

Hot Air Balloon and Airship Policy

Policy Information

(not forming part of this Policy)

This Policy has been prepared in accordance with your instructions. Please read it carefully to ensure that it meets your requirements.

This Policy consists of

- a) the **Introduction** which explains the basis on which the cover is provided.
- b) the **Schedule** which shows who is the Insured, the Balloon(s) being covered and other Policy Particulars such as the Period of Insurance (also included with the Schedule are details of which Sections are operative)
- c) the **General Policy Definitions Exceptions and Conditions** which incorporate definitions and terms that apply to the whole policy
- d) the **Sections** of the Policy which give precise details of the cover being provided
- e) the **General Policy Extensions** which extend the cover provided within the Sections
- f) an **Appendix** to each Section which shows such details as the property or events insured, limits of liability and certain amounts for which the Insured may be responsible.
- g) any **Endorsements(s)** which might apply to the Policy or individual Sections and which incorporate cover amendments extensions, limitations and such like.

Immediate notice should be given to Underwriters of any changes which may affect the insurance provided by this Policy.

Alterations in the cover required after issue of the Policy will be confirmed by separate Endorsements(s) which you should file with the Policy. You should refer to these Endorsements(s) and the Policy to ascertain precise details of cover currently in force.

J Bennett & Son (Insurance Brokers) Limited will be able to provide any help or information that you might require.

E.U. Disclosure Clause (UK)

Notice to Proposer / Assured:

The Parties are free to choose the law applicable to this Insurance Contract. Unless specifically agreed to contrary this insurance shall be subject to English Law.

Introduction

Each section of this Policy the Schedule the Appendix to each Section and any Endorsement(s) together with this Introduction and the General Policy Definitions, Exceptions, Conditions and Extensions shall be read as one document.

Any word or expression given a specific meaning in

- 1) the Schedule any Policy Endorsement(s) or this Introduction and the General Policy Definitions, Exceptions, Conditions and Extensions shall have the same meaning throughout the Policy
- 2) an individual Section its Appendix or any Section Endorsement(s) shall have only the same meaning throughout such Section Appendix and Endorsement(s).

In consideration of the payment of the premium Evergreen Underwriting Services Ltd acting for MSF Pritchard Syndicate 318 at Lloyd's hereinafter referred to as Underwriters will indemnify the Insured within the terms Exceptions and Conditions of this Policy against the events set out in the Sections operative (specified herein) and occurring during the Period of Insurance or any subsequent period for which Underwriters agree to accept payment of premium.

The Proposal made by the Insured is the basis of and forms part of this Policy.

.....
*On behalf of Underwriters
Evergreen Underwriters Services Ltd
Acting for Syndicate 318 at Lloyd's*

General Policy Definitions

(applicable to the whole Policy wherever these words appear starting with a capital letter)

- 1) **Insured** shall mean the person persons or corporate body named as such in the Schedule to this Policy.
- 2) **Proposal** shall mean any information provided by the Insured in connection with this insurance and any declaration made in connection therewith.
- 3) **Balloon** shall mean any Balloon the property of the Insured and specified under the Balloon Details in the Schedule to this Policy including equipment therein or thereon or whilst detached from the Balloon provided that any such detached equipment has not been replaced by similar equipment in or on the Balloon.
- 4) **Passenger** shall mean any person other than the Pilot in on boarding or alighting from the Balloon during a Flight or attempted Flight.
- 5) **Flight** shall mean period of time commencing when the burner is first ignited to begin inflation of the Balloon and terminating when the Balloon is completely deflated.
- 6) **Territorial Limits** shall mean anywhere within Europe.
- 7) **Europe** shall mean Europe excluding former Commonwealth of Independent States (CIS) Yugoslav states and Albania.

General Policy Exceptions

(applicable to the whole Policy except where indicated)

1) Balloon In Flight

Underwriters shall not provide indemnity under this Policy when the Balloon is in Flight,

- a) while the Certificate of Airworthiness if applicable in respect of the Balloon is cancelled suspended or invalidated other than in respect of any test Flight carried out for the purpose of reinstating or renewing the Certificate of Airworthiness.
- b) carrying a number of persons and or load exceeding the limitation prescribed by the appropriate International or Government regulations or any civil instruction for aviation applicable to the Balloon.
- c) carrying Passengers exceeding in number the Passenger Limit stated in the Schedule to this Policy.

2) Use of Balloon

Underwriters shall not provide indemnity under this Policy whilst the Balloon is being used

- a) for any purpose other than in circumstances described under Balloon Use in the Schedule to this Policy unless due to force majeure.
- b) by any Pilot other than the Pilot(s) specified in the Schedule to this policy unless due to force majeure
- c) outside of the Territorial Limits unless due to force majeure
- d) for any Flight undertaken during the period of darkness between sunset and sunrise as defined by the relevant air navigation order
- e) for carriage of Passengers for hire and reward
- f) for carriage of external loads
- g) for instruction undertaken for hire and reward
- h) for any intentional Flight over any sea
- i) for any Flight undertaken for the purpose of breaking records.

