

# AERIAL APPLICATOR AIRCRAFT POLICY

## Policy Provisions

The Company as shown in the Declarations (hereinafter called the Company), in consideration of the payment of the premium, in reliance upon the statements in the Declarations made a part hereof, subject to all of the terms of this Policy including the applicable Limits of Liability, the Company agrees with the **named insured** with respect to those coverages indicated in **ITEM 3** and **ITEM 4** of the Declarations.

### I. INSURING AGREEMENTS

#### A. Liability Coverages

1. **Coverage A — Bodily Injury** - excluding **Passengers** — To pay on behalf of the **insured** those sums which the **insured** shall become legally obligated to pay as damages because of **bodily injury** sustained by any person excluding any **passenger**;
2. **Coverage B — Property Damage** — To pay on behalf of the **insured** those sums which the **insured** shall become legally obligated to pay as damages because of **property damage**;
3. **Coverage C — Passenger Bodily Injury** — To pay on behalf of the **insured** those sums which the **insured** shall become legally obligated to pay as damages because of **bodily injury** sustained by any **passenger**; and
4. **Coverage D — Single Limit - Bodily Injury and Property Damage** – excluding **Passengers** — To pay on behalf of the **insured** those sums which the **insured** shall become legally obligated to pay as damages because of **bodily injury** sustained by any person (excluding any **passenger** unless the words "including **passengers**" appear in **ITEM 3** of the Declarations) and **property damage**;

Caused by an **occurrence** and arising out of the ownership, maintenance or use of the **aircraft**.

#### B. Medical Expense Coverage

**Coverage E — Medical Expenses** — To pay all reasonable **medical expenses** incurred within one (1) year from the date of injury, to or for each **passenger** (excluding any **crew** unless the words "including **crew**" appear in **ITEM 3** of the Declarations) who sustains **bodily injury** caused by an **occurrence**, provided the **aircraft** is being used by or with the permission of the **named insured**.

#### C. Physical Damage Coverages

1. **Coverage F — Open Peril Basis Ground and In-Flight** — To pay for any **physical damage loss** to the **aircraft**, including **disappearance** of the **aircraft**;
2. **Coverage G — Open Peril Basis Not In-Flight** — To pay for any **physical damage loss** to the **aircraft** sustained while the **aircraft** is not **in-flight** and which is not the result of fire or explosion following crash or collision while the **aircraft** was **in-flight**; and
3. **Coverage H — Open Peril Basis Not In-Motion** — To pay for any **physical damage loss** to the **aircraft** sustained while the **aircraft** is not **in-motion** and which is not the result of fire or explosion following crash or collision while the **aircraft** was **in-motion**.

#### D. Airport Premises Liability Coverage

**Coverage I — Airport Premises Liability** — To pay on behalf of the **insured** all sums which the **insured** shall become legally obligated to pay as damages because of **bodily injury** sustained by any person, and **property damage** arising out of the **named insured's** ownership, maintenance, or use of airport premises as shown in **ITEM 8** of the Declarations.

This coverage is excess over any other valid and collectible insurance available to the **named insured**.

## **E. Defense and Settlement**

### **Coverages A, B, C, D and I**

The Company shall have the right and duty to defend any suit against the **insured** seeking damages on account of such **bodily injury** or **property damage**, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient, but the Company shall not be obligated to pay any claim or judgment or to defend any suit after the applicable Limit of Liability has been exhausted by payment of judgments or settlements.

## **F. Supplementary Payments**

### **Coverages A, B, C, D and I**

During such time as the Company is obligated to defend a claim or claims under **E. Defense and Settlement** above, the Company will pay with respect to such claim, in addition to the applicable Limit of Liability:

1. All expenses incurred by the Company, all costs taxed against the **insured** in any suit defended by the Company and all interest on the entire amount of any judgment therein which accrues after entry of the judgment and before the Company has paid or tendered or deposited in court that part of the judgment which does not exceed the Company's Limit of Liability thereon;
2. Premiums on appeal bonds required in any such suit, premiums on bonds to release attachments in any such suit for an amount not in excess of the applicable Limit of Liability of this Policy, and the cost of bail bonds required of the **insured** because of an **occurrence** or violation of law or a regulation for civil aviation arising out of the use of the **aircraft**, not to exceed \$5,000 per bail bond, but the Company shall have no obligation to apply for or furnish any such bonds;
3. Expenses incurred by the **insured** for first aid to others at the time of an accident, for **bodily injury** to which this Policy applies; and
4. All reasonable expenses incurred by the **insured** at the Company's request to assist the Company in the investigation or defense of the claim or suit, including actual loss of earnings up to \$250 a day because of time off from work.

## **G. Department of Defense Insurance Requirements**

### **Coverages A, B, C, and D**

If the Company issues a Civil Aircraft Certificate of Insurance Form DD 2400, or any replacement thereof, as required by regulations of the U.S. Army, Navy or Air Force, then this Policy's provisions shall conform to the minimum requirements of such regulation(s).

## **H. Two or More Aircraft**

### **All Coverages**

Except with respect to any Aggregate Limit(s) of Liability, when two or more **aircraft** are insured under this Policy, the terms of this Policy shall apply separately to each.

## **II. EXCLUSIONS**

This Policy does not apply:

### **A. To aircraft:**

1. While being operated with the knowledge and consent of the **insured** or of any executive officer or partner or managing agent of such **insured**, for any unlawful purpose, or for any purpose or use other than **aerial application**, unless specifically endorsed on this Policy;
2. That have been modified, unless such modifications have been noted on the application for insurance or specifically endorsed on this Policy;
3. That are leased, rented or loaned to anyone other than the **named insured**; or
4. That are subject to any lease, lien, conditional sale, mortgage or other encumbrance not specifically declared and described in this Policy.

