

Why Your Company May Need Non-Owned Aircraft Liability Insurance

Does your company or your employees, acting on your behalf, ever use an aircraft you do not own? Such as:

- Chartering an aircraft
- Owning a fractional share of an aircraft
- Sharing the use of an aircraft chartered by others
- Permitting an employee to fly his privately owned aircraft while travelling on the business of your company
- Hiring an aircraft to take aerial photos of a job site
- Hiring an aircraft to patrol power or pipe lines
- Hiring an aircraft for certain heavy lift construction jobs
- Permitting aircraft to land at your facility, such as:
 - Hospitals with helipads
 - Building with helipads
 - Resorts and Golf Courses
- Arranging the use of an aircraft for others
 - Your clients
 - Helicopter tours for guests at your resort
 - Bringing in talent for your event

Is there even a remote possibility that your company has non-owned aircraft liability exposure that you are not aware of? An example of this could be an employee who unbeknownst to you is flying his personal aircraft while conducting the business of your company.

If you answered “Yes” to any of the above, your company needs a non-owned aircraft insurance policy which will protect your company in the event of a loss.

If your company is small enough that you know all of your employees personally and know with certainty that none are pilots and that your company never has and probably never will charter an aircraft you do not need non-owned aircraft coverage.

When an aircraft crashes it is usually a catastrophic event including loss of life.

When you charter, borrow, use or arrange the use of an aircraft on behalf of your company, your company will become a party to any lawsuit filed following a crash.



In the event of an aircraft crash most often the descendants of those unfortunate people killed in the crash will sue. They will sue the aircraft operator, they will sue your company for arranging the charter, they may sue the pilots' estate, they may sue the manufacturer of the aircraft...

If your company has obtained a certificate of insurance with additional insured status as well as a waiver of subrogation, the aircraft operator's insurance company will defend you in that lawsuit assuming the aircraft operator has complied with the provisions of their policy. However, the aircraft operator's insurance carrier may refuse to pay any claim for damages if the aircraft operator has failed to adhere to the provisions of their policy. Your company, as the customer of the charter operator, has no way of knowing if the operator is complying with the terms of their insurance policy. One example of this could be that the operator failed to comply with the pilot warranty provision of their policy.

If the aircraft operator's insurance carrier fails to respond in the event of a loss due to a breach of warranty, your company may be the sole remedy for defense costs and any damage award. A non-owned policy would protect you and your company in such a scenario.

If your company has signed a contract with an aircraft operator to provide flights on an as needed basis, you need to understand the terms of the contract as respects indemnity and liability. If the aircraft operator's insurance carrier has not recognized and agreed to the terms of your independent contract, your company may not be covered.

If the aircraft operator's insurance company has agreed to settle any bodily injury and/or property damage claims as a result of a single crash or incident or multiple incidents, the operator's insurance policy limit may be exhausted. If you have a non-owned aircraft policy, the coverage will provide an excess layer of protection.

If you charter an aircraft to take several employees and clients to a meeting, and that aircraft crashes, the number of passengers on the flight multiplied by any wrongful death damage awards can easily exhaust the limits of insurance carried by the aircraft operator. In addition each of the claimants/descendants of the passengers may file lawsuits against your company. The defense costs alone can be astronomical.

In 2009 it was determined following a study of wrongful death awards that the average award for a 35 year old male in the US with two children and an established career ranges from \$5.5 to \$7.5 million.

In reality a wrongful death damage award in the US may be much higher than the average. Many times charters are arranged for a company's top level executives and major clients. Though it may seem unfair, high net worth individuals are not average. One of the major considerations courts take into account in a wrongful death case is loss of support or earnings. This means lost earnings due to the death of a wealthy person will be higher than that of the average person.

Property damage as the result of a crash is another consideration. If the aircraft you have chartered crashes killing the passengers while also damaging property or injuring persons on the ground, the damage awards will apply to the aircraft operator's primary limit of liability insurance. This single limit covers all bodily injury/death and property damage, including passengers. Again the aircraft operator's liability coverage may be inadequate to cover all damages in the event of a crash. Your company is the next in line whether you have insurance or not.

When an aircraft crashes and people are injured or killed, there will be lawsuits. This is not a maybe, it is what will happen. "Sorry, Joe's wife, my company didn't know Bob, our employee, was taking your husband Joe, our valued client, on a business trip in a borrowed aircraft. We did not give Bob permission to take Joe anywhere. We didn't know Bob was a pilot."

- Bob's employer knew or should have known that Bob was a pilot.
- They should have had a corporate policy in place prohibiting the use of personal, rented or borrowed aircraft unless approved through a comprehensive screening process.
- They should have had a non-owned aircraft policy in place to protect them because there was exposure to risk they were not aware of.

If you have a non-owned aircraft liability policy, your insurance carrier will defend you regardless of the circumstances, even if the claim is groundless, false or fraudulent. Your insurance carrier will not only defend you but will also settle any claim for damages for which you are found legally liable, up to the limits of non-owned aircraft liability coverage you purchase. The importance of having insurance from a highly rated company with a highly experienced claims team cannot be overstated.

Bottom line is you should never expose your company to a significant and catastrophic financial loss when non-owned aircraft liability is available and a small price to pay to fill in any gaps in your insurance portfolio. Without non-owned aircraft liability coverage, your company, its directors and officers may be personally and financially responsible for defense costs and damage awards.



Your insurance broker is best qualified to help you determine the types of coverage and the limits of insurance your company needs. Typically the non-owned aircraft limit of liability you purchase is the attachment point of your Umbrella policy as respects the use of aircraft. Umbrella policies vary greatly from company to company so it is important that you understand what is and what is not covered. You may also be required to carry a certain limit of insurance in order to bid on a contract or under the terms of a contract already in place with a trading partner.

If you're the Risk Manager or Senior Executive at a medium size company, your insurance broker should ask about any aircraft exposure as part of their checklist in putting together your insurance portfolio. If you are the Risk Manager at a large company with thousands of employees in multiple locations around the world, you absolutely have exposure whether you are aware of it or not.

If your company has non-owned aircraft exposure, you should have a corporate policy or directive in place regarding the use of hired or chartered aircraft. The directive should explicitly prohibit the piloting of personal aircraft by employees who are not professional aircraft pilots. It should also have detailed step by step information as to your company's internal approval process when chartering aircraft is required.

Selecting a charter operator or finding a charter broker to assist your company with selecting a charter operator is an important task. Unless you have expertise in business aviation you may not be qualified to know what to look for when hiring or chartering an aircraft or when utilizing the services of a charter broker. This lack of knowledge and experience can be a cause of action in a lawsuit.

Visit the National Business Aviation Association (NBAA) www.nbaa.org website to look up the *Aircraft Charter Consumer Guide* for helpful information.



Our job at Worldlink Specialty Insurance is to work closely with your broker to understand your non-owned aircraft coverage needs. Our knowledge and experience means we have worked with every type of industry in every corner of the world. It also means we understand the complex issues our clients face, including contractual requirements, whether governmental or private sector.

We can cover almost any aircraft, from a helicopter to a corporate jet to a jumbo jet, and our coverage applies anywhere in the world.

The general or business aviation market is highly competitive, which means rates have never been lower and coverage has never been more comprehensive.

We are proud to partner with Allianz Global Corporate & Specialty (AGCS) one of the largest providers of property and casualty insurance in the world. AGCS has been assigned a Financial Strength Rating of A+ (Superior) by A.M. Best.

Contact your aviation broker or contact us if you would like additional information.

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