

**Attaching to and forming part of Policy Number:** {Missing}

**DECLARATIONS**

**ENCIRCA<sup>sm</sup> CERTIFIED SERVICES AGENTS  
CROP CONSULTANTS PROFESSIONAL LIABILITY INSURANCE**

This Insurance is effected with certain Underwriters at Lloyd's, London  
(Not incorporated)

**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) {Missing} Each claim - includes Claims Expenses.

(b) {Missing} Annual Aggregate - includes Claims Expenses.

**4. DEDUCTIBLE:**

{Missing} Each Claim 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  
Attn: Keith Parr

**8. PROFESSIONAL SERVICES:**

CROP CONSULTANT

**9. SERVICE OF SUIT:**

{Missing}

**10. CHOICE OF LAW:**

State of {Missing}, United States of America

**FORMS AND ENDORSEMENTS ATTACHED HERETO:**

Choice of Law and Jurisdiction.

LSW 1001 (Insurance) - Several Liability Notice.

LMA 3100 - Sanctions Limitation and Exclusion Clause

NMA 1477 - Radioactive Contamination Exclusion Clause - Liability - Direct.

NMA 1256 - Nuclear Incident Exclusion Clause - Liability - Direct.

**Dated in London:** {Missing}

**ENCIRCA<sup>sm</sup> CERTIFIED SERVICES AGENTS**  
**CROP CONSULTANTS PROFESSIONAL LIABILITY 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**

To pay on behalf of the Insured Damages and Claims Expenses which the Insured shall become legally obligated to pay because of any Claim or Claims first made against any Insured and reported to the Underwriters during the Period of Insurance arising out 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.

**II. LIMITS OF LIABILITY**

- A. The Limit of Liability stated at Item 3(a) of the Declarations as “each claim” is the limit of the Underwriters’ liability for all Damages and Claims Expenses arising out of the same, related or continuing Professional Services as Crop Consultants without regard to the number of Insureds, Claims or claimants.
- B. The Limit of Liability stated at Item 3b of the Declarations as “annual aggregate” is the total limit of the Underwriters’ liability for all Damages and Claims Expenses arising out of all Claims or circumstances which might lead to a Claim which are covered under the terms and conditions of this Policy.

**III. DEDUCTIBLE**

The Deductible amount stated in Item 4 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.

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

1. The Underwriters shall have the right and duty to defend, subject to the Limit of Liability, any Claim against the Insured covered by this Insurance, even if any of the allegations of the Claim are groundless, false or fraudulent.
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.

## **DEFINITIONS**

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

### **CROP CONSULTANTS**

"Crop Consultants" means, wherever used in this policy, those who practice crop consulting for third parties for a fee, 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, variable rate planting, crop conditions and soil conditions.

### **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 office, 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) 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.

### **DAMAGES**

“Damages” means, wherever used in this policy, a monetary judgement, award or settlement and does not include:

1. Fines, exemplary or punitive damage, statutory or other penalties, trebled or other multiple Damages imposed pursuant to statute or regulation or any exemplary or punitive Damages of whatsoever kind imposed pursuant to statute or regulation; or
2. Judgements or awards deemed uninsurable by law.

### **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.

### **CLAIM**

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

### **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 cooperating in the defense and investigation of any Claim or circumstance which might lead to a Claim notified under this Insurance.

### **EXCLUSIONS**

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

1. Dishonest/Intentional Acts  
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. Claims by Other Insureds  
by one Insured under this Insurance against another Insured under this Insurance;
3. Personal Injury  
for personal injury, including but not limited to bodily injury, mental anguish or sickness, disease or death of any person, unless arising out of an error or omission of the Insured;
4. Property Damage

for injury to or destruction of any tangible property, including the loss of use thereof, unless arising out of an error or omission of the Insured;

5. Insolvency

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;

6. 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;

7. 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;

8. Known Claim Circumstances

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;

9. Claims notified to Other Insurers

or circumstance as to which any Insured has given notice to the insurer of any other policy;

10. Contractual

arising out of or relating to any liability assumed by any Insured under any contract or agreement, whether written or oral, including but not limited to any express warranties or guarantees, or estimates of cost, unless such liability would have attached to the Insured in the absence of such agreement;

11. 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;

12. Copyright

arising out of plagiarism, infringement of copyright or trademark or patent;

13. Discrimination

arising out of discrimination including but not limited to discriminatory employment practices;

14. Failure to Maintain Insurance

arising from the failure to buy or maintain any form of insurance, suretyship or bond;

15. 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;

16. Bond Payments

arising out of failure to pay any bond, interest on any bond, any debt, financial guarantee or debenture;

17. Commingling of Funds

arising out of any actual or alleged commingling of or inability or failure to pay, collect or safeguard funds;

18. 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;

19. Supply of Products

Arising out of the supply of a product, except for advice given by the Insured at the direction of the product manufacturer;

20. 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;

21. Excessive or Unwarranted Fees

for excessive or unwarranted fees or charges of any kind, type or description;

22. Animal Husbandry

due to, based upon or arising out of, directly or indirectly, or in any way involving animal husbandry.

