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Use optional. Other terms and conditions subject to agreement.  
In case of deviations, only the German wording shall be binding and prevail

## Aviation Liability Insurance Conditions for Aircraft Operators and Carriers (LHB 2008)

GDV standard conditions

(Status: December 2007)

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#### SPECIAL CONDITIONS

#### Scope of insurance cover

##### 1 Subject matter of the insurance, insured event

Within the scope of the insured risk, insurance cover is provided for third-party claims for damages brought against the Policyholder on the basis of statutory liability provisions under private law

arising out of a loss event occurring during the policy period (insured event) and resulting in property damage, bodily injury or consequential financial loss.

A loss event is defined as the event that directly resulted in damage to or injury of the third party. It is immaterial when the actual cause leading to the loss event occurred.

##### 2 Insured risk

The risks for which insurance cover is granted in each case (sections 2.1, 2.2 and/or 2.3) are de-

tailed in the insurance application, the policy wording and its annexes.

The insurance cover comprises

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|-----|---|
| 2.1 | – if agreed – statutory liability arising out of the operation of aircraft for bodily injury or damage to persons or property not being carried in the aircraft (Air Operators' Liability Insurance);   |
| 2.2 | – if agreed – statutory liability arising out of the contractually agreed carriage of persons (exception: flight training) and the property they have on or with them as well as their luggage and air freight of undeclared value (Air Carriers' Liability Insurance). |

Under Air Carriers' Liability Insurance, the scope of insurance is extended to cover the Policyholder's statutory liability under private law for

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|-------|--|
| 2.2.1 | financial losses resulting neither from bodily injury nor property damage and arising out of delays in the carriage of air passenger as well as their luggage and air freight of undeclared value, |
|-------|--|

- 2.2.2 damage arising out of the loss of luggage or other items that air passengers carry on or with them as well as air freight of undeclared value; the provisions regarding property damage are applicable in this case.

Unless otherwise agreed, the indemnity payable under the extension of cover as per sections 2.2.1 and 2.2.2 shall not exceed the statutory minimum limits of indemnity under the laws of the European Union or Germany.

- 2.3 – if agreed – the Policyholder's statutory liability as a contracting air carrier from the self-arranged carriage of persons including luggage of undeclared value (tour operators' liability insurance).

### 3 Coinsured persons

- 3.1 Insurance cover also comprises the personal statutory liability of

- 3.1.1 the operator and all persons who, with the knowledge and approval of the operator, are involved in guiding and operating the aircraft, including persons who are authorised to operate the remote controls of model aircraft;

- 3.1.2 the Policyholder's personnel, to the extent that they are authorised to carry out work or activities in connection with aircraft insured under this policy;

- 3.1.3 persons working for the contracting air carrier, with the exception of the executing air carrier and its personnel.

- 3.2 Coinsured persons are entitled to assert their claims under this insurance policy independently.

All the provisions of this policy that apply to the Policyholder apply *mutatis mutandis* to the coinsured persons. Both the Policyholder and the coinsured persons are responsible for meeting their obligations under this policy.

### 4 Indemnification

- 4.1 Insurance cover comprises assessing the question of liability, defending against unjustified claims for damages and releasing the Policyholder from its obligation to pay justified claims for damages.

A claim for damages is considered justified if the Policyholder is obliged to pay it by law or on the basis of a final judgement, an admission or compromise and, in turn, the Insurer is bound by it. Admissions and compromises made or arrived at by the Policyholder without the approval of the Insurer are binding on the Insurer only to the extent that the claim would have been valid without the admission or compromise.

Once the Policyholder's obligation to pay damages has been ascertained and is binding on the Insurer, the Insurer shall release the Policyholder from its obligation toward the third party within two weeks.

- 4.2 The Insurer is authorized to make all declarations in the Policyholder's name that the Insurer may deem expedient in processing or defending against claims for damages.

Should an insured event result in a court case against the Policyholder concerning the claims for damages, the Insurer is authorised to conduct the litigation at its own cost on behalf of the Policyholder.

