

## **SEED ERRORS & OMISSIONS RIDER CLAIMS MADE BASIS**

If the "Declarations Page" shows an amount of coverage for Seed Errors & Omissions Rider, "we" provide the coverage described in this rider in return for payment of the premium shown in the "Declarations Page" and subject to the terms and conditions set out in this rider. Certain provisions in this rider restrict coverage and it is important to read the entire rider carefully to determine rights, duties and what is and is not insured.

### **SECTION A - INSURING AGREEMENT**

The individual, firm or corporation named in the "Declarations Page" of this policy have made a written application, a signed copy of which forms part of this coverage, bearing the date stated in the said "Declarations Page" and containing particulars and statements which it is understood and agreed are the basis of this contract and are to be considered as incorporated as a part of this coverage.

This Rider is subject to all the terms and conditions of this policy, and indemnifies "you" against any "claim" made against "you" during the period stated in the "Declarations Page":

1. For failure of the seed sold by "you" to conform to the variety or quality specified or to be suitable for the purpose intended by reason of any negligent act, error or omission by "you" or "your" employees in the conduct of "your" seed business;
2. For failure of seed sold by "you" to conform to the variety specified by "you" if purchased by "you" in compliance with the applicable Federal Seeds Act and Regulations, and any Provincial 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 that member, or certified as fit for the purpose intended by an appropriate governmental authority;
3. For failure of seed sold by "you" to conform to the variety and quality specified when sold by "you" or "your" employees in unopened packages, which "you" received from a supplier who is a member in good standing of a recognized Seed Trade Association;
4. By reason of any negligent act, error or omission by "you" or "your" employees arising out of the processing or cleaning of seed by "you" for or on behalf of others where no sale of seed is made;
5. By reason of "you" contracting with others to grow seed for "you", or from "your" contracting to grow seed for others, or from "your" sale of any seed so grown.

### **SECTION B - DEDUCTIBLE**

"We" shall not be liable for any "claims" unless the amount of "claim" exceeds the amount stated in the "Declarations Page" as the deductible, which stated amount shall be deducted from each "claim" and borne by "you" at "your" own risk and "we" shall only be liable for loss in excess of such stated deductible amount. If more than one "claim" arises out of the same "lot" of seed then "you" will pay only one deductible amount as shown in the "Declarations Page" of this policy and "we" shall only be liable for any "claim" in excess of the stated deductible amount.

### **SECTION C- EXCLUSIONS**

This coverage does not apply to any "claim":

1. brought about, or contributed to by the dishonest, fraudulent, deliberate, criminal or malicious act or omission of "you" or "your" employees;
2. which can be settled for, the purchase price of defective seed sold by "you", or for replacement seed;
3. brought about or contributed to by the sales by "you" of any seeds not harvested during the most recent harvest season of such seeds, except seeds which by normal business practices are carried over to the following seasons and for which a germination test has been made within allowable statutory periods prior to the sale of such seed by "you".
4. for sale of seed made by "you" for which such seed fails a germination test as outlined in the Canada Seeds Act; Regulations or Provincial Rules and Regulations;
5. for damages in consequence of bodily injury to or death of any person or persons;
6. for damage to or destruction of the property of any person;
7. brought about or contributed to by the transmission to plants other than those grown from such seeds, of any disease, rust, wilt, blight, dry rot, scab, leaf roll, wart, leak, rhizoctonia, decay, fungus or insects or larvae or eggs by seeds sold by "you";
8. by reason of any indemnification, hold harmless and/or contractual agreement, written or oral, entered into by "you" with another person, firm or corporation other than the standard limitation of warranty normally used in the seed trade;
9. arising out of: erasure, destruction, corruption, misappropriation, misinterpretation of data; erroneously creating, amending, entering, deleting or using data; including any loss of use arising therefrom.
10. for cleanup costs relating to "Pollutants" that result in the release of hazardous materials or "Pollutants";

11. based upon or arising out of false arrest, humiliation, detention or imprisonment, wrongful entry or eviction or other invasion of private occupancy, or malicious prosecution, libel, slander or other defamatory or disparaging material, or a publication or on utterance in violation of an individual's right of privacy.
12. or any fines, penalties, punitive or exemplary damages associated with any "claim".
13. arising directly or indirectly, in whole or in part, out of "terrorism" or out of any activity or decision of a government agency or any other entity to prevent, respond to or terminate "terrorism". This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in sequence to any other "claim".