3) Radioactive Contamination

Underwriters shall not provide indemnity under this Policy in respect of any

- 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
- b) Legal liability of whatsoever nature

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

- i) ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- ii) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof

4) War and Similar Risks

Underwriters shall not provide indemnity under this Policy in respect of any loss destruction or damage occasioned by or any consequence of war invasion act of foreign enemy hostilities (whether war be declared or not) civil war rebellion revolution insurrection or military or usurped power.

5) Date Recognition Exclusion Clause

This Policy does not cover any claim, damage, injury, loss, cost, expense or liability (whether in contract, tort, negligence, product liability, misrepresentation, fraud or otherwise) of any nature whatsoever arising from or occasioned by or in consequence of (whether directly or indirectly and whether wholly or partly):

- (a) the failure or inability of any computer hardware, software, integrated circuit, chip or information technology equipment or system (whether in the possession of the Insured or of any third party) accurately or completely to process, exchange or transfer year, date or time data or information in connection with any change of year, date or time;

whether on or before or after such change of year, date or time;

- (b) any implemented or attempted change or modification of any computer hardware, software, integrated circuit, chip or information technology equipment or system (whether in the possession of the Insured or of any third party) in anticipation of or in response to any such change of year, date or time, or any advice given or services performed in connection with any such change or modification;
- (c) any non-use or unavailability for use of any property or equipment of any kind whatsoever resulting from any act, failure to act or decision of the Insured or of any third party related to any such change of year, date or time;

and any provision in this Policy concerning any duty of Insurers to investigate or defend claims shall not apply to any claims so excluded.

General Policy Conditions

(applicable to the whole Policy)

1) Misdescription

This policy shall be voidable in the event of misrepresentation misdescription or non-disclosure in any material particular

2) Alteration

This Policy shall be avoided if

- a) the risk is materially increased
- b) the interest of the Insured ceases other than by death

unless agreed by Underwriters in writing.

3) Fraudulent Claims

If any claim upon this Policy shall be in any respect fraudulent or if fraudulent means or devices be used by or on behalf of the insured to obtain any benefits under this Policy or if any loss destruction or damage be occasioned by the wilful act or with the connivance of the Insured all benefit under this Policy shall be forfeited.

4) Regulations and Reasonable Care

The Insured shall observe the statutory orders regulations and directions relating to air navigation for the time being in force.

The Insured shall also take all reasonable care

- a) to prevent any event which may give rise to a claim under this Policy
- b) to maintain the Balloon and everything used in or on the Balloon in proper repair
- c) in the selection and supervision of employees
- d) to comply with all other statutory and other obligations and regulations imposed by and authority
- e) to make good or remedy and defect or danger which becomes apparent and take such additional precautions as the circumstances may require
- f) to ensure any vehicle or trailer used to convey the Balloon and its associated equipment are
 - i) maintained in a roadworthy condition
 - ii) security locks and other security devices are maintained in efficient working conditions.

5) Cancellation and Return Premiums

Underwriters may cancel this Policy or any part thereof by giving ten days notice by recorded delivery letter to the last known address of the Insured and in such case the Insured shall be entitled to the return of a proportionate part of the premium in respect of the unexpired Period of Insurance.

The Insured may cancel this Policy or any part thereof by request in writing to Underwriters and in such case the Insured shall be entitled to the return of a proportionate part of the premium in respect of the unexpired Period of Insurance subject to the customary short term premium chargeable for the risk being retained by Underwriters.

There shall be no return premium allowable in respect of any Balloon which has been the subject of a loss under this Policy other than at the discretion of Underwriters.

6) Inspection

Underwriters may at any time after providing reasonable notice to the Insured inspect the Balloon and for such purpose Underwriters' servants or agents shall be entitled to enter any place under the control of the Insured where the Balloon may be.

7) Multiple Insureds

Where the Insured comprises more than one party nothing shall increase the liability of Underwriters to pay any amount exceeding the Limit of Liability of the operative Section(s) regardless of the number of persons claiming to be indemnified.

8) Conditions precedent to Liability

The due observance and fulfilment of the terms and Conditions of this Policy insofar as they relate to anything to be done or complied with by the Insured and the truth of the statements and answers in the Proposal and declaration shall be conditions precedent to any liability of Underwriters to make any payment under this Policy.

9) Contracts (Rights of Third Parties) Act 1999 Exclusion Clause

The rights of a person who is not a party to this insurance to enforce a term of this insurance and/or not to have this insurance rescinded, varied or altered without his consent by virtue of the provisions of the Contracts (Rights of Third Parties) Act 1999 are excluded from this insurance.

