter of insurance and the like.
- (h) Receiving documents and the like concerning notice of occurrence of accidents or losses, or receiving documents concerning insurance claims.
- (i) Investigating losses, adjusting loss claims, paying insurance claims and the like, and taking measures necessary to secure the rights of the Co-insurers.
- (j) Handling other matters accompanying the business from (a) through (i) mentioned above.

### **(3) Effects of what was done by the Leading Insurer**

The matters done by the Leading Insurer concerning this insurance contract as

mentioned in the preceding article are deemed to have been done by all the Co-insurers.

(4) Effects of what was done by the Assured and the like.

What was noticed or other matters that were done by the Assured to the Leading Insurer are deemed to have been done to all the Co-insurers.

## **6. COMPLETED OPERATIONS LIABILITY LIMITED COVERAGE CLAUSE**

Notwithstanding of the provision of Exclusion 5 to Section 1 of the Standard Policy, it is hereby understood and agreed that the Company shall indemnify the Assured all sums which the Assured shall become legally liable to pay for bodily injury or property damage arising out of the work carried out by the Assured or his employees in connection with the business or operations specified in the DECLARATIONS after such work has been finished or abandoned.

## **7. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999 EXCLUSION CLAUSE (AVN72)**

The rights of a person who is not a party to this insurance to enforce a term of this insurance and/or not to have this insurance 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.

## **8. CONTRACTUAL LIABILITY COVERAGE CLAUSE**

Notwithstanding the provisions of Exclusion 3 applicable to all Sections of the Standard Policy, the Company will indemnify the Assured by reason of contractual liability assumed by the Assured under Contract designated in the DECLARATIONS, subject to all the other terms and conditions of this Policy.

## **9. DAMAGE TO PROPERTY IN THE CARE, CUSTODY OR CONTROL COVERAGE CLAUSE**

(1) Notwithstanding of the provision of Exclusion 1 to Section 1 of the Standard Policy, it is hereby understood and agreed that the Company shall indemnify the Assured, subject to the provisions hereinafter, all sums which the Assured shall become legally liable to pay for loss of or damage to any property other than aircraft and aircraft equipment, which is not owned, hired, leased by or loaned to the Assured, whilst in the care, custody or control by the Assured or of any servant of the Assured.

(2) The extended coverage provided by the preceding Paragraph does not include any claim for indirect, consequential or economic loss in respect of the lost or damaged property.

(3) The above provisions do not affect the exception to exclusion for "vehicles" under the Exclusion 1. Applicable to Section 1.

## **10. DATE RECOGNITION LIMITED COVERAGE ENDORSEMENT (AVN2002A)**

WHEREAS this Policy of which this Endorsement forms part includes the Date Recognition Exclusion Clause (Clause AVN 2000A), it is hereby understood and agreed that, subject to all terms and provisions of this Endorsement, Clause AVN 2000A shall not apply to any sums which the Assured shall become legally liable to pay, and (if so required by this Policy) shall pay (including costs awarded against the Assured) in respect of:

- (1) accidental bodily injury, fatal or otherwise, or loss of or damage to property caused by an aircraft accident occurring during the Policy Period and arising out of a risk insured under this Policy; and/or
- (2) accidental bodily injury, fatal or otherwise, or loss of or damage to property caused by an accident, other than an aircraft accident, occurring during the Policy Period and arising out of a risk insured under this Policy. For the avoidance of doubt, solely for the purposes of this paragraph (2) and without prejudice to the meaning of the words in any other context, "bodily injury" shall mean only physical corporeal injury and unless arising directly therefrom shall not include mental or psychological injury.

PROVIDED THAT:

1. Coverage provided pursuant to this Endorsement shall be subject to all terms, conditions, limitations, warranties, exclusions and cancellation provisions of this Policy (except as specifically provided herein), and nothing in this Endorsement extends coverage beyond that which is provided by this Policy.
2. Nothing in this Endorsement shall provide any coverage:
  - (a) applying in excess of any DECLARATIONSd underlying insurance and/or in respect of any non aviation risks; and/or
  - (b) in respect of grounding of any aircraft; and/or
  - (c) 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 this Policy.
3. The Assured agrees that it has an obligation to disclose in writing to the Company during the Policy Period any material facts relating to Date Recognition Conformity of the Assured's operations, equipment and products.