**B. While the aircraft is in-flight:**

1. If piloted by someone other than the pilot(s) designated in the Declarations, except while the **aircraft** is under the care, custody or control of a **Federal Aviation Administration** approved repair station for the purpose of maintenance, repair or test flights and if piloted by an employee of such repair station;
2. Unless the **aircraft** has a valid "Standard" or "Restricted" category Airworthiness Certificate in full force and effect, as issued by the **Federal Aviation Administration**;
3. Unless the pilot(s) designated in the Declarations maintains a current and valid pilot certificate as required by the **Federal Aviation Administration** for the flight involved;
4. While the **aircraft** is engaged in **aerial application** unless the pilot maintains and is not in violation of any certificate required by any governmental authority having jurisdiction over **aerial application**;
5. While the **aircraft** is used for smoke or fire patrol, firefighting or fire control, or any activity in support of those uses. This exclusion shall not apply as respects emergency assistance provided for wildfire control and provided further that the **named insured's** total flying hours for this use does not exceed 10 hours during the Policy Period;
6. While the **aircraft** is used for **aerial application** unless the **named insured** has complied with all federal, state and local laws and regulations which apply to **aerial application**;
7. Under conditions requiring a special permit or waiver from the **Federal Aviation Administration**, other than a permit or waiver which has been granted to the **named insured** for **aerial application**; or
8. In violation of any **Federal Aviation Regulation** which applies to repairs, alterations or inspections of the **aircraft**.

**C. To any damages excluded by the Nuclear Risk Exclusion Clause below:**

1. This policy does not cover:
  - (a) Loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss; or
  - (b) Any legal liability of whatsoever nature.
2. 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; or
  - (c) Ionizing radiations or contamination by radioactivity from, or the toxic, explosive or other hazardous properties of, any other radioactive source whatsoever.
3. It is understood and agreed that such radioactive material or other radioactive source in paragraph **a.** and **b.** above shall not include:
  - (a) Depleted uranium and natural uranium in any form; or
  - (b) Radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial, educational or industrial purpose.
4. 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:
  - (a) 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
  - (b) Any person or organization is required to maintain financial protection pursuant to legislation in any country; or
  - (c) The **insured** under this policy is, or had this policy not been issued would be, entitled to indemnification from any government or agency thereof.

**D. To claims caused by:**

1. 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;
2. 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;
3. Strikes, riots, civil commotions or labor disturbances;
4. Any act of one or more person, 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;
5. Any malicious act or act of sabotage;
6. Confiscation, nationalization, 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; or
7. Hi-jacking or any unlawful seizure or wrongful exercise of control of the **aircraft** or **crew in-flight** (including any attempt at such seizure or control) made by any person or persons on board the **aircraft** acting without the consent of the **insured**.

Furthermore, this Policy does not cover claims arising while the **aircraft** is outside the control of the **insured** by reason of any of the above perils. The **aircraft** shall be deemed to have been restored to the control of the **insured** on the safe return of the **aircraft** to the **insured** at an airfield not excluded by the geographical limits of this policy, and entirely suitable for the operation of the **aircraft** (such safe return shall require that the **aircraft** be parked with engines shut down and under no duress).

**E. Under Coverages A, B, C, D, E, and I:**

1. To liability assumed by the **insured** under any contract or agreement;
2. To an **insured** under this Policy who is also an **insured** under a contract of nuclear energy liability insurance issued by the Nuclear Energy Liability Insurance Association or the Mutual Atomic Energy Liability Underwriters and in effect at the time of the **occurrence** resulting in such injury, sickness, disease, death or destruction; provided, such contract of nuclear energy liability insurance shall be deemed to be in effect at the time of such **occurrence** notwithstanding such contract has terminated upon exhaustion of its Limit of Liability;
3. To claims:

**a. Directly or indirectly occasioned by, happening through or in consequence of:**

- (1) Noise (whether audible to the human ear or not), vibration, sonic boom and any phenomena associated therewith;
- (2) Pollution and contamination of any kind whatsoever;
- (3) Electrical and electromagnetic interference; or
- (4) Interference with the use of property;

Unless caused by a crash or collision of **aircraft** or a recorded in flight emergency causing abnormal **aircraft** operation.

Exclusion **E.3.a.(2)** does not apply to liability arising specifically from direct and intended spraying, emitting or application during the Policy Period by **aircraft** while **in-flight** or by agricultural ground spraying equipment, of seeds, fertilizers or **chemicals** which result in **bodily injury** or **property damage** otherwise covered by this Policy.