10) Several Liability Notice LSW1001

The subscribing insurers' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

Section A Material Damage – All Risks

Section Definitions

(applicable to this Section wherever these words appear starting with a capital letter)

- 1) **Property Insured** shall mean
 - a) Balloon(s)
 - b) Ground Equipment
 - c) Personal Effects
- 2) **Ground Equipment** shall mean equipment used in connection with the storage and operation of the insured Balloon(s) but excluding any Balloon itself.
- 3) **Personal Effects** shall mean items
 - a) owned by the Passenger(s) and worn or carried during the Flight so far as the same are not otherwise insured
 - b) owned by the Pilot(s) stated in the schedule so far as the same are not otherwise insured
- 4) **Damage or Damaged** shall mean accidental loss of or damage to the Property Insured including whilst in Transit.
- 5) **Defined Peril** shall mean fire, lightning, explosion, aircraft and other aerial devices or articles dropped there from, riot, civil commotion, strikers, locked-out workers, persons taking part in labour disturbances malicious person other than thieves, earthquake, storm, flood, escape of water from any tank apparatus or pipe or impact by any road vehicle or animal.
- 6) **In Transit** shall mean being carried from the time the Property Insured is loaded to the time it is unloaded at its destination including loading and unloading.

The Cover

Damage occurring during the Period of Insurance arising from any accidental cause not being excepted within the Territorial Limits of the Policy.

Limit of Liability

The liability of Underwriters under this Section shall not exceed the Limit of Liability by each item of the Schedule or Appendix in respect of any one Period of Insurance or limit specified in any Extension under this Section

Basis of Claims Settlement

In the event of Damage, and subject to the limit set forth in the Schedule and any applicable Excess or Deductible, Underwriters may elect to replace the Property Insured with materials of like kind and quality or to effect repairs restoring it to a condition equivalent to or substantially the same as its condition when new. However, in the event of Damage to a Balloon envelope that has accumulated more than 200 flying hours or

which is a minimum of five years old, Underwriters may elect to settle a claim in whole or in part based upon the market value thereof at the time the Damage occurred.

Provided that:

1. Underwriters shall be under no obligation to make a payment for replacement or repair of Property Insured unless such cost shall have been actually incurred.
2. Repair or replacement of the Property Insured must commence within twelve months the date of the Damage.
3. This clause will not apply if the Property Insured is also covered in whole or in part on a different basis under another insurance policy.
4. Save to the extent that they are varied by this clause, all the terms, conditions, limitations and exclusions of this Policy will apply to claims settled hereunder.

Sectional Exceptions

Underwriters shall not indemnify the Insured for

- 1) Damage caused by
 - a) gradual deterioration, wear and tear, corrosion, rust, wet or dry rot
 - b) faulty or defective workmanship its own faulty or defective design or material latent defect
 - c) vermin or insects except as provided by Section Extension 5)
 - d) mechanical or electrical breakdown, derangement or overloading in respect of the particular machine apparatus or equipment in which such breakdown or derangement originated

but this shall not except

- i) such Damage which itself results from a Defined Peril or from any other cause not being an excepted cause or otherwise excepted
 - ii) subsequent Damage which itself results from a cause not being an excepted cause or otherwise excepted.
- 2) Damage occasioned by confiscation requisition seizure or destruction by order or any Government or public authority
- 3) Delay loss of market loss of use or consequential loss or damage of any kind.
- 4) Damage to

- a) vehicles licensed for road use (including accessories thereon) caravans
 - b) any property more specifically insured by or on behalf of the Insured.
- 5) Damage occasioned by pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.
- 6) Northern Ireland
- Damage in Northern Ireland occasioned by or happening through or in consequence of
- a) civil commotion
 - b) any unlawful wanton or malicious act committed maliciously by a person or persons acting on behalf of or in connection with any unlawful association

For the purpose of this Section Exception

“unlawful association” means any organisation which is engaged in terrorism and includes an organisation which at any relevant time is a proscribed organisation within the meaning of the Northern Ireland (Emergency Provisions) act 1973.

“terrorism” means the use of violence for political ends and includes any use of violence for the purpose of putting the public or any section of the public in fear.

In any action suit or other proceedings where Underwriters allege that by reason of the provisions of this Exception any Damage is not covered by this Policy the burden of proving that such Damage is covered shall be upon the Insured.

- 7) The Excess
- The amount of the Excess specified in the Appendix in respect of Damage as ascertained after the application of all other terms Exceptions and Conditions of this Policy.
- 8) Terrorism
- a) Damage or consequential loss for such Damage elsewhere than in Northern Ireland by fire or explosion occasioned by or happening through or in consequence directly or indirectly of **TERRORISM**
except to the extent stated in the Special Provision - Terrorism
 - b) Damage or consequential loss for such Damage in Northern Ireland occasioned by or happening through or in consequence directly or indirectly of
 - i) civil commotion
 - ii) **TERRORISM**

For the purposes of this Policy **TERRORISM** shall mean any act of any person acting on behalf or in connection with any organisation with activities directed towards the overthrowing or influencing of any government de jure or de facto by force or violence.