- 4.3 The insurance also covers all costs incurred with the approval of the Insurer to defend the Policyholder in proceedings for criminal or petty offences triggered by the commission of an act that could result in the Policyholder's being held liable to a third party.

- 4.4 Should the Policyholder or a coinsured person acquire the right to demand that payment of an annuity be terminated or reduced, the Insurer shall be entitled to exercise this right.

### 5 Limitation of indemnity

- 5.1 The indemnity payable by the Insurer is subject to the agreed limits of indemnity for each insured event. This also applies if more than one liable party is covered by the policy.

- 5.2 A series of insured events occurring during the policy period shall be considered to be a single insured event that begins with the first of these events if they have

- the same cause or
- similar causes that are inherently connected, especially by their nature or time of occurrence.

- 5.3 If the Policyholder itself rectifies damage for which it is liable to pay, the Insurer shall reimburse only the actual costs without profits.

- 5.4 The Insurer's outlay for expenses does not count towards the limit of indemnity.

- 5.5 In the event that the justified liability claims from a single insured event exceed the limit of indemnity, the Insurer shall bear that proportion of the court costs that the limit of indemnity bears to the total claim amount.

- 5.6 If the Policyholder is required to pay an annuity to the claimant and the lump-sum value of the annuity exceeds the limit of indemnity or that part of the limit of indemnity remaining after deduction of any other payments for the insured event, the Insurer shall reimburse only that proportion of the annuity that the limit of indemnity or the remaining limit of indemnity bears to the lump-sum value of the annuity.

The value of the annuity is calculated on the basis of the corresponding provisions of the Ordinance on Motor Vehicle Liability Insurance in the version applicable at the time of the insured event.

When calculating the proportion of current annuity payments to be borne by the Policyholder in cases where the lump-sum value of the annuity exceeds the limit of indemnity or the remaining limit of indemnity after deduction of the other payments, the other payments are deducted in full from the limit of indemnity.

- 5.7 If the settlement of a liability claim by admission, satisfaction or compromise as requested by the Insurer is obstructed by the Policyholder, the In-

suror is not required to bear any additional settlement, interest, or any other costs incurred as from the time of the obstruction.

## **6 Foreign claims and insurance claims before foreign courts**

### **6.1 Inclusion of foreign claims**

The following applies to claims arising outside Germany:

**6.1.1** Cover is provided for the Policyholder's statutory liability under the relevant applicable law for insured events arising abroad (but see section 6.1.2).

**6.1.2** Notwithstanding section 6.1.1, insured events occurring in the USA, US territories or Canada are covered only subject to special agreement.

If cover has been agreed for insured events occurring in the USA, US territories or Canada, the following applies in addition:

Notwithstanding section 5.4, the Insurer's outlay for expenses shall count towards the limit of indemnity.

Costs are defined as: lawyers' and experts' fees; witnesses' expenses and court costs; expenses for loss prevention or mitigation during or after the occurrence of the insured event; and loss investigation costs, including travel expenses not incurred by the Insurer itself. This also applies even if such costs are incurred in order to comply with the Insurer's instructions.

**6.1.3** Claims for damages imposed by way of sanctions, in particular punitive or exemplary damages, are excluded from the cover.

**6.1.4** Claims resulting from industrial accidents or occupational illnesses suffered by persons employed by the Policyholder abroad or entrusted with activities there on behalf of the Policyholder are excluded from the cover.

**6.1.5** The Insurer's indemnification shall be paid in euros. If the place of payment is outside the countries comprising the European Monetary Union, the Insurer's obligations shall be deemed to have been fulfilled when it has instructed a banking institution domiciled within the European Monetary Union to transfer the amount in euros.

### **6.2 Insurance claims before foreign courts**

The following applies to insurance claims brought before foreign courts:

**6.2.1** Insurance cover for claims brought before courts in the USA, US territories or Canada is granted only subject to special agreement.

