

## DECLARATIONS

Attaching to and forming part of

**DUPONT PIONEER INDEPENDENT SALES REPRESENTATIVES  
SEEDSMEN'S ERRORS & OMISSIONS INSURANCE  
POLICY NUMBER: {Missing}**

This Insurance is effected with certain Underwriters at Lloyd's

**THIS IS A CLAIMS MADE PROFESSIONAL LIABILITY  
INSURANCE POLICY. PLEASE READ CAREFULLY.**

**1. NAMED INSURED:**

{Missing}

**ADDRESS:**

{Missing}

**2. PERIOD OF INSURANCE:**

**FROM:** {Missing}

**TO:** {Missing}

00.01 AM STANDARD TIME AT THE ADDRESS SHOWN IN  
NUMBER 1 ABOVE

**3. LIMIT OF LIABILITY:**

- (a) USD {Missing} Each claim - includes Claims Expenses.
- (b) USD {Missing} Annual Aggregate - includes Claims Expenses.

**4. DEDUCTIBLE:**

- (a) USD {Missing} Each Claim deductible - includes Claims Expenses
- (b) USD {Missing} Any one Lot Annual Aggregate deductible - includes Claims Expenses

**5. GROSS PREMIUM:**

{Missing}

**6. RETROACTIVE DATE:**

{Missing}

**7. NOTICE OF CLAIM TO:**

Locke Lord LLP,  
111 South Wacker Drive,  
Chicago,  
Illinois, 60606-4410.

**8. SERVICE OF SUIT:**

{Missing}

**9. CONTRACTOR(S) OR AGENT(S) PROVIDING SEED-SELLING SERVICES  
FOR THE NAMED INSURED:**

{Missing}

**FORMS AND ENDORSEMENTS ATTACHED HERETO:**

{Missing}

**Dated in London:** {Missing}

**DUPONT PIONEER INDEPENDENT SALES REPRESENTATIVES  
SEEDSMEN'S ERRORS & OMISSIONS INSURANCE**

(This Insurance Is On A Claims Made Basis)

Underwriters do hereby agree that in consideration of the payment of the premium and in reliance upon the statements in the application which is made a part hereof and subject to the Limits of Liability, Exclusions, Conditions and other terms of this Insurance, as follows:

**INSURING AGREEMENTS**

**I. COVERAGE AND BENEFITS**

This Insurance, subject to the terms, exclusions and conditions hereof, will pay on behalf of the Insured Damages and Claims Expenses which the Insured shall become legally obligated to pay arising out of any Claim or Claims first made against any Insured and reported to the Underwriters during the Period of Insurance,

1. For failure of Seed sold by the Insured to conform to the variety or quality specified or to be suitable for the purpose specified by reason of any negligent act, error or omission of the Insured or its employees in the conduct of the Insured's business;
2. For failure of Seed sold by the Insured to conform to the variety specified by the Insured if purchased by the Insured in compliance with applicable Federal and State Seed laws, rules and regulations or from a member in good standing of a recognized Seed growers' association upon affidavit of the member that the Seed is of the specified variety and was grown by him, or certified by appropriate governmental authority;
3. For failure of Seed sold by the Insured to conform to the variety and quality specified when sold by the Insured in unopened packages received by the Insured from a supplier who is a member in good standing of a recognized Seed dealers' association;
4. By reason of any negligent act, error or omission of the Insured or its employees arising out of the processing or treating of Seed by the Insured for or on behalf of others where no sale of Seed is made;
5. By reason of the Insured's contracting with others to grow Seed for the Insured, or from the Insured's contracting to grow Seed for others, or from the Insured's sale of any Seed so grown.

**II. LIMITS OF LIABILITY**

- A. The liability of the Underwriters for each Claim, inclusive of Claims Expenses, which is first made during the Policy Period, shall not exceed the amount stated at Item 3(a) of the Declarations for "each Claim".
- B. Subject to the limit of each Claim the total limit of the Underwriters' liability, inclusive of Claims Expenses, for all Claims which are first made during the Policy Period shall not exceed the amount stated at Item 3(b) of the Declarations as "annual aggregate".