In any action suit or other proceedings where Underwriters allege that by reason of this definition any Damage is not covered by this Policy (or is covered only up to a specified Limit of Liability) the burden of proving that such Damage is covered (or is covered beyond that Limit of Liability) shall be upon the Insured.

Special Provision – Terrorism

Subject otherwise to the terms Exceptions and Conditions of the Policy this insurance includes Damage in England and Wales and Scotland but not the territorial seas adjacent thereto as defined by the Territorial Sea Act 1987 by fire or explosion occasioned by or happening through or in consequence of Terrorism as defined in Section Exception 8)

Provided that the liability of Underwriters in respect of such Damage shall not exceed £100,000 in respect of Balloon (s) Ground Equipment and Personal Effects (if insured or any limit or sum insured stated in respect of that loss whichever is the lower per loss occurrence)

Any provision in the Policy which provides for any sum insured or Limit of Liability to be automatically reinstated following a loss shall not apply to losses covered by this Special Provision.

Section Extensions

These Section Extensions are subject otherwise to the terms Exceptions and Conditions of this Policy.

1) Reinstatement

In the event of Damage whether or not covered by this Policy the amount of insurance in respect of any Property Insured shall be reduced as of the time and date of Damage by the amount of such Damage and

such reduced value shall continue until repairs are commenced. The insurance shall then be increased by the value of the completed repairs until the amount of insurance is fully reinstated or the Policy has expired.

2) Salvage

Underwriters shall pay the cost of salvaging any Balloon insured by this Policy and pay any salvage charges for which the Insured becomes legally liable up to a maximum Limit of Liability of £5,000 per occurrence or £10,000 in aggregate during any one Period of Insurance.

3) Removal for repair

Underwriters in addition to Section Extension 2) Salvage shall pay the reasonable cost of removing the Balloon(s) from the scene of Damage to repairers and for redelivery to the Insured at the location where the Balloon(s) is normally housed up to a maximum Limit of Liability of £1,000 per occurrence or £2,000 in aggregate during any one Period of Insurance.

4) Non-invalidation

This insurance shall not be invalidated by any act of omission or by any alteration whereby the risk of Damage is increased unknown to or beyond the control of the Insured provided that the Insured immediately he becomes aware thereof shall give notice to Underwriters and pay an additional premium if required.

5) Vermin or Insects

The cover provided by this Section extends to include Damage by vermin or insects up to a maximum Limit of Liability of £2,000

Section Conditions

1) Claims (Action by the Insured)

In the event of Damage the Insured shall

- a) notify Underwriters immediately
- b) notify the police authority immediately it becomes evident that any Damage has been caused by malicious persons or theft
- c) carry out and permit to be taken any action which may be reasonably practicable to prevent further Damage
- d) deliver to Underwriters at their own expense within 30 days after such Damage (7 days in the case of Damage caused by riot, civil commotion, strikers, locked-out-workers or persons taking part in labour disturbances or malicious persons) or such further time as Underwriters may allow
 - i) full information in writing of the property Damaged and of the amount of Damage
 - ii) details of any other insurances on any property hereby insured
 - iii) all such proofs and information relating to the claims as may be reasonably required
 - iv) if demanded a statutory declaration of the truth of the claims and of any matters connected with it

e) obtain the details of witnesses attend hearing and trials and assist in effecting settlements in the conduct of suits.

2) Claims (Reinstatement)

If any property is to be reinstated or replaced by Underwriters the Insured shall at his own expense provide all such plans documents books and information as may be reasonably required. Underwriters shall not be bound to reinstate exactly but only as circumstances permit and in a reasonably sufficient manner and shall not in any case be bound to expend in respect of any one of the items insured more than its sum insured.

3) Claims (Rights of Underwriters)

On the happening of Damage in respect of which a claim is made Underwriters and any person authorised by Underwriters may without thereby incurring any liability or diminishing any of the Underwriters' rights under this Section take or keep possession of or require to be delivered to Underwriters any Property Insured and deal with such property for all reasonable purposes and in any reasonable manner.

No property may be abandoned to Underwriters.

4) Claims (Contribution)

If at the time of any Damage there is any other insurance effected by or on behalf of the Insured covering any of the property Damaged, the liability of Underwriters hereunder shall be limited to its rateable proportion of such Damage

If any such other insurance shall be subject to any average (underinsurance) condition this Section if not already subject to any such condition of average shall be subject to average in like manner.

If any such other insurance is subject to any provision whereby it is excluded from ranking concurrently with this Section either in whole or in part or from contributing rateably the liability of Underwriters under this Section shall be limited to that proportion of the Damage which the sum insured under this Section bears to the value of the property.

5) Claims (Subrogation)

Any claimant under this Section shall at the request and expense of Underwriters take and permit to be taken all necessary steps for

enforcing rights against any other party in the name of the Insured before or after any payment is made by Underwriters.

