



U.S. Department of Transportation  
**Federal Aviation Administration**

800 Independence Ave., SW  
Washington, DC 20591

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May 7, 2003

To: *U.S. Air Carriers that have War Risk Insurance Policies with the Federal Aviation Administration (FAA)*

Re: *Policy Attachment: 50/50 Provisional Claim Settlement Clause*

The following Agreement is offered as a complementary addition to the war risk insurance policy that your company has with the FAA. This Agreement would provide an expedited process for payment of hull claims when there is uncertainty as to which policy (All Risk or War Risk) is responsible for payment of the claim.

The document outlines an agreement between the FAA, having issued the War Risk Policies, and the insurance carriers with whom you presently have all risk insurance. Once agreed to by all insuring parties, it would become an ancillary agreement to the policy between the insuring parties directing how their joint payment of the claim will be made to the insured. The ancillary agreement will then be incorporated by endorsement in your policies.

The objective is to permit an expedited claim payment while the insurance carriers determine their respective liability levels and settle among themselves. This Agreement covers the period between the time during which a covered loss occurrence takes place and the precise insurance liability is to be settled between the insuring parties. By this Agreement, the FAA and your other regular insurance carriers each agrees to pay a hull claim on a pari passu basis prior to a final determination of actual liability.

If you want to add the 50/50 provisional settlement agreement, please identify the other insurance carriers who need to be parties to the Agreement to the FAA and forward two originals of this document to those carriers for their agreement and signature. Once the other parties have signed the Agreement, return both copies to the FAA and we will counter sign and return one copy to your insurer, and keep the other one for our records.

Should you have any questions please contact Helen Kish at 202-267-9943.

Thank you.

/s/

John M. Rodgers  
Director, Office of Aviation Policy and Plans

## **50/50 PROVISIONAL CLAIM SETTLEMENT AGREEMENT FOR PREMIUM WAR RISK INSURANCE POLICIES**

WHEREAS, the Named Insured, \_\_\_\_\_, has in full force and effect:

- A. A "Hull All Risks" Policy which, inter alia, contains the War Hijacking and Other Perils Exclusion Clause (AVN48B); and
- B. A "Hull War Risks" Policy which, inter alia, covers certain of the risks excluded by AVN48B in A above.

NOW IT IS HEREBY UNDERSTOOD AND AGREED THAT:

In the event of loss of, or damage to, an aircraft identified on the Schedule of Aircraft, forming part of this Policy, and where agreement is reached between the "Hull All Risk" Insurers and the "Hull War Risks" Insurers that the Named Insured has a valid claim under one or another policy where nevertheless it cannot be resolved within twenty-one (21) days from the date of the occurrence as to which policy is liable, each of the aforementioned groups of Insurers agree, WITHOUT PREJUDICE to their liability, to advance to the Insured fifty (50%) percent of the claim amount, or in an amount consistent on a pari passu basis in the case of multiple other insurers, as may be mutually agreed between them until such time as final settlement of the claim is agreed.

PROVIDED ALWAYS THAT:

- (i) The "Hull War Risks" and "Hull All Risks" policies are identically endorsed with this Provisional Claims Settlement Agreement.
- (ii) Within twelve (12) months of the advance being made, and in the absence of a negotiated settlement of the matter, all Insurers of the policies specified in (i) above hereby agree to refer the matter to arbitration in New York, New York, in accordance with the terms of 9 U.S.C. §§ 1 through 16.
- (iii) Once the arbitration decision has been conveyed to the parties concerned, the "Hull All Risks" Insurers or the "Hull War Risks" Insurers, as the case may be, shall repay the amount advanced by the other group of Insurers together with interest for the period concerned which is to be calculated at prevailing rates at the U.S. Federal Reserve Bank.
- (iv) If the "Hulls All Risks" and "Hull War Risks" policies contain differing amounts payable, the advance will not exceed the lesser of the amounts involved. In the event of coinsurance or risks involving uninsured proportion(s), appropriate adjustment(s) will be made.

This Agreement is effective \_\_\_\_\_, 2003.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

Attached to and forming part of Federal Aviation Administration Chapter 443 Premium War Risk Policy of Policy No. \_\_\_\_\_

FOR FEDERAL AVIATION ADMINISTRATION

Print Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

FOR INSURANCE COMPANY

Name of Company (Lead Insurer) \_\_\_\_\_

Commercial Policy # \_\_\_\_\_ Term - From \_\_\_\_\_ To \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Return to: Federal Aviation Administration  
800 Independence Ave., SW, APO-3  
Washington, DC 20591