### **III. DEDUCTIBLE**

The Underwriters shall not be liable for any sum arising out of any Claim unless the amount thereof exceeds the amount stated in Item 4(a) of the Declarations as the deductible, which stated amount shall be deducted from such sum arising out of each Claim and be borne by the Insured at their own risk and the Underwriters shall only be liable for loss in excess of such stated amount. The Deductible amount stated in Item 4(a) of the Declarations, shall be paid by the Insured and shall apply to each Claim and shall include Claims Expenses. The Insured shall make direct payments within the deductible to appropriate other parties designated by the Underwriters.

In the event that more than one Claim hereunder shall result from a single negligent act, error or omission with respect to one Lot of Seed as defined hereafter, the Insured shall bear the amount stated in Item 4(a) of the Declarations as a deductible for each and every Claim, but on any one Lot an annual aggregate deductible of the amount stated in Item 4(b) of the Declarations shall apply.

### **IV. DEFENSE AND SETTLEMENT (INCLUDED IN THE LIMITS OF LIABILITY)**

1. Subject to the Limit of Liability, the Underwriters shall have the right to defend and shall be entitled to direct the defense of any Claim against the Insured covered by this Insurance, even if any of the allegations of the Claim are groundless, false or fraudulent. However, subject to Underwriters' prior consent, the Insured may defend or settle as it may see fit Claims not in excess of the deductible and shall pay all costs and expenses incurred with respect thereto if Underwriters have not exercised control over such defense or settlement.
2. It is agreed that the Limit of Liability available to pay Damages shall be reduced and may be completely exhausted by payment of Claims Expenses.
3. The Underwriters shall have the right to make any investigation they deem necessary, including, without limitation, any investigation with respect to the application and statements made in the application and with respect to coverage.
4. If the Insured shall refuse to consent to any settlement or compromise recommended by the Underwriters and elects to contest the Claim, Underwriters' liability for any Damages and Claims Expenses shall not exceed the amount for which the Claim could have been settled, plus the Claims Expenses incurred up to the time of such refusal, and the Underwriters shall have the right to withdraw from the further defense thereof by tendering control of said defense to the Insured.
5. It is further agreed that the Underwriters shall have no obligation to pay any Damages or Claims Expenses, or to undertake or continue defense of any suit or proceeding after the applicable limit of the Underwriters' liability has been exhausted by payment of Damages or Claims Expenses or after deposit of the applicable policy limit in a court of competent jurisdiction.
6. Underwriters may at any time, by paying the amount of their Limit of Liability as stated in Item 3 of the Declarations be relieved of any further liability under this Insurance.

## **DEFINITIONS**

Whenever used in this Policy, the following terms are defined as follows:

### **CLAIM**

“Claim” means a demand received by any Insured for money or services, including the service of suit or demand for arbitration.

“Claim” shall mean all claims made against the Insured by any one person, firm or corporation resulting from a single sale to one ultimate user of one variety of Seed or the processing of any one variety of Seed for one ultimate user pursuant to contract.

### **CLAIMS EXPENSES**

“Claims Expenses” means:

1. fees charged by an attorney(s) designated by the Underwriters; and
2. all other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a Claim, suit or proceeding arising in connection therewith, if incurred by the Underwriters, or by the Insured with the written consent of the Underwriters.
3. Claims Expenses does not include any salary, overhead or other charges by the Insured for any time spent in co-operating in the defense and investigation of any Claim or circumstance which might lead to a Claim notified under this Insurance.

### **DAMAGES**

“Damages” means a monetary judgement, award or settlement.