## **11. DEFENCE RELATED EXPENSES COVERAGE CLAUSE**

It is hereby understood and agreed that the Company shall pay the following expenses and costs properly incurred by the Assured in the defence of any suit brought in Japan alleging the Assured's legal liability, which would be covered under this Policy if it were to exist. The Amount of Indemnity applicable to this Clause shall not exceed JPY 10,000,000 or the Policy Limit, whichever is the lesser, any one accident being with in the overall Policy Limit and not in addition to thereto.

- a. Overtime allowance for the Assured's employees, transportation expenses, accommodation expenses and temporary employment expenses.
- b. Lease expenses for the additional photocopy machines.
- c. Expenses for the "accident reappearance test" performed by the Assured.
- d. Expenses for the "accident reappearance test" performed by the external organization.
- e. Expenses for investigating the cause of the accident.
- f. Expenses for producing legal documents.

## **12. EXCESS POLICY CLAUSE**

WHEREAS the Named Assured has in force the insurance policy stated in the DECLARATIONS (hereinafter referred to as the "Underlying Policy"), the Company shall indemnify the Assured against all sums which the Assured shall become legally liable to pay up to the Limits as set forth in the DECLARATIONS, subject to the same warranties, exclusions, definitions, terms and conditions (except as regards the premium, amount and limits of liability other than deductible or self-insurance provision where applicable, and except as otherwise provided herein) of the Underlying Policy, provided always that liability attaches to the Company only after the Underlying Policy insurers have paid or have been held liable to pay the full amount of the Ultimate Net Loss liability as set forth in the DECLARATIONS.

The term "Ultimate Net Loss" means the amount payable in settlement of the liability of the Assured and costs and expenses after making deductions for all recoveries and other valid and collectible insurances than the Underlying Policy and shall exclude all costs and expenses if the Underlying Policy pays costs and expenses in addition to the limit of liability, but shall include costs and expenses if the Underlying Policy includes costs and expenses within the limit of liability.

It is a condition of this Policy that the Underlying Policy shall be maintained in full effect during the currency of this Policy except for any reduction or exhaustion of the aggregate limits contained therein solely by payment of claims in respect of accidents during the Policy Period. However, failure of the Named Assured to comply with this condition shall not invalidate cover under this Policy but in the event of such failure the Company shall only be liable to the same extent as they would have been had the Named Assured complied with this condition.

## **13. EXTENDED COVERAGE ENDORSEMENT (AVIATION LIABILITIES) (AVN 52G)**

- (1) WHEREAS the Policy of which this Endorsement forms part includes the War, Hi-Jacking and Other Perils Exclusion Clause (Clause AVN 48B), IN CONSIDERATION of an Additional Premium stated in the DECLARATIONS, it is hereby understood and agreed that with effect from the inception all sub-paragraphs other than (b) of Clause AVN 48B forming part of this Policy are deleted SUBJECT TO all terms and conditions of this Endorsement.



- (2) EXCLUSION applicable only to any cover extended in respect of the deletion of sub-paragraph (a) of Clause AVN 48B.

Cover shall not include liability for damage to any form of property on the ground situated outside Canada and the United States of America unless caused by or arising out of the use of aircraft.

- (3) LIMITATION OF LIABILITY

The limit of Company's liability in respect of the coverage provided by this Endorsement shall be a sub-limit which is written in the DECLARATIONS or the applicable Policy limit whichever the lesser any one accident and in the annual aggregate. This sub-limit shall apply within the full Policy limit and not in addition thereto.

- (4) AUTOMATIC TERMINATION

To the extent provided below, cover extended by this Endorsement 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, the United Kingdom, the United States of America

- (ii) Any cover extended in respect of the deletion of sub-paragraph (a) of Clause AVN 48B

- 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 Endorsement (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)

The Company 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 notice is given.

- (b) Limited Cancellation (48 hours)

Following a hostile detonation as specified in 4 (ii) above, the Company may give notice of cancellation of one or more parts of the cover provided by paragraph 1 of this Endorsement by reference to sub-paragraphs (c), (d), (e), (f) and/ or (g) of Clause AVN 48B - such notice to become effective on the expiry of forty-eight hours from 23.59 hours GMT on the day on which notice is given.