If insurance cover has been agreed for claims brought before courts in the USA, US territories or Canada, the following applies in addition:

Notwithstanding section 5.4, the Insurer's outlay for expenses shall count towards the limit of indemnity.

Costs are defined as: lawyers' and experts' fees; witnesses' expenses and court costs; expenses for loss prevention or mitigation during or after the

occurrence of the insured event; and loss investigation costs, including travel expenses not incurred by the Insurer itself. This shall also apply even if such costs are incurred in order to comply with the Insurer's instructions.

**6.2.2** Claims for damages imposed by way of sanction, in particular punitive or exemplary damages, are excluded from the cover.

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## **7 Exclusions**

Unless otherwise agreed in the policy wording or its annexes, the following exclusions apply:

**7.1** Insurance claims of all persons who wilfully caused the damage;

**7.2** Liability claims in cases where, at the time of the loss event, the aircraft in question was not in a condition that complied with the legal provisions or official regulations governing the ownership and operation of aircraft and/or if any necessary official licences had not been granted;

**7.3** Liability claims in cases where, at the time of the loss event, the aviation company did not have the official approvals prescribed by law;

**7.4** Liability claims in cases where, at the time of the loss event, the pilot(s) of the aircraft did not possess the prescribed permits, required authorizations or professional qualifications;

**7.5** Liability claims exceeding the Policyholder's statutory liability on the basis of a contractual agreement or express warranty;

**7.6** Liability claims for damage caused in connection with:

**7.6.1** high-energy ionising rays (e.g. alpha, beta and gamma rays emitted by radioactive substances as well as neutrons or rays generated in particle accelerators) or laser or maser beams,

**7.6.2** any type of explosive nuclear assembly or parts thereof;

**7.7** Under aircraft operators' liability insurance:

**7.7.1** Claims brought against the Policyholder for environmental impairment in accordance with the Environmental Impairment Act or other national laws implementing the European Environmental Directive (2004/35/EC). This applies even if a third party brings claims against the Policyholder on the basis of statutory liability provisions under private law for the reimbursement of costs incurred in connection with such environmental impairment.

Insurance cover remains unaffected, however, for claims that could be brought against the Policyholder solely on the basis of statutory liability provisions under private law in the absence of the Environmental Impairment Act or any other na-

tional laws implementing the European Environmental Directive (2004/35/EC).

- 7.7.2 Liability claims for damage caused by environmental impacts and any other damage, vibration, or electrical or electromagnetic influences arising therefrom.

This exclusion does not apply to liability claims for damage caused by fire, explosion, collision, crash or a registered emergency situation of an aircraft during flight that results in an out-of-the-ordinary flight condition.

- 7.8 Liability claims for damage caused in connection with war, civil war or other hostilities, any detonation of a weapon of war employing nuclear fission and/or fusion or radiation of another kind, strike, lockout, insurrection, civil commotion, industrial unrest, hijacking and acts of terror or sabotage;
- 7.9 Liability claims for damage caused through the unlawful misappropriation of aircraft or in connection with acts of authorities or any act of government powers;
- 7.10 Liability claims
- 7.10.1 in respect of bodily injury resulting from industrial accidents or occupational illnesses as defined in the German social security regulations (Sozialgesetzbuch VII) and occurring on the Policyholder's business premises,
- 7.10.2 brought by the Policyholder itself or by the persons named in section 7.11 against coinsured persons under this policy,
- 7.10.3 between several policyholders of the same policy, with the exception of associations of operators in the context of section 2.2,
- 7.10.4 brought by the operator, owner or responsible pilot of the aircraft against other coinsured persons,
- 7.10.5 between several coinsured persons under the same policy for property damage, unless the damage was caused to model aircraft.
- 7.11 Liability claims against the Policyholder
- 7.11.1 from damage caused by the Policyholder's next-of-kin who share the same household with the Policyholder or who are among the coinsured persons under this policy.
- The term next-of-kin covers the Policyholder's spouse, the Policyholder's partner within the terms of the German Civil Unions Act (Lebenspartnerschaftsgesetz) or a comparable civil union under the laws of a foreign state, the Policyholder's parents and children, adoptive parents and children, parents-in-law, sons-in-law and daughters-in-law, step-parents and stepchildren, grandparents and grandchildren, siblings as well as foster parents and foster children (persons whose relationship resembles that of parents and children owing to a long-lasting, family-like attachment);
- 7.11.2 brought by the Policyholder's legal representatives or guardians if the Policyholder has no or limited legal capacity or is entrusted to the care of others;
- 7.11.3 brought by the Policyholder's legal representatives if the Policyholder is a legal entity under private or