Additionally, the Company has no duty to investigate or defend claims excluded by paragraph **E. 3. a.** even when combined with a claim(s) otherwise covered by this Policy. However, with respect to any such combined claims, the Company shall reimburse the **insured** for that portion of the following items which may be allocated to the claim(s) covered by this Policy, subject to proof of **loss** and the Limits of Liability of this Policy:

- (1) Damages awarded against the **insured**; and
- (2) Defense fees and expenses incurred by the **insured**;

4. To any direction, demand, order or request that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to or assess the effects of pollution or contamination of any kind whatsoever, or contribute to or reimburse others for the cost thereof, whether or not the **insured** is liable for such pollution or contamination and regardless of whether such liability arises or is deemed to arise from a claim for legal damages or equitable relief; or any claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of pollution or contamination of any kind whatsoever;
5. To damages arising from a **hostile fire**;
6. To those **occurrences** either expected or intended from the standpoint of the **insured**, except with respect to **bodily injury** or **property damage** resulting from efforts to prevent dangerous interference with the operation of the **aircraft**;
7. To claims arising from the **aerial application** to rights-of-way or easements for public or quasi-public persons or bodies, waterways, railroads, pipelines or utility companies;
8. To claims arising from **chemicals** or combination of **chemicals**, unless all **chemicals** are included in the Chemical Category designated for the **aircraft** involved in the **occurrence**;
9. To claims arising from **chemicals** excluded in **IV. DEFINITIONS**, paragraph 5. for "**CC**", "**RC**", and "**XC**";
10. To pathogenic or poisonous biological or **chemical** materials that are released, and it appears that one purpose of the action was to release such material to cause injury or damage;
11. To claims arising from **aerial application** involving two or more **aircraft** owned or operated by the **named insured**, unless all such **aircraft** involved in the same **occurrence** are insured by the Company for the same Chemical Category;
12. To claims arising from **aerial application** to any residential area. This exclusion shall not apply to the application of insecticides performed as a community service to eradicate mosquitoes, providing such use does not exceed a total of 10 hours during the Policy Period;
13. To claims arising from the **aerial application** of herbicides or Glyphosate to forests, woods, timberlands or tree farms; or
14. To claims arising from controlled and/or prescribed burning.

**F. Under Coverages A, C, D and I:**

1. To any obligation for which the **insured**, or any carrier as his insurer, may be held liable under any workers' compensation, unemployment compensation or disability benefits law, or under any similar law;
2. To any damages sustained at any time by:
  - a. Any person, whether or not sustained in the course of employment by any **insured**, arising out of any employment-related act, omission, policy, practice or representation directed at such person, occurring in whole or in part at any time, including any:
    - (1) Arrest, detention or imprisonment;
    - (2) Breach of any express or implied covenant;
    - (3) Coercion, criticism, humiliation, prosecution, or retaliation;
    - (4) Defamation or disparagement;
    - (5) Demotion, discipline, evaluation or reassignment;
    - (6) Discrimination, harassment or segregation;
    - (7) Eviction;
    - (8) Invasion or other violation of any right of:
      - (a) )Occupancy; or
      - (b) Privacy or publicity;
    - (9) Failure or refusal to advance, compensate, employ or promote;

(10) Termination of employment; or

(11) Other employment-related act, omission, policy, practice, representation or relationship in connection with any **insured** at any time.

- b. The brother, child, parent, sister or spouse of any person at whom any employment-related act, omission, policy, practice or representation is directed, as described in paragraph **a.** above, as a consequence thereof.

Exclusion **F. 2.** applies:

a. Whether the **insured** may be liable as an employer or in any other capacity; and

b. To any obligation to share damages with or repay someone else who must pay damages because of any of the foregoing.

3. To **bodily injury** to any person who is a **named insured**;

4. To **bodily injury** to any person who is a pilot under contract to the **named insured**;

5. To **bodily injury** to any member of the **named insured's** family or household;

6. To any **bodily injury** caused by or resulting in any manner from the rendering of any professional services, or the omission thereof, or any medical or surgical treatments by any doctor, nurse or other professional attendant; or

7. To **bodily injury** to any **passenger** while the **aircraft** is being used for **aerial application**.

G. Under Coverages B and D:

1. To **property damage** to property:

a. Owned, occupied, rented or used by the **insured**;

b. In the care, custody or control of the **insured**;

c. Which the **insured** is, for any purpose, exercising physical control; or

d. Transported by the **insured**;

2. To any **property damage** arising from direct **aerial application**; or

3. To any **property damage** to a field, premises or property owned, occupied or rented by or in the care, custody or control of anyone for whom **aerial application** is performed.

H. Under Coverages F, G, and H:

1. To **loss** or damage to an **aircraft** due to conversion, embezzlement, secretion, repossession or sale by any person or organization with legal right to and who is in possession of the **aircraft** under bailment, lease, conditional sale, purchase agreement, mortgage or other legal agreement that governs the use, sale or lease of the **aircraft** nor for any **loss** or damage during or resulting therefrom;

2. To **loss** or damage to tires except where such **loss** or damage is caused by fire, theft, windstorm or vandalism or is the direct result of **physical damage** covered by this Policy;

3. To **loss** or damage which is due and confined to:

a. Wear; tear, deterioration, or freezing;

b. Any electrical malfunction or failure of any electronic component(s), accessory(ies) or electrically powered equipment; or

c. Any mechanical, hydraulic, pneumatic or structural malfunction or failure;

Unless any such **loss** or damage in **a.**, **b.** and **c.** immediately above is the direct result of other **physical damage** covered by this Policy.

Damage resulting from electrical malfunction or failure of any electronic component(s), accessory(ies), or electrically powered equipment is considered breakdown of the entire electrical system containing such electronic component(s), accessory(ies), or electrically powered equipment.

Damage resulting from the breakdown, failure or malfunction of an engine component, accessory or part is considered mechanical breakdown of the entire engine;

4. To **loss** or damage to turbine aircraft engines and auxiliary power units insured under this Policy if such damage is caused by:

- a. Foreign objects unless a result of **ingestion**; or
- b. Heat or temperature change from the operation, attempted operation or shutdown of the engine;

Unless any such **loss** or damage is the direct result of other **physical damage** covered by this Policy.