(c) Cancellation (7 days)

The cover provided by this Endorsement may be cancelled by either the Company or the Assured 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.

#### **14. GROUNDING LIABILITY LIMITED COVERAGE CLAUSE**

(1) Notwithstanding of the provision of Exclusion (d) to Section 3 of the Standard Policy, it is hereby understood and agreed that the Company shall indemnify the Assured, subject to the provisions hereinafter, all sums which the Assured shall become legally liable to pay for the loss of use of completed aircraft, occurring after delivery to and acceptance by a purchaser or purchasers or operator or operators of such aircraft for flight operation, and caused by Grounding resulting from an accident covered under Section 3 of the Standard Policy.

(2) "Grounding" means complete and continuous withdrawal from all flight operations at or about the same time of one or more aircraft due to a mandatory order of any airworthiness authority because of an existing, alleged or suspected like defect, fault or condition in a goods or products affecting the safe operation of two or more like aircraft and which results from an accident.

A Grounding shall be deemed to commence on the date on which the first such order becomes effective following an accident during the Policy Period, and continue until the last such order relating to the same existing, alleged or suspected like defect, fault or condition is withdrawn or becomes ineffective.

(3) The following additional exclusions shall apply to the insurance provided by this extension:-

(a) Loss of use of any aircraft occurring during maintenance, routine overhaul or alteration, or whilst being modified for purposes other than those relating to Grounding.

(b) Loss of use of any aircraft occurring during the period that the Assured does not use reasonable diligence to find and eliminate the cause of the defect, fault or condition.

(c) Loss of use of any aircraft caused by the culpable failure of the Assured to perform any obligation with respect to making available or delivering goods or products to the purchaser or operator of such aircraft.

- (d) Loss of use of any aircraft if such loss is the subject of a claim under Section 3 of the Standard Policy.
  - (e) Loss of use of any aircraft owned by, used by or in the possession of the armed services of any government.
  - (f) Loss of use of any aircraft in the care, custody or control of the Assured other than aircraft temporarily returned to the Assured for modification relating to Grounding.
  - (g) Loss of use of any aircraft which is designated by the manufacturer, or required by direction of airworthiness authorities to be removed from all flight operations due to its certificate of airworthiness being withdrawn by reason of the aircraft's safe operational life having been reached or exceeded.
- (4) The Limit of Indemnity under this Clause shall be the amount written in the DECLARATIONS any one Grounding and in the aggregate arising out of all Groundings occurring during the Policy Period being within the overall Policy Limit and not in addition thereto.

#### **15. INITIAL EXPENSES COVERAGE CLAUSE**

It is hereby understood and agreed that the Company shall pay the following expenses and costs properly incurred by the Assured in the event of an accident, to which this Policy applies or is understood to apply, happening in Japan. The Amount of Indemnity applicable to this Clause shall not exceed JPY 5,000,000 or the Policy Limit, whichever is the lesser, (subject JPY 100,000 any one person in respect of item e) any one accident being within the overall Policy Limit and not in addition thereto.

- a. Expenses for the preserving, researching, taking record and photos of accident site and accident investigation costs.
- b. Wreck removal expenses at the accident site.
- c. Transportation and accommodation expenses for sending the Assured's employees to the accident site.
- d. Communication expenses.
- e. "Sympathy payment" for the bodily injury of third party.
- f. Other expenses or costs relating to above items.

#### **16. IN-TEST-FLIGHT HANGARKEEPER'S LIABILITY COVERAGE CLAUSE**

It is hereby understood and agreed that Paragraph 1 of Section 2 of the Standard Policy is amended to delete "on the ground" and Exclusion (c) to Section 2 of the Standard Policy is deleted ONLY IN RESPECT OF test flight carried out by the Assured.

## **17. MECHANICALLY PROPELLED VEHICLE LIABILITY EXCLUSION CLAUSE**

This Policy does not cover any claims caused by any mechanically propelled vehicle owned, chartered, used or operated by or on account of the Assured, to the extent of claims being recoverable from the Named Assured's automobile insurance policy.