### **INSURED**

The unqualified word “Insured” whenever used in this policy means:

- (a) the individual, partnership or corporation designated as the Named Insured in Item 1 of the Declarations;
- (b) any partner, executive officer, director, or salaried employee of the Named Insured while acting within the scope of their duties as such;
- (c) any former partner, director, executive officer or salaried employee of the Named Insured for acts committed while acting within the scope of their duties as such;
- (d) any contractor or agent named in Item 9 of the Declarations providing seed-selling services for the Named Insured for acts committed solely within the scope of their duties acting for or on behalf of the Named Insured;
- (e) the estate, heirs, executors, administrators, assigns and legal representatives of any Insured in the event of such Insured’s death, incapacity, insolvency or bankruptcy, but only to the extent that such Insured would otherwise be provided coverage under this Insurance.

## **LOT**

“Lot” shall be a definite quantity of Seed identified by a lot number as prescribed by and in accordance with statutes and regulations requiring Seed to be identified by lot.

## **PERIOD OF INSURANCE**

“Period of Insurance” means the period of time between the inception date shown in the Declarations and the effective date of termination, expiration or cancellation of this Insurance.

## **SEED**

“Seed” or “Seeds” shall include seeds, bulbs, plants, roots, tubers or other similar means of plant propagation.

## **EXCLUSIONS**

The coverage under this Insurance does not apply to Damages or Claims Expenses incurred with respect to any Claim:

1. arising out of any criminal, dishonest, fraudulent, malicious or intentional act, error or omission of any Insured, committed by or at the direction of the Insured;
2. for, or which can be settled for, the purchase price of defective Seed sold by the Insured, or for replacement Seed, or the return of or reimbursement for fees, costs or expenses charged by any Insured;
3. brought about or contributed to by the sale by the Insured of any Seeds not harvested during the most recent harvest season of such Seeds, except Seeds which by custom of the trade are carried over to the following seasons and for which an analysis for purity and a germination test have been made within allowable statutory periods prior to the sale of such Seed by the Insured;
4. by one Insured under this Insurance against another Insured under this Insurance;
5. for personal injury, including but not limited to bodily injury, mental anguish, emotional distress or sickness, disease or death of any person;
6. for injury to or destruction of any tangible property, including the loss of use thereof;
7. brought about or contributed to by the transmission to plants other than those grown from such Seeds, of any disease, rust, wilt, fungus or insects or larvae or eggs thereof by Seeds sold by the Insured;
8. by reason of any indemnification, hold harmless and/or contractual agreement, written or oral, entered into by the Insured with another person, firm or corporation other than the standard limitation of warranty used in the seed trade;
9. arising out of the insolvency, liquidation or bankruptcy of any Insured or of any other entity including but not limited to the failure, inability, or unwillingness to pay Claims, losses, or benefits due to the insolvency, liquidation or bankruptcy of any such individual or entity;

10. arising out of any errors or omissions that took place prior to the effective date of this Insurance, if any Insured on the effective date knew or could have reasonably foreseen that such errors or omissions might be expected to be the basis of a Claim;
11. (a) arising out of any circumstance or occurrence which has been notified to the Insurer on any other Policy or Insurance effected prior to the inception of this policy;  
  
(b) arising out of any circumstance or occurrence known to the Insured prior to the inception hereof and not disclosed to Underwriters at inception.
12. made against the Insured for any punitive or exemplary damages, any damages which are a multiple of compensatory damages, fines, sanctions or penalties. If a Claim is made against the Insured for an alleged error or omission falling within the scope of coverage afforded by this policy seeking both compensatory and punitive or exemplary damages or damages which are a multiple of compensatory damages, fines, sanctions or penalties, then Underwriters shall have the right to assume the defense of such Claim but shall not be liable for payment of such punitive or exemplary damages or damages which are a multiple of compensatory damages, fines, sanctions or penalties;
13. due to, based upon or arising out of, directly or indirectly, or in any way involving seepage, pollution or contamination arising from any liquid, gaseous or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals, odors, noise, lead, oil or oil products, radiation, mold, asbestos or asbestos-containing products and waste, and any electric, magnetic or electromagnetic field of any frequency, in or into the atmosphere, or on, onto, upon or into the surface or subsurfaces of:
  - (a) soil;
  - (b) water or watercourse;
  - (c) objects or any tangible matters, other than Seeds sold by the Insured.
14. made against the Insured directly or indirectly brought about by, arising out of, or attributable to any actual or alleged violation of the Racketeer Influenced and Corrupt Organisations Act, 18 USC Sections 1961 et seq., or any comparable state law, and any amendments thereto, or any rules or regulations promulgated thereunder;
15. made against the Insured which at any time becomes subject to arbitration without Underwriters' written consent. This exclusion shall not apply to any Claim made against the Insured which is made subject to mandatory or compulsory arbitration solely by applicable statute or statutory regulation;