I. Under Coverage I:

1. To any claim caused by or resulting from the storage, transportation, or use of **chemicals**;
2. To any claim:
  - a. Arising from the possession, consumption, handling or use of; or
  - b. Arising from the existence of any condition in, or a warranty of:  
any goods or products manufactured, sold, handled or distributed by:
    - a. The **named insured**;
    - b. Others trading in the **named insured's** name; or
    - c. Others working on the **named insured's** behalf.
3. To any claims caused by or resulting from any service operations performed by the **named insured** or others trading in the **named insured's** name or performing work in the **named insured's** name.

III. LIMIT OF LIABILITY

A. All Coverages  
(Other Insurance)

Except with respect to insurance specifically purchased by the **insured** to apply in excess of this Policy, if there is other insurance in the **insured's** name or otherwise, against **loss**, liability or expense covered by this Policy, the Company shall not be liable under this Policy for a greater proportion of such **loss**, liability or expense than the applicable Limit of Liability bears to the total applicable Limit of Liability of all valid and collectible insurance against such **loss**, liability or expense. If collectible insurance (other than insurance purchased to apply as excess hereof) under any other policy of the Company is available to the **insured** for a **loss** covered hereunder, the Company's total liability will in no event exceed the greater or greatest limit applicable to such **loss** under this or any such policy.

B. Coverages A, B, C, D and I  
(Total Liability)

Regardless of the number of **insureds** under this policy, persons or organizations who sustain **bodily injury** or **property damage**, claims made or suits brought (related or otherwise) on account of **bodily injury** or **property damage**, or **aircraft** to which this Policy applies, the Company's Limit of Liability is limited as follows:

1. Coverage A

The total liability of the Company for all damages, including all **related claims** and all damages for care and loss of services, because of **bodily injury** sustained by any person as the result of any one **occurrence** shall not exceed the Limit of Liability stated in the Declarations as applicable to "each person". Subject to the above provision respecting "each person", the total liability of the Company for all damages, including all **related claims** and all damages for care and loss of services, because of **bodily injury** sustained by two or more persons as the result of any one **occurrence** shall not exceed the Limit of Liability stated in the Declarations as applicable to "each **occurrence**".

2. Coverage B

The total liability of the Company for all damages because of all **property damage** sustained by one or more persons or organizations as the result of any one **occurrence** shall not exceed the Limit of Liability stated in the Declarations as applicable to "each **occurrence**".

### 3. Coverage C

The total liability of the Company for all damages, including all **related claims** and all damages for care and loss of services, because of **bodily injury** sustained by any person as the result of any one **occurrence** shall not exceed the Limit of Liability stated in the Declarations as applicable to "each person". Subject to the above provision respecting "each person", the total liability of the Company for all damages, including all **related claims** and all damages for care and loss of services, because of **bodily injury** sustained by two or more persons as the result of any one **occurrence** shall not exceed the Limit of Liability stated in the Declarations as applicable to "each **occurrence**".

### 4. Coverage D

The total liability of the Company for all damages, including all **related claims** and all damages for care and loss of services, because of **bodily injury** or **property damage** sustained by one or more persons or organizations as the result of any one **occurrence** shall not exceed the Limit of Liability stated in the Declarations as applicable to "each **occurrence**".

### 5. Coverage I

The total liability of the Company for all damages because of **bodily injury** or **property damage** sustained by one or more persons or organizations as the result of any one **occurrence** shall not exceed the Limit of Liability stated in the Declarations as applicable to "each **occurrence**".

### 6. Aggregate Limits

The Aggregate Limits of Liability apply separately to each consecutive Policy Period and to any remaining Policy Period of less than twelve (12) months, starting with the beginning of the Policy Period shown in the Declarations, unless the Policy Period is extended after issuance for an additional period of less than twelve (12) months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Aggregate Limits of Liability.

### 7. Aircraft Liability Aggregate

Subject to the "each **occurrence**" limit and, if applicable, the "each person" limit, the "aircraft liability aggregate" is the most the Company will pay for the sum of damages for **bodily injury** and **property damage** under Coverages A, B and D.

### 8. Premises Liability Aggregate

Subject to the "each **occurrence**" limit, the NON-CHEMICAL "aircraft liability aggregate" limit is the most the Company will pay for the sum of damages for **bodily injury** and **property damage** arising from Coverage I.

For the purpose of determining the Limit of Liability, all **bodily injury** and **property damage** arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising out of one **occurrence**.

### C. Coverages A, B, C, D and I (Severability of Interests)

This Policy applies separately to each **insured** against whom claim is made or suit is brought, except with respect to the Limits of Liability.

### D. Coverage E (Total Liability)

The Limit of Liability stated in the Declarations as applicable to "each person" is the Limit of Liability for all expenses incurred by or on behalf of each person who sustains **bodily injury** in any one **occurrence**. The Limit of Liability stated in **ITEM 3, Medical Expenses**, of the Declarations as applicable to "each **occurrence**" is, the total Limit of Liability for all expenses incurred by or on behalf of two or more persons who sustain **bodily injury** in any one such **occurrence**, subject to the above provision respecting each person.

### E. Coverages F, G and H (Total Liability)

1. With respect to **total loss**, the Company will pay the insured value of the **aircraft**, as stated in the Declarations, subject to any applicable deductible.