## **18. OVERRIDING TERMS AND CONDITIONS CLAUSE**

It is hereby understood and agreed that the provisions of the particulars of conditions written in Japanese annexed hereto shall override anything contained to the contrary in any other part of this Policy.

## **19. PAYMENT OF DEFENCE COSTS WITHIN THE LIMIT CLAUSE**

Notwithstanding the provisions of Payment of Costs of the Standard Policy, it is hereby understood and agreed that the Company will pay, all expenses, within and as a part of the applicable limit of liability, and the Company shall in no case be obligated to pay any settlement, judgment or such expenses or to defend any suit after the applicable limit of the Company's liability has been exhausted by payment of settlements, judgments or such expenses.

It is also understood and agreed that Paragraph (b) of Payment of Costs of the Standard Policy shall be deleted.

## **20. PERSONAL INJURY EXTENDED COVERAGE CLAUSE**

- (1) The insurance provided by this Policy extends to include the Assured's legal liability for damages awarded to any person arising out of one or more of the following offences committed during the Policy Period:-
  - (a) False arrest, restraint, detention or imprisonment.
  - (b) Malicious prosecution.
  - (c) Wrongful entry, eviction or other invasion of the right of private occupancy.
  - (d) Inadvertent discrimination with respect to withholding or refusal of transportation except with respect to overbooking.
  - (e) The publication or utterance of a libel or slander or of other defamatory or disparaging material in violation of an individual's right of privacy except publication or utterance in the course of or related to advertising, broadcasting or telecasting activities conducted by or on behalf of the Assured.
  - (f) Incidental medical malpractice error or mistake by a physician, surgeon, nurse, medical technician or other person performing medical services but only for or on behalf of the Assured in the provision of emergency medical relief.
- (2) The following additional exclusions shall apply to the insurance provided by this extension:-

- (i) liability assumed by the Assured under any contract or agreement.
  - (ii) personal injury arising out of the wilful violation of penal statute or ordinance committed by or with the knowledge or consent of the Assured.
  - (iii) personal injury arising out of offence (e) above
    - (X) if the first injurious publication or utterance of the same or similar material was made prior to the effective date of this insurance
    - (Y) if such publication or utterance was made by or at the direction of the Assured with the knowledge of the false nature thereof.
  - (iv) liability for personal injury sustained by any person directly or indirectly related to the past, present or potential employment of such person by the Assured.
- (3) The limit of liability applicable to this extension shall be US\$ 25,000,000 or the Policy Limit, whichever is the lesser, any one offence and in the aggregate during the Policy Period being within the overall Policy Limit and not in addition thereto.
- (4) Any exclusion provision contained in this Policy referring to “bodily injury” shall also apply to “personal injury” as defined in this Clause.

## **21. PREMIUM INSTALLMENT CLAUSE**

- (1) The premium under this Policy shall be paid in instalments pursuant to the DECLARATIONS described in the DECLARATIONS.
- (2) In the event of a loss for which the Company is liable hereunder occurring before the completion of the payment of the whole premium by the Assured and when the amount payable by the Company in settlement of such a claim (plus the amount already paid by the Company if any) exceeds the premiums already received by the Company, the Assured shall immediately pay to the Company the next instalment of premium (plus any further instalment or instalments if the aggregate of such next instalment and the premiums already received is still insufficient to meet the amount of the claim).
- (3) Even after the commencement of the Policy Period, the Company shall not be liable for any loss, damage or liability in respect of any accident occurring prior to the receipt of the first instalment premium as provided for in Paragraph (1) hereof.
- (4) In the event of the Assured failing to pay the second or any of the subsequent instalment premiums on each due date, the Company shall not be liable for any loss, damage or liability in respect of any accident occurring after the due date.
- (5) If, within one month after the Company becomes exempted from payment of the claim under the provision of paragraph (4) hereof, the Assured makes a request for reinstatement of this insurance contract, accompanied by payment of the premium as required, and the Company agrees thereto, this insurance contract shall be deemed to have been continuously effective; provided, however, that the Company shall not be liable for any loss, damage or liability in respect of any accident occurring between the date on which the Company became exempted from payment of the claim and the time when the Company agrees to the request.