If a retroactive date is applicable to this coverage it will appear at Item 6 of the Declarations and the following exclusion shall apply:

16. The coverage under this Insurance does not apply to Damages or Claims Expenses incurred with respect to any Claim or circumstance that might lead to a Claim arising from any sales made or processing of Seed which took place, or is alleged to have taken place, prior to the retroactive date as set forth in Item 6 of the Declarations.

## **CONDITIONS**

### **1. Notice of Claim or circumstance that might lead to a Claim**

- A. It is a condition precedent of this Insurance as to any obligation of the Underwriters as respects each Claim that the Insured shall give to the Underwriters, through their

representative designated in Item 7 of the Declarations, immediate notice in writing of that Claim made against it which is covered by this Insurance. The Insured shall immediately forward to Underwriters through their representative designated in Item 7 of the Declarations, every demand, notice, summons or other process received by them or their representative and shall give to the Underwriters all information with respect to such Claim as the Underwriters may reasonably require.

- B. If during the Period of Insurance the Insured first becomes aware of any circumstance that could reasonably be the basis for a Claim it must give written notice to Underwriters through persons named in Item 7 of the Declarations as soon as practicable and during the Period of Insurance. Any subsequent Claim made against the Insured which is the subject of the written notice shall be deemed to have been made at the time written notice was first given to Underwriters.
- C. In the event of non-renewal of this Insurance by the Underwriters, the Insured shall have thirty (30) days from the expiration date of the Period of Insurance to notify Underwriters of Claims made against the Insured during the Period of Insurance which arise out of any error or omission occurring prior to the termination date of the Period of Insurance and otherwise covered by this Insurance.
- D. If any Insured shall make any Claim under this Policy knowing such Claim to be false or fraudulent, as regards amount or otherwise, this Policy shall become null and void and all coverage hereunder shall be forfeited.

## **2. Assistance and Co-operation of the Insured**

The Insured shall co-operate with the Underwriters in all investigations, including investigations regarding the application and coverage under this Policy and, upon Underwriters' request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organisation other than an employee of any Insured who may be liable to the Insured because of errors or omissions with respect to which insurance is afforded under this Policy. The Insured shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The Insured shall not, except at his own cost, admit liability, make any payment, assume any obligation, incur any expense, enter into any settlement, stipulate any judgement or award or otherwise dispose of any Claim without the consent of the Underwriters.

## **3. Cancellation**

- A. This Policy of Insurance may be cancelled by the Named Insured by surrender thereof to Underwriters or by mailing to Underwriters written notice stating when thereafter the cancellation shall be effective. This Insurance may be cancelled by the Underwriters by mailing to the Named Insured at the address shown in the Declarations written notice stating when not less than 30 days thereafter such cancellation shall be effective. However, if the Underwriters cancel this Insurance because the Insured has failed to pay a premium when due this Insurance may be cancelled by the Underwriters by mailing a written notice of cancellation to the Named Insured at the address shown in the Declarations stating when not less than 10 days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notices shall become the end of the Period of Insurance. Delivery (where permitted by law) of such written notice either by the Named Insured or by the Underwriters shall be equivalent to mailing.