2. With respect to **partial loss**, the Company may pay for the least expensive and most reasonable means to repair the **aircraft** or may pay for the **loss** in money, subject to any applicable deductible, as hereinafter provided:
  - a. If repairs are made by other than the **named insured**, the total of the following:
    - (1) Cost to repair the damaged property with material of like kind and quality (excluding any charges for overtime); and
    - (2) Cost of the least expensive and most reasonable method of transporting new and/or damaged parts and/or the damaged **aircraft** to the place of repair and the return of the repaired **aircraft** to the place where the **loss** occurred or the place where the **aircraft** is regularly based, whichever is nearer;
  - b. If repairs are made by the **named insured**, the total of the following:
    - (1) Actual cost to the **insured** of material of like kind and quality;
    - (2) Actual wages paid for labor, excluding any overtime;
    - (3) 150% of (2) immediately above in lieu of overhead and supervisory services; and
    - (4) Cost of the least expensive and most reasonable method of transporting new and/or damaged parts and/or the damaged **aircraft** to the place of repair and the return of the repaired **aircraft** to the place where the **loss** occurred or the place where the **aircraft** is regularly based, whichever is nearer.
3. With respect to any **partial loss** or **total loss**:
  - a. The amount due under this Policy shall not exceed the amount due were the loss payable as a **total loss**;
  - b. Any salvage value remaining shall inure to the benefit of the Company and the **named insured** shall provide clear title thereto;
  - c. Any equipment attached to the **aircraft**, even if subsequent to the effective date of coverage, shall be considered a part of the **aircraft**; and
  - d. There shall be no abandonment of any damaged property without the consent of the Company.
4. If the **loss** is due to theft or **disappearance**, the Company shall have the right to return stolen property that is found at any time prior to actual payment of the claim hereunder, with payment for any **physical damage** sustained thereto.
5. As available, the Company will pay for repair or replacement of like kind and quality. The Company will not pay excess of like, kind and quality amounts for the cost of **betterment**.

#### IV. DEFINITIONS

When appearing in this Policy in bold face print:

1. **Aerial application** means the application by **aircraft** of seeds, fertilizers or **chemicals** and includes flights required in direct support thereof.
2. **Aircraft** means the aircraft described in **ITEM 4** of the Declarations including the propulsion system and equipment usually attached to the **aircraft**:
  - a. While attached to the **aircraft**;
  - b. While temporarily removed from the **aircraft**;
  - c. While removed from the **aircraft** for replacement until such time as replacement by a similar item has commenced; and
  - d. Tools and equipment which are specially designed for the **aircraft** and which are ordinarily carried therein.
3. **Betterment** means improvement which would add value to the insured **aircraft**.
4. **Bodily injury** means physical injury sustained by any person, caused by an **occurrence** during the Policy Period, including sickness, disease, mental anguish and death resulting therefrom.

5. **Chemical(s)** means any substance or mixture of substances intended to prevent, destroy, repel or mitigate any pest, or any substance or mixture of substances intended for use as a plant or tree regulator, defoliant or desiccant. The common name of a **chemical** includes preparations of the **chemical**, in any form, having a trade or proprietary name.
- a. **Comprehensive chemical (CC)** means seeds, fertilizers, or any **chemical** except Picloram; any defoliant or desiccant applied in dust form; or any inorganic arsenical compound, except arsenic acid used in liquid spray form as a cotton desiccant or defoliant.
- b. **Restricted chemical (RC)** means seeds, fertilizers, insecticides or fungicides only.
- c. **Excluding chemical (XC)** means seeds or fertilizers only.

The release or distribution of sterile insects, predatory/beneficial insects, bacteria, fungi or viruses for the purpose of controlling, mitigating or exterminating insects, or other pests or weeds is included within the definitions of **comprehensive chemical (CC)** and **restricted chemical (RC)** but excluded from the definition of **excluding chemical (XC)**.

6. **Crew** means the pilot in-command, co-pilot, flight engineer, flight attendant or anyone else who is in, on or boarding the **aircraft** for the purpose of assisting in the operation of the **aircraft**.
7. **Disappearance** means missing **in-flight** and not reported for sixty (60) days after commencing a flight.
8. **Employee** includes a **leased worker**. **Employee** does not include a temporary worker.
9. **Federal Aviation Administration** means the duly constituted authority of the United States of America having jurisdiction over civil aviation, or its duly constituted equivalent in any other country.
10. **Hostile fire** means one that becomes uncontrollable or breaks out from where it was intended to be.
11. **In-flight** means:

- a. With respect to fixed wing **aircraft**, the time commencing with the actual take-off run of the **aircraft** and continuing thereafter until it has completed its landing run; or
- b. and if the **aircraft** is a rotorcraft, from the time the rotors start to rotate under power for the purpose of flight until the rotors subsequently cease to rotate after landing.

12. **In-motion** means:

- a. While the fixed wing **aircraft** is moving under its own power or the momentum generated therefrom or while it is **in-flight**; and
- b. if the **aircraft** is a rotorcraft, any time that the rotors are rotating or while it is **in flight**

13. **Ingestion** means damage to aircraft turbine engines or turbine auxiliary power units (if a part of the **aircraft** as defined) caused by objects or substances not a part of the engine or its accessories, nor intended to be used in the engine, which occurs during the Policy Period and is the result of a single incident and of sufficient severity to require (or would require if its severity were known) immediate repair before further use.