public law or an association without legal capacity, unless there is no direct causal link between the loss event and the function in question;

- 7.11.4 brought by the Policyholder's general partners if the former is a general commercial partnership, a limited partnership or private partnership;
- 7.11.5 brought by the Policyholder's partners, if the former is a registered limited partnership company;
- 7.11.6 brought by the Policyholder's liquidators, official receivers or insolvency administrators.

#### Re sections 7.10 and 7.11:

The exclusions listed under sections 7.10 and 7.11.2 to 7.11.6 also apply to liability claims arising out of loss events caused by the next-of-kin of the persons named in those sections and who share a household with the latter.

- 7.12 Liability claims in connection with asbestos, or substances or products containing asbestos.
- This exclusion does not apply to liability claims for damage caused by fire, explosion, collision, crash or a registered emergency situation of an aircraft during flight that results in an out-of-the-ordinary flight condition.
- 7.13 Liability claims for damage arising out of the interchange, transfer or provision of electronic data, to the extent that the damage stems from
- 7.13.1 data being deleted, suppressed, altered or rendered unusable,
- 7.13.2 data not being entered or incorrectly stored,
- 7.13.3 disruptions in access to electronic data interchange systems,
- 7.13.4 the transfer of confidential data or information.
- 7.14 Liability claims for damage arising out of acts of hostility, bullying, harassment, unequal treatment or other forms of discrimination.

### **Inception of insurance cover / premium payment**

#### **8 Inception of insurance cover**

Insurance cover commences at the time stated in the policy, provided that the Policyholder has paid the initial or single premium within the period provided for in section 9.1.

The invoiced premium includes the insurance tax payable by the Policyholder at the applicable statutory rate.

#### **9 Payment of premiums and consequences of late payment / initial or single premium**

- 9.1 Unless otherwise agreed, the initial or single premium falls due two weeks after receipt of the policy document.

If the annual premium is payable in instalments, the first instalment of the first annual premium is regarded as the initial premium.

- 9.2 If the Policyholder pays the initial or single premium later than the due date, insurance cover shall not commence until the date of payment, provided the Policyholder was made aware of this legal consequence by means of a separate written communication or a prominent note in the policy



wording. The above does not apply if the Policyholder can prove that non-payment was for reasons beyond its control.

- 9.3 If the Policyholder fails to pay the initial or single premium on time, the Insurer may withdraw from the contract until such time as the premium is paid. The Insurer is not entitled to withdraw from the contract if the Policyholder can prove that non-payment was for reasons beyond its control.

## **10 Payment of premiums and consequences of late payment / subsequent premium**

- 10.1 Unless otherwise agreed, the subsequent premiums are payable on the first day of the first month of the agreed premium-payment period.

Payment shall be deemed to have been made on time if it is made at the time stated in the policy wording or in the premium statement.

- 10.2 If any subsequent premium is not paid on time, the Policyholder shall – without a reminder having been sent – be deemed in arrears, unless the delay in payment is due to reasons beyond his control.

- 10.3 If any subsequent premium is not paid on time, the Insurer may, at the Policyholder's expense, inform the Policyholder in writing of a deadline for payment, which must be at least two weeks. This provision is valid only if the premiums in arrears, interest and costs are set down separately in the communication and the legal consequences of failing to meet the deadline as described in sections 10.4 and 10.5 are stated.

