

PILOT COST OF PRODUCTION INSURANCE POLICY

(This is a continuous policy. Refer to section 3.)

This policy is reinsured by the Federal Crop Insurance Corporation (**FCIC**) under the provisions of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 **et seq.**) (Act). All provisions of the policy and rights and responsibilities of the parties are specifically subject to the Act. The provisions of the policy may not be waived or varied in any way by the crop insurance agent or any other agent or employee of FCIC or us. In the event we cannot pay your loss, your claim will be settled in accordance with the provisions of this policy and paid by FCIC. No state guarantee fund will be liable for your loss.

Throughout the policy, “you” and “your” refer to the named insured shown on the accepted application and “we,” “us,” and “our” refer to the insurance company providing insurance. Unless the context indicates otherwise, use of the plural form of a word includes the singular and use of the singular form of the word includes the plural.

Agreement to Insure: In return for the payment of the premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in the policy. If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Special Provisions; (2) the Crop Provisions; and (3) these Basic Provisions, with (1) controlling (2), etc.

TERMS AND CONDITIONS BASIC PROVISIONS

1. Definitions.

Abandon – Failure to perform activities at a level to provide benefit to the agricultural commodities produced on the farm, or failure to harvest or market in a timely manner, unless an insured cause of loss prevents you from properly caring for, harvesting, or marketing the commodities or causes damage to them to the extent that most producers of the commodities on acreage in the area with similar characteristics would not normally further care for or harvest them.

Acreage report – A report required by section 7 of these Basic Provisions that contains, in addition to other required information, your report of your share of all acreage of an insured crop, whether insurable or not insurable.

Acreage reporting date – The date contained in the Special Provisions or as provided in section 7 by which you are required to submit your acreage report.

Act – The Federal Crop Insurance Act (7 U.S.C. 1501 **et seq.**).

Actuarial documents – The material for the crop year that is available for public inspection in your agent’s office, which shows the available coverage levels, premium rates, practices, insurable acreage, and other related information.

Administrative fee – An amount you must pay for each crop year as specified in section 8.

Agricultural commodity – Grain and non-grain crops, vegetables, fruits, nuts, nursery plants, floriculture, Christmas trees, maple tree sap, products from animals such as milk, eggs, etc., excluding timber, forest, and forest products.

Allowable expenses (per acre) – The dollar amount per acre directly associated with the production of each insured crop during the current crop year for your share as listed by you on the covered expenses worksheet at the time of application. Any expense incurred after the end of the insurance period that directly influences the production of each crop for the next crop year will be covered as an allowable expense under the policy for the next crop year (or insurance period). Any dollar amount refunded, credited, prepaid, and any other expense not expended will not be considered an allowable expense. The applicable allowable expense categories are:

- (a) Variable cost expenses;
- (b) Fixed cost expenses; and
- (c) Land fee expenses.

Your premium and administrative fee for this policy are not allowable expenses. The total amount of variable cost expenses, fixed cost expenses, and land fee expenses may be limited by the Special Provisions and cannot exceed the amount designated in the Special Provisions.

VARIABLE COST EXPENSES

Variable cost expenses – The dollar amount per acre directly associated with the production of each COP insured crop during the current crop year as listed by you on the covered expenses worksheet at the time of application. The maximum allowable variable cost expenses are provided in the Special Provisions. The applicable variable cost expenses include seed, annual or perennial plants, or tree placement expenses, fertilizer, chemicals, fuel, lube, utilities, repairs, maintenance, hired labor, other labor, custom operations, harvesting, irrigation, operating loan interest, other variable cost expenses, and post-harvest expenses and other costs that are crop specific and are described in the Crop or Special Provisions.

Chemical expenses – Expenses paid for herbicides, insecticides, and other chemicals used in the production of each COP insured crop, and includes, but is not limited to, adjuvants, fungicides, pre-emergents, dormant oils, copper, rodenticides, and growth regulators.

Custom operations expenses – Expenses paid to others for performing specific operations required for normal production practices (e.g. spraying, harvesting) for COP insured commodities.