6) Claims (Arbitration)

If any difference arises as to the amount to be paid under this Section (liability being otherwise admitted) such difference shall be referred to an arbitrator to be appointed by the parties in accordance with statutory provisions. Where any difference is by this Section Condition to be referred to arbitration the making of an award shall be a condition precedent to any right of action against Underwriters.

7) Warranties

Every warranty to which this Section or any item thereof is or may be made subject shall from the time the warranty attaches apply and continue to be in force during the whole currency of this Section. Non-compliance with any such warranty insofar as it increases the risk of Damage shall be a bar to any claim in respect of such Damage provided that whenever this Section is renewed a claim in respect of Damage occurring during the renewal period shall not be barred by reason of a warranty not having been complied with at anytime before the commencement of such period.

8) Protections Warranty

It is warranted that in respect of any premises used to house Property Insured

- a) all protections in force at the premises including any protections stipulated by or agreed by Underwriters shall be in full operation securing the premises whenever the premises are closed or left unattended
- b) any keys for the premises and or alarm systems and or any other secured area or device in which Property Insured is kept are removed from the device lock or system whenever the premises are closed or left unattended
- c) the Insured maintains the secrecy of codes for the operation of the intruder alarm installation and no details of the same are left on the premises

Section B – Liability

Section Definitions

(applicable to this Section wherever these words appear starting with a capital letter)

1) **Employee** shall mean

- a) any person under a contract of service or apprenticeship with the Insured
- b) any labour master or labour only sub-contractor or person supplied or employed by them
- c) any self-employed person
- d) any person hired to or borrowed by the Insured
- e) any person engaged under a work experience youth training or similar scheme

while working for the Insured in connection with the ownership possession or use of any Balloon.

2) **Bodily Injury** shall include

- a) death, illness or disease
- b) mental injury, mental anguish or shock but not defamation

3) **Damage** shall mean loss of or damage

4) **Property** shall mean material property

5) **Pollution or Contamination** shall mean

- a) all pollution or contamination of buildings or structures or of water or land or the atmospheres and
- b) all loss, damage or Bodily Injury directly or indirectly caused by or arising from such pollution or contamination.

6) **Excess** shall mean the total amount payable by the Insured or any other person entitled to indemnity in respect of any Damage to Property arising out of any one occurrence or series of occurrences arising out of any one cause before Underwriters shall be liable to make any payment.

If any payment made by Underwriters shall include the amount for which the Insured or any other person entitled to indemnity is responsible such amount shall be repaid to Underwriters forthwith.

7) **Compensation** shall mean all sums which the Insured shall be legally liable to pay as compensation other than punitive exemplary or aggravated damages or any additional damages resulting from the multiplication of compensatory damages.

Event 1- Public Liability

The Cover

(applicable to Event1)
in the event of accidental

- 1) Bodily Injury to any person other than any Passenger
 - 2) Damage to Property other than the Property of any Passenger
- caused by or arising from the ownership possession or use by the Insured of any Balloon Underwriters will indemnify the Insured in respect of Compensation arising out of such event.

Limit of Liability

(applicable to Event 1)

The liability of Underwriters for Compensation shall not exceed the amount stated as the Limit of Indemnity in the Appendix to this Section.

Unless otherwise stated herein or endorsed hereon any costs and expenses in respect of which an indemnity is provided by this Section will be payable in addition to the Limit of Indemnity.

Event 2 – Passenger Liability

The Cover

(applicable to Event 2)
In the event of accidental

- 1) Bodily Injury to any Passenger
 - 2) Damage to the Property of any Passenger
- caused by or arising from the ownership possession or use by the Insured of any Balloon Underwriters will indemnify the Insured in respect of Compensation arising out of such event.

Limit of Liability

(applicable to Event 2)

The liability of Underwriters for Damage to the Property of any one Passenger shall not exceed £500 and otherwise the liability of Underwriters for compensation shall not exceed the amount(s) stated as the Limit(s) of Indemnity in the Appendix to this Section.

Unless otherwise stated herein or endorsed hereon any costs and expenses in respect of which an indemnity is provided by this Section will be payable in addition to the Limit(s) of Indemnity

Section Exceptions

(applicable to Events 1 and 2)

Underwriters shall not provide indemnity against liability

- 1) in respect of Bodily Injury to any Employee arising out of and in the course of employment by the Insured in connection with the ownership, possession or use of any Balloon.
- 2) in respect of Damage to Property
 - a) belonging to the Insured
 - b) in the custody or under the control of the Insured or any Employee

Provided that for the purpose of the indemnity provided by Event 2 Section Exception 2)b) above shall not apply to the Property of any Passenger

- 3) which attached by virtue of a contract or agreement but which would not have attached in the absence of such contract or agreement.
- 4) arising from Pollution or Contamination other than caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance.