## SECTION D - CONDITIONS

1. "Our" liability shall not exceed the aggregate limit stated for any and all "claims" made against "you" in any one "policy year" the sum insured stated in the Declaration Page except that in addition, subject to the provisions contained, "we" will pay "our" share, if any, of the costs and expenses incurred with "our" consent in the defense of any "claim" in excess of the deductible and covered by this Rider. In the event that "we" have made loss payment or payments equal to the total amount of the sum insured by this Rider for "claims" made against "you" during any one "policy year", "we" shall have no further liability in respect to other "claims" made against "you" during such "policy year", either for costs and expenses incurred or otherwise.
2. "You" shall defend or settle as "you" may see fit all "claims" not in excess of the deductible and shall pay all costs and expenses incurred with respect thereto if "we" have not exercised control over such defense or settlement.
  - a. "You", as a condition precedent to "your" right to be indemnified under this Rider, shall give to "us" immediate notice in writing of any "claim" made against "you" which is covered by this Rider and which exceeds or appears likely to exceed the amount of the deductible and shall give to "us" such information with respect to such "claim" as "we" may reasonably require and to cooperate with "us" in the investigation and settlement of any such "claim";
  - b. "You" shall not without "our" written consent admit liability for or settle any such "claim" for an amount in excess of the deductible.

In the event the "claim" cannot be settled within the deductible and "we" consent to the defense of the "claim", "you" shall be entitled to direct the defense, but "you" shall render all reasonable co-operation and assistance. "You" and "us" shall share the costs (except office expenses and salaries of "our" employees) incurred in the defense of the "claim" or "claims" as follows:

- (i) If the "claim" is settled without loss payment or if the amount required to settle the "claim" is equal to or less than the deductible, "you" shall pay such costs up to the amount of the difference between the deductible and the amount, if any, paid to settle the "claim", and "we" shall pay all such costs in excess of such amount;
  - (ii) If the amount required to settle the "claim" is more than the deductible, "we" shall bear such proportion of such costs as the amount of indemnity payable by this Rider in respect to such "claim" or "claims" bears to the total amount required to settle such "claim" or "claims".
3. "We" may at any time, by paying the amount of the limit of liability as stated plus "our" share of costs, if any, incurred up to such time, be relieved of any further liability under this Rider with respect to the "claim" or "claims" in respect to which such payment is made. If such payment or payments are equal to the aggregate limit of "our" liability as stated, "we" shall have no further liability under this Rider during the remainder of the "policy year".
4. This Rider does not cover any liability arising from seed sold, cleaned or processed during the period covered by a terminated policy. There is coverage under this Rider only if the renewal is of like coverage issued by "us". In any event there is no coverage applicable to a "claim" presented which may arise resulting from any sales or negligent acts made prior to the effective date of this Rider.
5. The initial premium shown in the "Declarations Page" shall be a deposit only and shall be based upon the anticipated gross sales receipts of "your" seed business for the period of this Rider. As soon as practicable after the expiration of this Rider "you" shall report to "us" the actual gross amount of sales for the policy period. The actual earned premium for the period of this Rider shall be calculated on the basis of each \$1,000 of gross sales and receipts from seed processing, cleaning or growing seeds on contract for others, if applicable.

If the total earned premium exceeds the deposit premium paid, "you" shall immediately pay the difference to "us"; if less, then "we" shall refund the difference to "you", except that "we" shall receive and retain for the coverage period (except in the event of termination by "us") not less than the minimum premium stated in the "Declarations Page".

Any authorized representative of "us" shall have the right and opportunity to examine "your" books and records with respect to such sales at any time during the coverage period or within one year of the expiration/termination of this insurance. The adjustment of any estimate or statement or the making of any

previous settlement shall not bar such examination or "our" right to any additional premium developed by such examination.