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

23. 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 out of any error or omission 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. If a Claim is made against any Insured, the Insured shall immediately forward to Underwriters through persons named in Item 7 of the Declarations every demand, notice, summons or other process received by them or their representative.
- B. If during the Period of Insurance the Insured first becomes aware of an error or omission 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 during the Period of Insurance of:
  - 1. the specific error or omission; and
  - 2. the injury or damage which may result or has resulted from the error or omission; and
  - 3. the circumstance by which the Insured first became aware of the error or omission.

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 Cooperation of the INSURED**

The Insured shall cooperate with the Underwriters in all investigations, including investigations regarding the application and coverage under this Policy and, upon the 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. 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 to any judgement or award or otherwise dispose of any Claim without the written 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 notice 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.

**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**

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.

**6. Other Insurance**

This Insurance shall apply in excess of any other valid and collectible insurance available to any Insured, unless such other insurance is written only as specific excess insurance over the Limit of Liability of this Policy.

**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 his 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.

**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.

### **CHANGES**

Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver 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.

### **SERVICE OF SUIT**

- A. 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 9 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.
- B. The Underwriters' representative, designated in Item 9 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 9 of the Declarations, as the person to whom the said officer is authorised to mail such process or a true copy thereof.

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### **CHOICE OF LAW AND JURISDICTION**

It is hereby understood and agreed by both the Insured and Underwriters that any dispute concerning the interpretation of this Policy shall be governed by the laws of the State as shown in Item 10 of the Declarations, United States of America.

Jurisdiction shall be in accordance with the Service of Suit Clause contained herein.

### **SEVERAL LIABILITY NOTICE**

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.

08/94

LSW1001 (Insurance)

### **RADIOACTIVE CONTAMINATION EXCLUSION CLAUSE-LIABILITY-DIRECT (U.S.A.)**

For attachment (in addition to the appropriate Nuclear Incident Exclusion Clause-Liability-Direct) to liability insurances affording worldwide coverage.

In relation to liability arising outside the U.S.A., its Territories or Possessions, Puerto Rico or the Canal Zone, this Policy does not cover any liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.

13/2/64

NMA1477

### **SANCTION LIMITATION AND EXCLUSION CLAUSE**

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

LMA3100

15 September 2010

**NUCLEAR INCIDENT EXCLUSION CLAUSE-LIABILITY-  
DIRECT (BROAD) (U.S.A.)**

For attachment to insurances of the following classifications in the U.S.A., its Territories and Possessions, Puerto Rico and the Canal Zone:

Owners, Landlords and Tenants Liability, Contractual Liability, Elevator Liability, Owners or Contractors (including railroad) Protective Liability, Manufacturers and Contractors Liability, Product Liability, Professional and Malpractice Liability, Storekeepers Liability, Garage Liability, Automobile Liability (including Massachusetts Motor Vehicle or Garage Liability),

not being insurances of the classifications to which the Nuclear Incident Exclusion Clause-Liability-Direct (Limited) applies.

This Policy\* does not apply:

- I. Under any Liability Coverage, to injury, sickness, disease, death or destruction:
  - (a) with respect to which an insured under the Policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
  - (b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- II. Under any Medical Payments Coverage, or under any Supplementary Payments Provision relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.
- III. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if:
  - (a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;
  - (b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
  - (c) the injury, sickness, disease, death or destruction arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to injury to or destruction of property at such nuclear facility.

IV. As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties; "nuclear material" means source material, special nuclear material or by-product material; "source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act 1954 or in any law amendatory thereof; "spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor; "waste" means any waste material (1) containing by-product material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof; "nuclear facility" means:

- (a) any nuclear reactor,
- (b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,
- (c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste, and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations; "nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material. With respect to injury to or destruction of property, the word "injury" or "destruction" includes all forms of radioactive contamination of property.

It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this clause is subject to the terms, exclusions, conditions and limitations of the Policy to which it is attached.

\* NOTE: As respects policies which afford liability coverages and other forms of coverage in addition, the words underlined should be amended to designate the liability coverage to which this clause is to apply.

17/3/60  
NMA1256