Provided that

- a) all Pollution or Contamination which arises out of such incident shall be deemed to have occurred at the time such incident takes place
 - b) the liability of Underwriters for all Compensation under Events 1 and 2 payable in respect of all Pollution or Contamination which is deemed to have occurred during the Period of Insurance shall not exceed in the aggregate the amount stated in the Appendix to this Section as the Limit of Indemnity for Event 1 (or Events 1 and 2 combined if the Limit of Indemnity for Event 1 is shown as nil)
- 5) for the Excess specified in the Appendix to this Section.

Noise Sub-Limit

(applicable to Events 1 and 2)

The Liability of Underwriters for Bodily Injury or Damage to Property arising directly or indirectly out of or occasioned by, happening through or in consequence of noise (whether audible to the human ear or not) shall not exceed £650,000 or the Limit of Indemnity in the Appendix to this Section, whichever is the lower.

Section Extensions

(applicable to Events 1 and 2)

These Section Extensions are subject otherwise to the terms Exceptions and Conditions of this Policy.

1) Claimants' Costs and Expenses

Underwriters will provide indemnity against legal liability for all costs and expenses recoverable by any claimant in connection with any claim to which the indemnity expressed in Events 1 or 2 applies.

2) Defence Costs and Expenses

Underwriters will provide indemnity in respect of all

- a) costs incurred with Underwriters' written consent of legal representation at any
 - i) coroner's inquest or other inquiry in respect of any death
 - ii) proceedings in any court in respect of any act or omission causing or relating to any occurrence
- b) other costs and expenses incurred with Underwriters' written consent in relation to any matter

which may be the subject of indemnity under Events 1 or 2.

3) Costs of Court Attendance

In the event of any of the under mentioned persons attending court as a witness at the request of Underwriters in connection with a claim in respect of which the Insured is entitled to indemnity under this Section Underwriters will reimburse the Insured at the following rates per day for each day on which attendance is required

- a) any director or partner of the Insured £250
- b) any Employee £100

4) Health and Safety at Work Act

Underwriters will provide indemnity to the Insured and at the request of the Insured any director partner or Employee of the Insured in respect of legal costs and expenses incurred with Underwriters' written consent in the defence of any criminal proceedings brought for a breach of the Health and Safety at Work etc. Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978 including such legal costs and expenses incurred in an appeal against conviction arising from such proceedings and prosecution costs awarded in connection therewith.

Provided that

- a) the proceedings relate to an offence alleged to have been committed during the Period of Insurance and in connection with the ownership, possession or use of any Balloon

- b) Underwriters shall not provide indemnity in respect of
 - i) fines or penalties of any kind
 - ii) any circumstances for which indemnity is provided by an other insurance
 - iii) proceedings consequent upon a deliberate act by or omission of any person entitled to indemnity under this Section Extension if the result thereof could reasonably have been expected having regard to the nature and circumstance of such act or omission
 - iv) proceedings which arise out of any activity or risk excluded from this Policy
 - v) proceedings which related to the health safety or welfare of any Employee
 - vi) proceedings which relate other than to the health safety or welfare of any Employee or Passenger unless Event 1 is operative at the time when the offence was committed
 - vii) proceedings which relate to the health safety or welfare of any Passenger unless Event 2 is operative at the time when the offence was committed
- c) the director partner or Employee shall as though they were the Insured be subject to the terms Exceptions or Conditions of this Policy insofar as they can apply.

5) Indemnity to Other Parties

Underwriters will also indemnify as if a separate Policy has been issued to each

- a) the legal personal representative of the Insured or any other person entitled to indemnity under this Section but only in respect of liability incurred by the Insured or such other person
- b) at the request of the Insured any Pilot specified in the Schedule to this Policy or any director partner or Employee of the Insured in respect to liability caused by or arising from activities for which the Insured would be entitled to indemnity under this Section if the claim for which indemnity is being sought had been made against the Insured
- c) the Civil Aviation Authority Airworthiness Division and or British Balloon and Airship Club in respect of liability caused or arising whilst the Balloon is being used by a Civil Aviation Authority and or British Balloon and Airship Club pilot for the purpose of a test Flight.
- d) where the Insured is a club or syndicate each individual member of the club or syndicate but only where such member is not entitled to indemnity under any other insurance

Provided that

- 1) any persons or parties specified above shall as though they were the Insured be subject to the terms Exceptions and Condition of this Policy insofar as they can apply
- 2) nothing in the Extension shall increase the liability of Underwriters to pay amount exceeding the Limit(s) of Indemnity of the operative Events(s) regardless of the number of persons or parties claiming to be indemnified.

6) Indemnity to Airport Authorities

Underwriters will also indemnify as if a separate Policy had been issued to each and waive rights or recourse against the Crown local airport authorities and other parties who may have an interest in this insurance arising out of the Insured's use in connection with any Balloon of facilities owned or operated by such parties but such indemnity or waiver shall only apply to the extent required by any contract or agreement entered into by the Insured for inter alia the use of aerodromes owned or operated by such parties

Provided that

- a) any parties specified above shall as though they were the Insured be subject to the terms Exceptions and Conditions of this Policy insofar as they can apply
- b) nothing in this Extension shall increase the liability of Underwriters to pay any amount exceeding the Limit(s) of Indemnity of the operative Event(s) regardless of the number of parties claiming to be indemnified.