- B. If the Named Insured cancels this Insurance, earned premium shall be computed in accordance with the customary short rate table and procedure. If the Underwriters cancel this Insurance, earned premium shall be computed pro rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.
- C. If the Underwriters cancel this Insurance, any Claim made against the Insured within one year after the effective date of cancellation hereof by reason of any sale of Seeds or processing of Seed by the Insured made before such cancellation hereof shall be deemed, for the purpose of this Insurance, to have been made during the subsistence hereof.

#### **4. Mergers and Acquisitions**

The Named Insured shall be required to give written notice to the Underwriters prior to the completion of a merger or acquisition by or of the Named Insured and Underwriters expressly reserve the right to demand a premium adjustment if this Insurance is to remain in force subsequent to any merger or acquisition.

#### **5. Subrogation**

- A. In the event of any payment under this Insurance, the Underwriters shall be subrogated to all the Insured's rights of recovery therefore against any person or organisation and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Insured shall do nothing after the payment of Damages by Underwriters to prejudice such rights.
- B. All salvages, recoveries or payments recovered or received subsequent to a loss settlement under this Policy shall be applied as if recovered or received prior to the aforesaid settlement, and all necessary adjustments shall be made by the parties hereto; provided always that nothing in this clause shall be construed to mean that losses under this Policy are not recoverable until the amount of such salvages or recoveries has been ascertained.

#### **6. Other Insurance**

This Insurance does not cover any liability of the Insured which is insured, or would but for the existence of this Insurance be insured by any other insurance, except in respect of any excess beyond the amount which would have been payable under such other Insurance had this Insurance not been effected.

#### **7. Territory**

This Insurance applies to errors or omissions which take place anywhere in the world provided the Claim is made against the Insured in the United States of America, its territories or possessions or Canada.

#### **8. Entire Contract**

By acceptance of this Policy the Insured agrees that the statements in the Declarations and application are their agreements and representations, that this Insurance is issued in reliance upon the truth of such representations and that this Policy embodies all agreements existing between the Insured and the Underwriters relating to this Insurance.

## **CHANGES**

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

## **ASSIGNMENT**

The interest hereunder of any Insured is not assignable. If the Insured shall die or be adjudged incompetent, such Insurance shall cover the Insured's legal representative as the Insured as would be permitted by this Policy.

## **ACTION AGAINST UNDERWRITERS**

No action shall lie against the Underwriters unless, as a condition precedent thereto, there shall have been full compliance with all terms of this Insurance, nor until the amount of the Insured's obligation to pay shall have been finally determined either by judgement or award against the Insured after actual trial, arbitration or by written agreement of Underwriters.

## **SERVICE OF SUIT**

1. It is agreed that in the event of the failure of Underwriters hereon to pay any amount claimed to be due under this Insurance, Underwriters hereon, at the request of the Named Insured, will submit to the jurisdiction of a court of competent jurisdiction within the United States. This Condition does not constitute and should not be understood to constitute an agreement by Underwriters that an action is properly maintained in a specific forum, nor may it be construed as a waiver of Underwriters' rights to commence an action in a court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any State of the United States, all of which rights Underwriters may expressly reserve. It is further agreed that service of process in such suit may be made upon the Underwriters' representative, designated in Item 8 of the Declarations, and that in any suit instituted against one of them upon this contract, Underwriters will abide by the final decision of such court in the event of an appeal.
2. The Underwriters' representative, designated in Item 8 of the Declarations, is authorised and directed to accept service of process on behalf of Underwriters in any such suit and/or upon the request of the Named Insured to give written undertaking to the Named Insured that they will enter a general appearance upon Underwriters' behalf in the event such a suit shall be instituted. Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefor, Underwriters hereon hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Named Insured or any beneficiary hereunder arising out of this contract of insurance, and hereby designate the Underwriters' representative, designated in Item 8 of the Declarations, as the person to whom the said officer is authorised to mail such process or a true copy thereof.