- 10.4 If the Policyholder is still in arrears with the payment upon expiry of the deadline for payment, insurance cover shall be suspended, provided that the Policyholder was informed of this consequence in the request for payment described in section 10.3.

- 10.5 If the Policyholder is still in arrears with the payment upon expiry of the deadline for payment, the Insurer may terminate the insurance contract with immediate effect, provided that the Policyholder was informed of this consequence in the request for payment described in section 10.3.

If the Insurer exercises its right of termination but the Policyholder pays the outstanding amount within one month, the contract shall be reinstated. However, cover is not reinstated for any insured events which may have occurred in the period between service of the notice of termination and payment of the outstanding amount.

## **11 Timeliness of payment in the case of direct debiting**

If payment of the premium by direct debit from a bank account has been agreed, payment shall be deemed to have been made on time if the premium can be debited on the due date stated in the policy wording and the Policyholder does not revoke an authorised debit.

If the Insurer is unable to debit a due premium through no fault of the Policyholder, payment shall be deemed to have been made on time if it is

made without delay upon receipt of the Insurer's written request for payment.

If the Insurer is unable to debit a due premium because the Policyholder has revoked the authorised debit or if, despite repeated attempts, the Insurer is unable to debit a due premium for reasons for which the Policyholder is responsible, the Insurer may insist on future payments being made by a procedure other than by direct debit. The Policyholder is not obliged to pay the premium until the Insurer has requested so in writing.

## **12 Payment of premiums in instalments and consequences of late payment**

If the annual premium is payable in instalments, the remaining instalments become due immediately if the Policyholder falls into arrears on any one instalment.

Further, the Insurer may insist on annual advance payments in future.

## **13 Premium in the event of premature termination**

In the absence of any legal provisions to the contrary, the Insurer is entitled only to that part of the premium corresponding to the period actually covered if the insurance contract is terminated before the expiry of the insurance period.

## **Policy term and expiry / termination**

### **14 Policy term and expiry**

- 14.1 The insurance contract is concluded for the period specified in the policy document.

- 14.2 If this is a period of at least one year, the contract is automatically renewed on expiry for a further year unless either party issues written notice of termination at least three months prior to the expiry of any policy year.

- 14.3 If the insurance contract is concluded for a period of less than one year, it expires on the appointed date without notice of termination being necessary.

### **15 Cessation of the insured risk**

If insured risks completely and permanently cease to exist, the insurance with regard to these risks lapses also. The Insurer is entitled to the premium that it would have been able to charge if application had been made for these risks to be insured only up to the time at which the Insurer became aware of the cessation of the risks.

### **16 Termination after occurrence of an insured event**

- 16.1 The insurance contract may be terminated if

- the Insurer has paid an indemnity or
- the Policyholder or, in the case of mandatory insurance, the Insurer has been served with a judicial application concerning a liability claim covered by the policy.

Termination must be made in writing to the counterparty at the latest within one month of the indemnification of damages or service of the application.

- 16.2 If the Policyholder has given notice of termination, the termination takes effect immediately upon delivery of the notice to the Insurer. The Policyholder may, however, specify that termination shall take effect at a later date, but not later than at the end of the current policy year.

Termination by the Insurer takes effect one month after delivery of the notice of termination to the Policyholder.

**17 Termination after aggravation of risk owing to enactment or amendment of legal provisions**

In the event of aggravation of the insured risk owing to the enactment or amendment of legal provisions, the Insurer is entitled to terminate the insurance contract subject to one month's prior notice. This right to terminate the contract lapses if the Insurer fails to exercise it within one month of becoming aware of the aggravation of risk.