- (6) In the event that, after one month from the due date, the Assured has still not paid instalment premium, the Company may cancel this Policy at any time, which shall take effect only from the date when the instalment premium was due and not be retroactive.
- (7) In the event of the provision of paragraph (6) hereof being activated, the Company shall calculate the earned premium in accordance with rating plans, minimum premium and other Company's rules for the period between the date of inception and the date when the instalment premium was due but not paid, and the aforementioned earned premium shall be set against the premium already received by the Company and an additional or return premium, as the case may be, shall be paid.
- (8) If, prior to the completion of the payment of the annual premium, the Assured cancels, under the provisions of Article 5 of General Conditions of the Standard Policy, the insurance contract and if a claim has arisen (or is outstanding), the Assured shall pay the unpaid instalment premium up to the amount of the claim less premium already paid or the minimum premium less premium already paid whichever is the greater.

## **22. PROPERTY DAMAGE EXTENDED COVERAGE CLAUSE**

- (1) The insurance provided by this Policy extends to include all sums which the Assured shall become legally obligated to pay or by final judgement be adjudged to pay to any person or persons in respect of damages for loss of use of tangible property of others, caused by accident, that is not physically injured.
- (2) All such loss of use shall be deemed to occur at the time of the accident that caused it.
- (3) The following additional exclusions shall apply to the insurance provided by this extension:-
  - (a) Any wilful or malicious act or the wilful or malicious breach of any applicable law or regulations by the Assured.
  - (b) Law or regulations of a Government or public organizations.
  - (c) Loss of, damage to or loss of uses of data or computer programme.
  - (d) Infringement of patent, copyright, trademark or any other right of the third party.
  - (e) Wholly or partially nonfulfilment or delay of supply of energy, materials or service by the Assured or their subcontractors.
  - (f) Loss of use of the same tangible property after 30 days from the first accident.
- (4) The limit of liability applicable to this extension shall be JPY 10,000,000 or the Policy Limit, whichever is the lesser, any one accident and in the aggregate during the Policy Period being within the overall Policy Limit and not in addition thereto.

## **23. SPACE VEHICLE LIMITED COVERAGE ENDORSEMENT**

Notwithstanding the contents of the Space Vehicle and Launch Vehicle Exclusion Clause, it is hereby understood and agreed that

- (1) Exclusion (a) of Space Vehicle and Launch Vehicle Exclusion Clause is deleted.
- (2) Such insurance as is afforded under paragraph (1) above does not apply to the following:-  
to accident caused by a Product installed in a space vehicle or satellite after the Operational Life of such space vehicle or satellite has expired.
- (3) In relation to paragraphs (1) and (2) above the following Definition will apply:-

### Operational Life

Operational Life of a complete space vehicle or satellite is deemed to be the period of time such space vehicle or satellite is designated to perform by the manufacturer as stated in the original sales contract.

- (4) The Limit of Liability of the Company, other than in respect of property damage to third party satellites/third party claims, for property damage and resulting loss of use of a satellite is limited to applicable Limit of Liability specified in the DECLARATIONS any one satellite.

In respect of property damage including loss of use thereof involving two or more satellites on the same launch, the liability of the Company in respect of property damage, including loss of use, of a satellite occurring after completed integration of satellites on board the launch vehicle until the actual physical separation from the launch vehicle is limited to applicable Limit of Liability specified in the DECLARATIONS any one satellite.

Notwithstanding the foregoing provision the overall Policy Aggregate Limit of Liability shown in the DECLARATIONS shall not exceeded.

## **24. TENANT'S LIABILITY COVERAGE CLAUSE**

Notwithstanding of the provision of Exclusion 1 to Section 1 of the Standard Policy, it is hereby understood and agreed that the Company shall indemnify the Assured, subject to the provisions hereinafter, all sums which the Assured shall become legally liable to pay for property damage to the premise which is not owned but leased or rented by the Assured.

## **25. WAIVER OF SUBROGATION CLAUSE**

It is hereby understood and agreed that the Company shall waive its right of subrogation against the party written in the DECLARATIONS, but only to the extent of scope which is also written in the DECLARATIONS.