6. It is agreed that in the event of the failure of "us" to pay any amount claimed to be due, "we" at the request of "you", will submit to the jurisdiction of any court of competent jurisdiction within Canada and will comply with all requirements necessary to give such jurisdiction and all matters arising shall be determined in accordance with the law and practice of such court. It is further agreed that service of process in such suit may be made upon the person or persons specified for the purpose in the said "Declarations Page", and that in any suit instituted against any one of them upon this Rider "we" will abide by the final decision of such court or of any Appellate Court in the event of an appeal. The above-mentioned person or persons are authorized and directed to accept service of process on behalf of "us" in any such suit and/or upon "your" request to give a written undertaking to "you" that "we" will enter a general appearance upon "your" behalf in the event such a suit shall be instituted. Pursuant to any statute of any province, territory or district of Canada which makes provision, "we" designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the province or his successor or successors in office as their true and lawful attorney upon whom may be served any lawful process in any lawful action, suit or proceeding instituted by or on behalf of "you" or any beneficiary arising out of this contract of coverage, and hereby designate the above mentioned as the person to whom the said officer is authorized to mail such process or a true copy.
7. This Rider may be terminated on the short rate basis set out below at any time at "your" written request. This Rider may also be terminated, with or without the return or tender of the unearned premium, by or on behalf of "us" by delivering to "you", or by sending to "you" by registered, certified or other first-class mail at the address of "your" Head Office stated in the said "Declarations Page", not less than 15 days' written notice stating when termination shall be effective, and in such case "we" shall refund the paid premium less the earned portion on demand. The mailing of such notice shall be sufficient proof of notice and coverage shall terminate at the date and hour specified in such notice.
8. In the event that "we" become liable for payment of loss under this Rider, "we" shall be subrogated to the amount of such liability to all "your" rights against any person, firm or corporation arising from transactions concerning the "seed" as to which "claim" or "claims" were made against "you", and "you" shall do everything which may be necessary to secure "us" such rights.
9. 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.
10. If "you" shall make any "claim" knowing the same to be false, or fraudulent, as regards amount or otherwise, this coverage shall become void and all "claims" shall be forfeited.
11. This Policy only applies to a "claim" committed by "you" anywhere in Canada.
12. All limits of coverage, premium and other amounts as expressed in this Policy are in Canadian Currency.
13. This Rider does not cover any of "your" liability which is insured or would, but for the existence of this coverage, be insured by any other Insurance. If "you" have any other insurance that would apply to a "claim" under this Rider, "we" will only be liable for any excess amount of a "claim" after any other such insurance is exhausted.

## **SECTION E – EXTENDED REPORTING PERIOD**

If "we" cancel or refuse to renew this Policy or if "you" cancel this Policy, then "you" shall have the right to an extension of the coverage granted by this Policy for a period of one year following the effective date of such cancellation or nonrenewal. Such extension of coverage shall apply solely with respect to a "claim" taking place prior to the effective date of such cancellation or nonrenewal. A written request for this extension, together with payment of the Extended Reporting Period Premium must be made within 30 days after the effective date of the nonrenewal or cancellation of the Policy. Such Extended Reporting Period Premium shall be fully earned as of such date. This extension shall not apply if this Policy is terminated by the Company for failure to pay any premium when due. The Extended Reporting Period Premium will be considered to be 75% of the annual premium as shown in the "Declarations Page" of this policy.

## **SECTION F- DEFINITIONS**

"You" and "your" refer to the Named Insured shown on the "Declarations Page".

"We"; "us" and "our" refer to the Insurer named on the "Declarations Page".

"Claim"; "Claims" shall mean all claims made against the Insured by one person, firm or corporation resulting from a single sale to one ultimate user of one variety of "seed".

"Declarations Page" shall have the same definition as the attached base policy wording

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

"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.

"Insured" shall include any partner, if the Insured is a firm; and any officer or director, if the Insured is a corporation.

"Policy Year" shall mean the period of coverage stated in the "Declarations Page".