7) Flying Training

Section Exception 3) shall not apply in respect of liability assumed by the Insured under a contract or agreement with the Civil Aviation Authority and or British Balloon and Airship Club in connection with flying training by the Insured of employees of the Civil Aviation Authority and or British Balloon and Airship Club.

The indemnity provided by Event 2 above will also apply in respect to liability to employees of the Civil Aviation Authority caused or arising whilst acting as crew members in connection with such flying training.

Provided that indemnity under this Extension shall not apply

- a) unless the sole conduct and control of claims is vested in Underwriters
- b) in respect of liquidated damages or liability under any penalty clause.

Section Conditions

(applicable to Events 1 and 2 except where indicated)

1) Claims (Action by the Insured)

The Insured or their legal personal representatives shall give notice in writing to Underwriters as soon as possible after any event which may give rise to liability under this Section with full particulars of such event. Every claim, notice, letter, writ or process or other document served on the Insured shall be forwarded to Underwriters immediately on receipt. Notice in writing shall also be given immediately to Underwriters by the

Insured of any impending prosecution, inquest or fatal inquiry in connection with any such event.

2) Claims (Conduct and Control)

No admission, offer, promise, payment or indemnity shall be made or given by or on behalf of the Insured without the written consent of Underwriters.

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

Claims (Contribution)

If at the time of any event to which this Section applies there is or but for the existence of this Section there would be any other insurance covering the same liability Underwriters shall not be liable under this Section except in respect of any excess beyond the amount which would be payable under such other insurance had this Section not been effected.

Claims (Discharge of Liability)

Underwriters may at any time at their sole discretion pay to the Insured the Limit(s) of Indemnity (less any sum or sums already paid in respect of or in lieu of Compensation) or any lesser sum for which the claim or claims against the Insured can be settled and Underwriters shall not be under any further liability in respect of such claim or claims except for other costs and expenses for which Underwriters may be responsible incurred prior to such payment

Provided that in the event of a claim or series of claims resulting in the liability of the Insured to pay a sum in excess of the Limit(s) of Indemnity Underwriters' liability for costs and expenses shall not

exceed an amount being in the same proportion as the Underwriters' payment to the Insured bears to the total payment made by or on behalf of the insured in settlement of the claim or claims.

5) Disputes

Any dispute concerning the interpretation of the terms of this Section shall be resolved in accordance with the jurisdiction of the territory in which this Policy is issued.

General Policy Extensions

(applicable to the whole Policy except where indicated)

These General Policy Extensions are subject otherwise to the terms Exceptions and Conditions of this Policy

1) Test Flights

General Policy Exception 2) shall not apply to liability loss or damage caused or arising whilst the Balloon is being used by a Civil Aviation Authority and or British Balloon and Airship Club pilot for the purpose of a test Flight.

2) Unauthorised Use

Notwithstanding General Policy Exception 2) Underwriters will within the terms of this Policy indemnify the Insured named in the Schedule to this Policy and no other for the purpose of this General Policy Extension in respect of liability loss or damage caused or arising whilst the Balloon is being used in a place and or in a manner and or by a person not covered by this Policy

Provided that

- a) such use has not been authorised by the Insured
- b) the Insured shall take all reasonable precautions to prevent such unauthorised use

3) Search and Rescue Costs and Expenses

Underwriters will provide indemnity in respect of costs and expenses incurred with Underwriters' consent of search and or rescue necessitated by a Fortuitous Occurrence during the Period of Insurance involving any Balloon.

Provided that

- a) the liability of Underwriters shall not exceed £5,000 in respect of any one occurrence
- b) for the purpose of this General Policy Extension the words Fortuitous Occurrence shall mean any occurrence which prevents the completion of a flight from point of origin to destination and involves either a forced landing or crash away from the premises of any recognised airfield which necessitates searching for the Balloon and or rescuing any persons involved in such forced landing or crash including where appropriate the return of such persons to the nearest point of public transportation or hospitalisation
- c) whenever possible the Insured will use their own equipment for the search and or rescue operations and such equipment shall be charged for at actual cost of operation.

- d) Underwriters shall not provide indemnity
 - i) for 2% of the agreed costs and expenses recoverable hereunder in respect of each occurrence subject to a minimum of £25 and a maximum of £100
 - ii) in respect of the costs and expenses of salvaging any Balloon which are recoverable under Section Extension 2) of Section A- Material Damage – All Risks.

Policy Endorsements

These Policy Endorsements apply only if the number set against them appears under Endorsements Applicable in the Schedule to this Policy.

1) **Carriage of Passengers for Hire and Reward Extension**

General Policy Exception 2) e) is deemed deleted and of no effect.