14. **Insured** means with respect to Coverages A, B, C, D and I, not only the **named insured** but also officers, directors and **employees** of the **named insured** and pilots under contract to the **named insured**, but only while acting within the scope of their duties as such and provided the actual use of the **aircraft** is with the express permission of the **named insured**. Except with respect to the **named insured** the provisions of this paragraph 14. do not apply:

- a. To any **employee** with respect to **bodily injury** of another **employee** (of the same employer) injured in the course of such employment;
- b. To any person or organization or to any agent or **employee** thereof (other than any **employee** of the **named insured** while acting in the course of his employment by the **named insured**):
- (1) Who manufactures, builds, sells or distributes aircraft, aircraft engines, aircraft components, aircraft accessories or fuel used in aircraft;
- (2) Who is engaged in the operation of an aircraft repair shop, aircraft sales agency, aircraft rental service, aircraft flying school, aircraft management service, aircraft **aerial application** service, aircraft inspection, aircraft appraisal, aircraft certification or examination service, commercial flying service, airline, airport, hangar or pilot training center;

- (3) Who is engaged in the activity of instruction, evaluation, examination or certification of any pilot or **crew** member or prospective pilot or **crew** member;
  - (4) Who is charging a fee or receiving any remuneration or benefit for providing any type of service whatsoever in connection with the ownership, maintenance or use of any insured **aircraft**.
- c. To any person or organization operating the **aircraft** under the terms of any rental agreement or training program which provides any remuneration or benefit to the **named insured** for the use of the **aircraft**.
- 15. **Leased worker** means a person leased to the **named insured** by a labor leasing firm under an agreement between the **named insured** and the labor leasing firm to perform duties related to the conduct of the **named insured's** business. **Leased worker** does not include a temporary worker.
- 16. **Loss** means **physical damage**.
- 17. **Medical expense** means expenses for necessary medical, surgical, x-ray or dental services, including prosthetic devices and necessary ambulance, hospital, professional nursing and funeral services.
- 18. **Named insured** means the person or organization named in **ITEM 1** of the Declarations.
- 19. **Occurrence** means an accident, including continuous or repeated exposure to conditions, which results in **bodily injury** or **property damage** during the Policy Period and that is neither expected nor intended from the standpoint of the **insured**. In the event of continuing or progressively deteriorating damage over any length of time, such damage shall be deemed to be one **occurrence**, and shall be deemed to occur only when such damage first commences.
- 20. **Partial loss** means any **physical damage loss** which is not a **total loss**.
- 21. **Passenger** means any person in, on, or boarding the **aircraft** for the purpose of riding or flying therein or alighting therefrom after a flight or attempted flight therein, including **crew** member(s).
- 22. **Physical damage** means direct and accidental physical loss of or damage to the **aircraft**, but does not include loss of use or any residual depreciation or diminution in value (including loss of guaranty or warranty), if any, after repairs have been made.
- 23. **Pleasure and business** means used in the business of the **insured** including personal and pleasure uses but excluding any operation for hire or reward. Cost reimbursement shall be included within the definition of **pleasure and business** provided that such cost reimbursement is limited to:
  - a. Fuel, oil, lubricants, and other additives;
  - b. Travel expenses of the **crew**, including food, lodging, and ground transportation;
  - c. Hangar and tie-down costs away from the **aircraft's** base of operation;
  - d. Insurance obtained for the specific flight;
  - e. Landing fees, airport taxes, and similar assessments;
  - f. Customs, foreign permit, and similar fees directly related to the flight;
  - g. **In-flight** food and beverages;
  - h. **Passenger** ground transportation;
  - i. Flight planning and weather contact services; and
  - j. An additional charge equal to 100% of the expenses listed in paragraph **23. a.** above.
- 24. **Property damage** means direct physical injury to or destruction of tangible property which occurs during the Policy Period, including loss of use thereof at any time resulting therefrom.
- 25. **Related claims** means all claims for care and loss of service, loss of society and consortium, mental anguish, emotional distress, loss of support, medical and funeral expenses, and any and all other damages from or arising out of **bodily injury** to any person or **passenger**. Notwithstanding anything to the contrary in the definition of **bodily injury**, the Company's liability and coverage for damages for both **bodily injury** and **related claims** are included and combined within the "each person", "each **occurrence**" and aggregate Limits of Liability specified in the Declarations, as applicable, and there are no separate or additional Limits of Liability for **related claims**.

**26. Salvage value** means the value of the **aircraft** after **physical damage** and prior to repairs.

**26. Total loss** means any **loss** for which the cost to repair when added to the **salvage value** equals or exceeds the Insured Value of the **aircraft** as set forth in **ITEM 4** of the Declarations. **Disappearance** or theft of the entire **aircraft** shall be considered a **total loss**.

## **V. CONDITIONS**

### **A. Applicable to Coverages A, B, C and D (Bodily Injury and Property Damage)**

#### **1. Action Against the Company**

No person or organization has a right under this Policy:

- a. To join the Company as a party or otherwise bring the Company into a suit seeking damages from an **insured**; or
- b. To sue on this Policy unless all of its terms have been fully complied with.

A person or organization may sue the Company to recover on an agreed settlement or on a final judgment against an **insured** obtained after an actual trial but the Company will not be liable for damages that are not payable under the terms of this Policy or that are in excess of the applicable Limit of Liability. An agreed settlement means a settlement and release of liability signed by the Company, the **insured** and the claimant or the claimant's legal representative.

#### **2. Financial Responsibility**

If this Policy is certified as proof of insurance under any governmental financial responsibility law applicable to **aircraft**, the Company will pay up to the minimum amounts required by that law, not to exceed the Limits of Liability of this Policy. The **named insured** agrees to reimburse the Company promptly for any amounts that the Company would not have to pay, if not for this clause.