**DUPONT PIONEER SALES REPRESENTATIVES  
SEEDSMEN'S ERRORS & OMISSIONS INSURANCE**

**CROP CONSULTANTS PROFESSIONAL LIABILITY ENDORSEMENT**

It is hereby understood and agreed that in consideration of the Additional Premium charged the following is added to the Insuring Agreements hereunder:

**I. COVERAGE AND BENEFITS**

This Insurance, subject to the terms, exclusions and conditions hereof, will pay on behalf of the Insured Damages and Claims Expenses which the Insured shall become legally obligated to pay arising out of any Claim or Claims first made against any Insured and reported to the Underwriters during the Period of Insurance,

6. By reason of any error or omission of the Insured in rendering or failing to render the Professional Services as Crop Consultants, for others on behalf of the Named Insured designated in Item 1 of the Declarations and caused by the Insured except as excluded or limited by the terms, conditions and exclusions of this Policy.

**DEFINITIONS**

Whenever used in this Policy, the following term is defined as follows:

**Crop Consultants**

“Crop Consultants” means, wherever used in this policy, those who practice crop consulting for third parties as per the Pioneer Sales Representative Agreement including, but not limited to, recommendations for fertility, pest management, seed variety, precision farming, inoculants and regulatory compliance and crop inspection and scouting, integrated crop management, irrigation scheduling, contract research, whole farm planning, equipment selection/management, crop marketing and services for mapping, planter calibration and variable rate planting.

**EXCLUSIONS**

The coverage under this Endorsement does not apply to Damages or Claims Expenses incurred with respect to any claim:

17. Outside Offices  
arising out of any Insured's activities as a trustee, partner, officer, director or employee of any employee trust, charitable organisation, corporation, company or business other than that of the Named Insured;
18. Other Businesses  
made by or against or in connection with any business enterprise (including the ownership, maintenance or care of any property in connection therewith), not named in the Declarations, which is owned by any Insured or in which any Insured is a trustee, partner, officer, director or employee;
19. Libel/Slander  
arising out of libel or slander or other defamatory or disparaging material, or a publication or an utterance in violation of an individual's right of privacy;
20. Copyright  
arising out of plagiarism, infringement of copyright or trademark or patent;

21. **Discrimination**  
arising out of discrimination including but not limited to discriminatory employment practices;
22. **Failure to Maintain Insurance**  
arising from the failure to buy or maintain any form of insurance, suretyship or bond;
23. **Pollution, Except Crop Damage**  
due to, based upon or arising out of, directly or indirectly, or in any way involving seepage, pollution or contamination of any kind except for damage to crops grown during the growing season when the consulting services are performed, or the next growing season, arising directly out of a negligent act, error or omission by the Insured in rendering or failing to render Professional Services as Crop Consultants;
24. **Bond Payments**  
arising out of failure to pay any bond, interest on any bond, any debt, financial guarantee or debenture;
25. **Commingling of Funds**  
arising out of any actual or alleged commingling of or inability or failure to pay, collect or safeguard funds;
26. **Market Fluctuations**  
arising out of or based upon a loss alleged to have been sustained through fluctuation in the market value of any crop, security, or property including real property;
27. **Supply of Products**  
Arising out of the supply of a product other than seeds or DuPont Pioneer seed treatments or inoculants, except for advice given by the Insured at the direction of the product manufacturer;
28. **Financial Benefit from Products**  
arising out of the recommendation of products or systems wherein the Insured will benefit financially from the sale of such product or system other than DuPont Pioneer Seeds or products;
29. **Excessive or Unwarranted Fees**  
for excessive or unwarranted fees or charges of any kind, type or description;
30. **Animal Husbandry**  
due to, based upon or arising out of, directly or indirectly, or in any way involving animal husbandry other than recommendations for DuPont Pioneer inoculants.
31. **Retroactive Date**  
The coverage under this Endorsement does not apply to Damages or Claims Expenses incurred with respect to any claim or circumstance that might lead to a Claim arising out of any error or omission which took place, or is alleged to have taken place, prior to the retroactive date, as stated in Item 6 of the Declarations.

All other terms and conditions remain unchanged.