**Policyholder's obligations**

**18 Policyholder's precontractual duty of disclosure**

- 18.1 Accuracy and completeness of disclosure in respect of material facts

Before submitting its insurance application, the Policyholder must inform the Insurer in writing of all risk circumstances of which it is aware and details of which the Insurer has requested in writing and which are material to the Insurer's decision to conclude the insurance contract for the agreed scope and content. The Policyholder is also obliged to disclose such circumstances even if the Insurer poses the questions described in sentence 1 after the Policyholder's has submitted its application and before the Insurer's acceptance. All circumstances that might influence the Insurer's decision to conclude the contract at all or with the proposed scope and content are of relevance to the risk.

If a representative appointed by the Policyholder concludes the policy and the former is aware of a material fact, the Policyholder shall be deemed to have been aware of said material fact itself or to have fraudulently concealed it.

- 18.2 Withdrawal

- 18.2.1 Incomplete or inaccurate representations of material facts entitle the Insurer to withdraw from the insurance contract.

- 18.2.2 The Insurer is not entitled to withdraw from the contract if the Policyholder can prove that neither it nor its legal representative made the incomplete or inaccurate representations wilfully or in a grossly negligent manner.

The Insurer's right to withdraw from the contract in cases of gross negligence in disclosure does not apply if the Policyholder can prove that the Insurer would still have concluded the contract, albeit on other conditions, if it had been aware of the undisclosed circumstances.

- 18.2.3 If the Insurer withdraws from the contract, the insurance cover lapses.

If the Insurer withdraws from the contract after occurrence of an insured event, it may not deny insurance cover if the Policyholder can prove that the incomplete or inaccurate representation had no effect on the occurrence of the insured event nor on the ascertainment or scale of the indemnity provided by the Insurer. However, even in this case no insurance cover is granted if the Policyholder was in fraudulent breach of its duty of disclosure.

The Insurer is entitled to that portion of the premium covering the insured period until the date on which the notice of withdrawal takes effect.

- 18.3 Right of termination

If the Insurer's right of withdrawal is ruled out because the breach of duty of disclosure was neither wilful nor an act of gross negligence, the Insurer may terminate the contract subject to a notice period of one month.

The Insurer's right to terminate the contract does not apply if the Policyholder can prove that the Insurer would still have concluded the contract, albeit on other conditions, if it had been aware of the undisclosed circumstances.

- 18.4 Retroactive policy amendments

If the Insurer is unable to withdraw from or terminate the contract because it would still have concluded the contract, albeit on other conditions, if it had been aware of the undisclosed circumstances, these other conditions shall, at the Insurer's request, become part of the contract with retroactive effect. If the breach of duty was for reasons beyond the Policyholder's control, the other conditions shall form part of the contract commencing with the current policy period.

If the policy amendment results in a premium increase of more than 10% or if the Insurer excludes cover for the risk that the Policyholder failed to disclose, the Policyholder may terminate the contract without notice within one month of receiving the Insurer's notice.

- 18.5 Exercising the Insurer's rights

The Insurer must exercise its rights as described in sections 18.2 to 18.4 in writing within one month. In so doing, it must name the circumstances on which its declaration is based. The one-month period commences on the date on which it became aware of the breach of that duty of disclosure on the basis of which it is exercising its rights.

The Insurer is entitled to exercise its rights as described in sections 18.2 to 18.4 only if it has informed the Policyholder of the consequences of a breach of duty of disclosure in a separate written communication.

The Insurer has no recourse to the rights described in sections 18.2 to 18.4 if it was aware either of the undisclosed circumstance or that the disclosure was inaccurate.

- 18.6 Avoidance

The Insurer's right to avoid the contract on the grounds of fraudulent misrepresentation remains



unaffected. In the case of avoidance, the Insurer is entitled to that portion of the premium covering the insured period until the date on which the notice of avoidance takes effect.

**19 Obligations before occurrence of an insured event**

The Policyholder is obliged to rectify within a reasonable period any circumstances that represent a particular hazard and that the Insurer has required to be rectified. This does not apply if, after weighing up both parties' interests, rectification is deemed unreasonable. Any circumstance that has already given rise to a claim is deemed to represent a particular hazard.