#### **3. Notice of Occurrence, Loss, Claim or Suit**

- a. The **named insured** must see to it that the Company is promptly notified in writing of an **occurrence** that may result in a claim. Notice shall include:
  - (1) Particulars sufficient enough to identify the **insured**;
  - (2) How, when and where the **occurrence** took place; and
  - (3) The names and addresses of any injured persons and witnesses.
- b. If a claim is made or suit is brought against any **insured**, the **named insured** must see to it that the Company receives prompt written notice of the claim or suit. The **named insured** and any other **insured** involved must:
  - (1) Immediately send the Company copies of any demands, notices, summons or legal papers received in connection with the claim or suit;
  - (2) Authorize the Company to obtain records and other information;
  - (3) Cooperate with the Company in the investigation, settlement or defense of the claim or suit; and
  - (4) Assist the Company at its request, in the enforcement of any right against any person or organization which may be liable to the **insured** because of injury or damage to which this Policy may also apply.
- c. No **insured** will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid to others, without the Company's consent.

#### **4. Severability of Interest**

Except with respect to the Limit of Liability and any rights or duties specifically assigned in this Policy to the first **named insured**, this Policy applies:

- a. As if each **named insured** were the only **named insured**; and
- b. Separately to each **insured** against whom claim is made or suit is brought.

## **B. Applicable to Coverage E (Medical Expense)**

### **1. Action Against Company**

No person or organization may bring legal action against the Company unless there has been full compliance with all of the terms of this Policy and until thirty (30) days after the required proofs of claim have been filed with the Company.

### **2. Medical Reports: Proof and Payment of Claim**

- a. The injured person or someone on his or her behalf, as soon as practicable after the accident, must give the Company written proof of claim and if requested by the Company:
  - (1) Provide his or her sworn statement under oath;
  - (2) Authorize the Company to obtain medical reports and copies of records; and
  - (3) Submit to physical examination by a physician selected by the Company, when and as often as the Company may reasonably require.
- b. The Company may pay the injured person or any person or organization rendering the services and such payment:
  - (1) Shall reduce the amount payable for the injury; and
  - (2) Shall not constitute admission of liability by an **insured** or the Company.

## **C. Applicable to Coverages F, G, and H (Physical Damage)**

### **1. Action Against the Company**

The **named insured** may not bring legal action against the Company unless there has been full compliance with all of the terms of this Policy and until 30 days after the required proofs of claim have been filed with the Company.

### **2. Appraisal of Loss**

If the **named insured** and the Company fail to agree as to the amount of **loss**, each shall upon written notice to the other, hire at its own expense an independent aircraft appraiser. The appraisers will then agree on a knowledgeable and neutral umpire. If they cannot agree on the umpire in fifteen (15) days, a Judge of the county in which the appraisal is pending will appoint the umpire. Agreement by any two of these three shall determine the amount of **loss**. The **named insured** and the Company will share the umpire's cost equally. But this clause shall not deprive or waive any rights of the Company.

### **3. Automatic Reinstatement**

In the event of **loss**, whether or not covered by this Policy, the amount of insurance in respect to any **aircraft** shall be reduced as of the time and date of **loss** by the amount of such **loss**. Such reduced value shall continue until repairs are commenced, and the amount of insurance shall be automatically increased by the value of the completed repairs until the amount of insurance is fully reinstated or this Policy has expired.

### **4. Insured's Duties when Loss Occurs**

When **loss** occurs the **insured** shall:

- a. Take all reasonable precautions to protect the property or **aircraft** after an **occurrence**. The Company shall reimburse the **insured** all reasonable cost in affording such protection;
- b. Not abandon the property or **aircraft**;
- c. Immediately contact the Company and provide prompt written notice including the:
  - (1) Time, place and description of events; and
  - (2) Description and location of the **aircraft**;
- d. Promptly report theft and vandalism to the Company and local police;
- e. Do nothing after the **loss** to harm the Company's rights of recovery against any person or organization;
- f. Allow the Company to inspect the property;

- g. Submit to examination under oath if requested by the Company;
- h. Allow the Company to inspect all aircraft records, pilot logbooks, repair and service invoices, sales receipts and any other pertinent records until settlement of the **loss**;
- i. File proof of **loss** with the Company within sixty (60) days after the date of **loss**, in the form of a sworn statement, that includes:
  - (1) The interest of the **named insured** and of all other parties affected;
  - (2) Any encumbrances thereon;
  - (3) The actual cash value of the property at the time of the **loss**;
  - (4) The amount, place, time and cause of such **loss**; and
  - (5) The description and amounts of all other insurance covering such property;

Unless such time is extended in writing by the Company.

#### 5. No Benefit to Bailee

The insurance afforded by this Policy shall not inure directly or indirectly to the benefit of any carrier or bailee liable for **loss** to the **aircraft**.

#### 6. Payment of Loss

The Company does not have to pay unless:

- a. There has been full compliance with all of the terms of this Policy;
- b. The amount of **loss** has been determined as provided by the terms of this Policy; and
- c. A claim has been filed within twelve (12) months after the date of the **loss**.

### D. Applicable to all Coverages

#### 1. Assistance and Cooperation of the Insured

The **insured** shall cooperate with the Company and, upon the Company's 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 his own cost, voluntarily make any payment, assume any obligation or incur any expense other than for such immediate medical and surgical relief to others as shall be imperative at the time of an **occurrence**.

#### 2. Bankruptcy

Bankruptcy or insolvency of the **insured** or of the **insured's** estate shall not relieve the Company of its obligations under this Policy.