2) **Instruction for Hire and Reward Extension**

General Policy Exception 2) g) is deemed deleted and of no effect.

3) **Balloons in Flight Warranty**

It is warranted that only one Balloon shall be in the air at any one time.

4) **Cross Channel Flights Extension**

General Policy Exception 2) h) shall not apply in respect of any Flight across the English Channel details of which have been lodged with Underwriters.

Provided that

- a) except where the Insured is already responsible for a higher amount within the indemnity provided by this Policy, for the purpose of this Extension the amount of the Excess under
 - i) Section A is increased to £500 or 1% of each claim whichever is greater and is also to apply in the event of a total loss
 - ii) Events 1 and 2 of Section B is increased to £500
- b) Underwriters shall only provide the minimum applicable legal limit of indemnity under Event 2 of Section B in respect of any such Flight.
- c) Underwriters shall not provide indemnity in respect of any loss damage or liability caused by or arising from intentional contact with the sea except in the case of an emergency
- d) Indemnity under this Extension shall only apply in respect of such Flights where details have been provided to Underwriters and additional terms agreed prior to commencement of each such Flight.

5) **Flight Limitation**

It is warranted that the total number of flights does not exceed 20 in any one period of insurance

6) **Ground Risks Restriction**

The cover provided under Section A shall not apply in respect of Damage arising whilst the Balloon is in Flight.

7) **Night Flight Extension**

Notwithstanding General Policy Exception 2(d) it is noted that this policy includes Flights taking off within 1 and a half hours of sunrise

Provided that

- a) The amount of excess under section A and event 1 of Section B is increased to £1,000 in respect of each claim occurring during the period between sunset and sunrise as defined by the relevant air navigation order
- b) The Underwriters shall not provide indemnity under event 2 of section B in respect of any such Flight

8) **Bristol Channel Flights Extension**

It is noted that General Policy Exception 2 (h) shall not apply in respect of Flights across the Bristol Channel

9) **Night Glow Extension**

Notwithstanding General Policy Exception 2(d) it is noted and agreed that this policy includes the practice known as Night Glow Tethering.

10) **Balloon Meet Endorsement** (Sections to be completed / deleted as applicable).

Endorsement attaching to and forming part of Policy Number:-----, in the name of -----.

In respect of the Insured's attendance at ----- between ----- and -----, underwriters agree to indemnify, hold harmless, waive rights of subrogation against and include as an additional assured for their respective rights and interests -----.

Furthermore underwriters agree that for the period above, the Limit of Liability under Section B, Event(s) --- --- is amended to, -----.

11) **Third Party War & Terrorism Risks Clause**

All reference to terrorism, war and allied perils coverage in this Policy is hereby deleted and replaced by the following clauses;

War, Hi-jacking and Other Perils Exclusion Clause, applicable to all Sections of this policy

This Policy does not cover claims caused by

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

Furthermore this policy does not cover claims arising whilst 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).

AVN 48B (26.8.71)

However, in respect of Section B only, all paragraphs except paragraph b) of AVN 48B are written back, subject to **AVN52E Extended Coverage Endorsement (Aviation Liabilities) [amended]**, as below;

1. WHEREAS the Policy of which this Endorsement forms part includes the War, Hi-Jacking and Other Perils Exclusion Clause (Clause AVN 48B), IN CONSIDERATION of an Additional Premium of {included}, it

is hereby understood and agreed that with effect from inception, all sub-paragraphs other than (b) of Clause AVN 48B forming part of this Policy are deleted SUBJECT TO all terms and conditions of this Endorsement.

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

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

3. LIMITATION OF LIABILITY

The limit of Insurers' liability in respect of the coverage provided by this Endorsement shall be £5,000,000 or the applicable Policy limit whichever the lesser any one covered occurrence and in the annual aggregate (the "sub-limit"). This sub-limit shall apply within the full Policy limit and not in addition thereto.

To the extent coverage is afforded to an Insured under the Policy, this sub-limit shall not apply to such Insured's liability:

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

4. AUTOMATIC TERMINATION

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

- (i) **All cover**
upon the outbreak of war (whether there be a declaration of war or not) between any two or more of the following States, namely, France, the People's Republic of China, the Russian Federation, the United Kingdom, the United States of America
- (ii) **Any cover extended in respect of the deletion of sub-paragraph (a) of Clause AVN 48B**
upon the hostile detonation of any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter wheresoever or whensoever such detonation may occur and whether or not the Insured Aircraft may be involved
- (iii) **All cover in respect of any of the Insured Aircraft requisitioned for either title or use**
upon such requisition

PROVIDED THAT if an Insured Aircraft is in the air when (i), (ii) or (iii) occurs, then the cover provided by this Endorsement (unless otherwise cancelled, terminated or suspended) shall continue in respect of such an Aircraft until completion of its first landing thereafter and any passengers have disembarked.

5. REVIEW AND CANCELLATION

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

AVN 52E 12.12.01 [amended]