**20 Obligations after occurrence of an insured event**

20.1 The Insurer must be notified of every insured event without delay, even if no claims for damages have been made.

20.2 The Policyholder must, where possible, avoid claims and mitigate losses. In so doing, the Policyholder must follow all instructions of the Insurer, provided they are reasonable. The Policyholder must provide the Insurer with detailed and truthful claims reports and assist the Insurer in ascertaining and adjusting the claim. The Policyholder must provide the Insurer with all facts the latter deems important for processing the claim along with all documentation it requests.

20.3 The Policyholder must notify the Insurer without delay if a liability claim is brought against it, if proceedings are instituted against it by a public prosecutor, court or other authority, or if it is served with a payment order or given notice of legal proceedings.

20.4 If the Policyholder is served with a payment order or an order from a public authority requiring it to pay compensation, it must make a formal appeal against said order within the prescribed time limits and must avail itself of all legal remedies at its disposal. The Policyholder does not need to wait for the Insurer's instructions in this regard.

20.5 If a liability claim is brought against the Policyholder in a court of law, it must leave conduct of litigation to the Insurer. The Insurer appoints legal counsel on behalf of the Policyholder. The Policyholder must grant the legal counsel power of attorney and provide him/her with all necessary information and documents as requested.

**21 Legal consequences of breach of obligation**

21.1 If the Policyholder breaches a contractual obligation that it must fulfil before occurrence of an insured event, the Insurer may terminate the contract without notice within one month of gaining knowledge of the breach of obligation. The Insurer is not entitled to terminate the contract if the Policyholder can prove that the breach of obligation was neither wilful nor the result of gross negligence on its part.

21.2 If the Policyholder wilfully breaches one of its obligations under the insurance contract, it shall forfeit its insurance cover. In the case of breach of

obligation due to gross negligence, the Insurer is entitled to reduce its indemnification in proportion to degree to which the Policyholder was at fault.

If the Policyholder breaches a duty of notification or disclosure that arises after the occurrence of an insured event, its insurance cover may be partially or completely withdrawn provided the Insurer had already informed it in a separate written communication of the legal consequences of said breach.

If the Policyholder can prove that its breach of obligation was not due to gross negligence, its insurance cover remains unaffected.

The insurance cover also remains unaffected if the Policyholder can prove that the breach of obligation caused neither the occurrence or ascertainment of the insured event nor the ascertainment or scope of the Insurer's indemnification. This does not apply if the Policyholder fraudulently breached its obligation.

The foregoing provisions apply regardless of whether the Insurer exercises its right of termination under section 21.1.

**Other provisions**

**22 Prohibition of assignment**

Except with the express consent of the Insurer, the right to release from third-party claims may not be assigned or pledged to others before its final verification. However, it may be assigned to the third party who suffered the damage.

**23 Period of limitation**

23.1 Claims arising under this policy are subject to a limitation period of three years. This time limit is calculated with reference to the general provisions of the German Civil Code.

23.2 If a claim under the insurance policy has been reported to the Insurer, it is exempt from limitation from the time it is reported to such time as the Insurer informs the claimant in writing of its decision in respect of the claim.

**24 Legal venue**

24.1 The jurisdiction for legal actions brought against the Insurer on the basis of this insurance policy resides with the competent court at the domicile of the Insurer or at the location of the branch office responsible for the insurance contract. If the Policyholder is an individual, the legal venue may also be the competent local court of the district in which the Policyholder was officially resident when the indictment was filed or, in the absence thereof, in which the Policyholder had its customary place of residence.

24.2 If the Policyholder is an individual, any legal actions concerning the insurance policy must be brought against him/her in a competent court of his/her official place of residence or, in the absence thereof, of /her customary place of residence. If the Policyholder is a legal entity, the legal venue may also be decided on the basis of the Policyholder's place domicile or that of its competent branch office. The same applies if the Policyholder is a general commercial partnership, a lim-

ited partnership, private partnership or registered limited partnership company.