#### 3. Cancellation

- a. The first **named insured** shown in the Declarations may cancel this policy by mailing or delivering to the Company advance written notice of cancellation.
- b. The Company may cancel this policy by mailing or delivering to the first **named insured** written notice of cancellation:
  - (1) Ten (10) days before the effective date of cancellation if the Company cancels for non-payment of premium; or
  - (2) Thirty (30) days before the effective date of cancellation if the Company cancels for any other reason.
- c. Upon cancellation the Company will mail or deliver notice to the first **named insured's** last mailing address known to the Company.
- d. If this Policy is cancelled, the Company will return any premium refund due. If the Company cancels, the refund will be pro rata. The cancellation will be effective even if the Company has not made or offered a refund. The Company shall not be liable for any return of the **physical damage** premium in respect to any **aircraft** on which a **total loss** has been paid.
- e. If notice is mailed, proof of mailing will be sufficient proof of notice.

- f. If this Policy is cancelled, the Company will send the first **named insured** any premium refund due. If the Company cancels, the refund will be pro rata. If the first **named insured** cancels, the refund may be less than pro rata. The cancellation will be effective even if the Company has not made or offered a refund.

Cancellation for non-payment of premium shall be considered cancellation by the **named insured**. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but tender of unearned premium is not a condition of cancellation.

#### 4. Changing the Policy

This policy contains all the agreements between the **named insured** and the Company concerning the insurance that is afforded. The first **named insured** shown in the Declarations is authorized to make changes in the terms of this Policy with the Company's consent. This Policy's terms can be amended or waived only by endorsement signed and issued by the Company and made a part of this Policy.

#### 5. Examination of Insured's Books and Records

The Company may examine and audit the **insured's** books and records as they relate to this Policy at any time during the Policy Period and up to three (3) years afterward.

#### 6. Fraud or Misrepresentation

This Policy shall be void if the **named insured** has concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof or in case of any fraud, attempted fraud or false swearing by the **named insured** relating to this insurance or the subject thereof, whether before or after a **loss**.

#### 7. Inspection and Surveys

- a. The Company has the right but is not obligated to:

- (1) Make inspections and surveys at any time;
- (2) Give the **named insured** reports on the conditions found; or
- (3) Recommend changes.

- b. Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. The Company does not make safety inspections. The Company does not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. The Company does not warrant that conditions:

- (1) Are safe and healthful; or
- (2) Comply with laws, regulations, codes or standards.

This paragraph 7. applies not only to the Company but also to any rating, advisory, rate service, or similar organization that makes insurance inspections, surveys, reports or recommendations.

#### 8. Nonrenewal

If the **Company** decides not to renew this coverage, the **Company** will mail or deliver to the first **named insured** shown in the Declarations written notice of the nonrenewal not less than thirty (30) days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

#### 9. Policy Period

This Policy applies only to **bodily injury** or **property damage** which occurs, and to **physical damage losses** to the **aircraft** which are sustained, during the Policy Period.

#### 10. Policy Territory

This Policy applies only to **bodily injury** or **property damage** which occurs, and to **physical damage losses** to the **aircraft** which are sustained while the **aircraft** is within the 48 contiguous United States of America.

Payment of **loss** under this Policy shall only be made in full compliance with all United States of America economic or trade sanction laws or regulations, including, but not limited to, sanctions, laws and regulations administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC").

## 11. Premiums

The first **named insured** shown in the Declarations is responsible for the payment of all premiums.

## 12. Representations

By accepting this Policy, the **named insured** agrees:

- a. The statements in the Application and the Declarations are accurate and complete, and those statements are based upon representations of the **named insured** to the Company and any of their agents relating to this insurance; and
- b. The Company has issued this Policy in reliance upon the **named insured's** statements and representations.

## 13. State Statutes

If the terms of this Policy are in conflict with or inconsistent with the statutes of any state where this policy is in effect, the Company will conform to those state statutes.

## 14. Subrogation

If the **insured** has the right to recover all or part of any payment the Company has made under this Policy, such right is transferred to the Company. The **insured** must do nothing after **loss** to impair them. At the request of the Company the **insured** will bring suit or transfer those rights to the Company and do whatever else is necessary to secure such rights. The **insured** shall do nothing after a **loss** to prejudice such rights. This condition shall not apply with respect to **Coverage E — Medical Expenses**.

## 15. Titles of Paragraphs

The titles of the various paragraphs of this Policy and amendments if any, attached to this Policy are inserted solely for reference and are not to be deemed in any way to limit or affect the provisions to which they relate.

## 16. Transfer of the Named Insured's Rights and Duties under this Policy

The **named insured's** rights and duties under this Policy may not be transferred without the Company's written consent except in the case of the death or bankruptcy of an individual **named insured**.

If such individual **named insured** dies or is adjudged bankrupt or insolvent, his or her rights and duties will be transferred to the **named insured's** legal representative but only while acting within the scope of duties as such. Until the **named insured's** legal representative is appointed, anyone having proper temporary custody of the **named insured's** property will have such **named insured's** rights and duties but only with respect to that property, but in no event for more than sixty (60) days following such death or adjudication.

## 17. Violation of Statute Clause

If payment for a claim under this Policy is in violation of any of the United States of America's economic or trade sanctions, including but not limited to sanctions administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"), then coverage for that claim shall be null and void.

In witness whereof, the Company specified on the Declarations has caused this Policy to be executed and attested, but this Policy shall not be valid unless countersigned on the Declarations by a duly authorized agent of the Company.