- 24.3 If neither the Policyholder's official nor customary place of residence is known when the action is brought, the venue for any legal action against the Policyholder arising out of the insurance policy shall be determined on the basis of the Insurer's domicile or that of the branch office responsible for the insurance contract.

## **25 Applicable law**

This contract is governed by German law.

## **26 Notifications, declarations of intent, change of address**

- 26.1 All notifications and declarations intended for the Insurer should be sent to the Insurer's head office or to the branch office designated as competent in the insurance policy or any endorsements thereto.
- 26.2 If the Policyholder has failed to notify the Insurer of a change of address, any declaration of intent to be made to the Policyholder may be sent by registered letter to the last address known to the Insurer. The declaration is deemed to have been received three days after being sent. The same applies *mutatis mutandis* if the Policyholder's name changes.
- 26.3 If the Policyholder concluded the insurance contract for its commercial operations, the provisions of section 26.2 apply *mutatis mutandis* if the location of the commercial branch office changes.



## SPECIAL CONDITIONS

**As a general rule, insurance cover within the context of the following Special Conditions is subject to separate agreement.**

### **Operators' liability insurance – inclusion of financial losses**

- 1 Supplementary to section 1 of the Aviation Liability Insurance Conditions (Operators, Carriers), cover is also provided for the Policyholder's statutory liability for financial losses suffered by third parties arising out of a loss event caused by the crash or emergency landing of an insured aircraft.  
  
The policy shows the maximum limit of indemnity per loss event and for all loss events during one policy period.
- 2 No cover is provided for liability claims arising out of
  - 2.1 the failure to adhere to schedules, deadlines, proposals or cost estimates,
  - 2.2 the wilful breach of legal provisions or official regulations or from any other breach of obligation,
  - 2.3 the loss of property, e.g. money, securities or valuables.

### **Operators' Liability Insurance and Carriers' Liability Insurance – extension of cover to include war and terrorism risks**

- 1 To the extent that the laws of either the European Union or Germany prescribe mandatory insurance cover, cover under this insurance contract shall, contrary to the provisions of sections 7.8 and 7.9 of the Aviation Liability Insurance Conditions (Operators, Carriers), be extended to include liability claims for damage caused through
  - 1.1 acts of war and civil war, other hostilities, strike, lockout, insurrection, civil commotion, industrial unrest, kidnapping, or acts of terrorism and sabotage,
  - 1.2 the unlawful misappropriation of aircraft or in connection with acts of authorities or any act of government powers.

- 2 The indemnity payable under the extension of cover for war and terrorism risks shall not exceed the minimum limits of indemnity under the laws of the European Union or Germany. For Operators' Liability Insurance, the maximum limit of indemnity per loss event and for the aggregation of loss events during one policy period is given in the policy wording. Any indemnification under this extension of cover counts towards the limits of indemnity for the Operators' and Carriers' Liability Insurance.
- 3 Automatic expiry of insurance cover  
  
Insurance protection under this extension of cover shall expire automatically
  - 3.1 on the outbreak of war between two or more of the following countries:  
  
France, People's Republic of China, Russian Federation, United Kingdom, United States of America,
  - 3.2 on the detonation of a war weapon using nuclear fission and/or fusion or radiation of another kind,
  - 3.3 on confiscation of the insured aircraft.

If an insured aircraft is airborne at the time the conditions of automatic expiry of insurance cover are met, the insurance remains in effect until such time as the aircraft has landed and all passengers have disembarked.
- 4 Termination
  - 4.1 After detonation of a war weapon within the meaning of section 3.2 of the extension of cover for war and terrorism risks, the Insurer may terminate the insurance cover as per section 1 subject to 48 hours' written notice. The notice period begins at 11:59 p.m. GMT on the day on which the Insurer's notice of termination reaches the Policyholder.
  - 4.2 Either party may terminate the extension of cover for war and terrorism risks at any time, subject to seven days' written notice. The notice period begins at 11:59 p.m. GMT on the day on which the Insurer's notice of termination reaches the Policyholder.