Fertilizer expenses – Expenses paid for fertilizer used in the production of each COP insured crop, and includes, but is not limited to, ammonium nitrate, anhydrous ammonia, phosphorus, phosphate, potassium, potash, and lime.

Fuel, lube, and utilities expenses – Expenses paid for gasoline, diesel, kerosene, fuel/oil additives, lubricants, greases, electricity, non-irrigation water, natural gas, propane, or heating oil for equipment, vehicles, and facilities associated with the production of each COP insured crop.

Harvesting expenses – Expenses paid for the picking or removal of each mature COP insured crop from plants or trees by hand or machine.

Hired labor expenses – Expenses paid to laborers (non-owner labor) to work with each COP insured crop(s) including wages, payroll taxes, and employment-related insurance and benefits (does include unemployment insurance, health/disability/life insurance, or workers' compensation). This excludes owner, landlord, and share renter labor.

Irrigation expenses – Expenses paid for water and its application used exclusively in providing moisture to seeds, plants, or trees involved in the production of each COP insured crop.

Operating loan interest expenses – Expenses paid for interest charges on operating capital directly related to the production of each insured crop. Does not include interest relating to the financing of machinery, equipment, implements, real estate, other enterprises, or non-COP insured or uninsured crops.

Other labor expenses – Expenses paid for unallocated labor and management fees relating to the production of each COP insured crop.

Post-harvest expenses - Post-harvest operation expenses paid for each COP insured crop, such as cotton ginning, that are crop specific and are described in the Crop or Special Provisions.

Repairs and maintenance expenses – Expenses paid for the repairs and regular maintenance of capital assets such as vehicles, equipment, implements, and facilities used in the production of each COP insured crop.

Seed, annual or perennial plants expenses – Expenses paid for seed, annual or perennial plants used in production of each COP insured crop.

Other variable cost expenses – Expenses paid for supplies and other miscellaneous expenses used in the production of each COP insured crop which vary with the amount of acreage or production and include premiums for named peril crop insurance such as hail insurance and mandatory check-off fees.

FIXED COST EXPENSES

Fixed cost expenses – Expenses paid for accounting, property taxes, property and liability insurance (does not include unemployment insurance, health/disability/life insurance, or workers' compensation), office expenses, capital depreciation, term loan interest on machinery, equipment, real estate loans, and organization dues, and may include an expense which represents owner labor. Maximum fixed cost and land fee expenses are provided in the Special Provisions. Fixed cost expenses, other than crop specific expenses, that are applicable to second crops and double cropping will be allocated based on the expected gross income of the crops involved if any subsidized insurance under the FCIC Act was offered on both crops (see section 18 (g)(1) for example of expense allocation).

Capital depreciation – The allocation, over time, of the original cost, less salvage value, of a capital asset having limited useful life (i.e. machinery, buildings, etc.) by a non-cash expense periodically charged against income over

the service, or useful, life of that asset in a rational and systematic manner.

Owner labor – Unallocated owner, landlord, or share renter labor and management relating to the production of each COP insured crop by the grower.

Term loan interest - Expenses paid for interest charges on capital for the financing of machinery, equipment, implements, real estate, or other such items.

LAND FEE EXPENSES

Land fee expenses – The dollar amount that represents a return to ownership of land, cash rent, or land ownership cost relating to the production of each COP insured crop. Maximum allowable land fee expenses and fixed cost expenses are provided in the Special Provisions. Land fee expenses for a unit will be based on the share that land represents. Land fee expenses for second crops and double cropping will be allocated based on the expected gross income of the crops if any subsidized insurance under the FCIC Act was offered on both crops (see section 18 (g)(1) for example of expense allocation).

Allowable income – Your share of farm income from the production of the insured crop including only the amount received from:

- (a) The sale of the insured crop you raised during the current crop year;
- (b) USDA payments that apply to the crop insured and may be further defined in the Crop Provisions;
- (c) Other allowable sources of income detailed in the Crop or Special Provisions including the value of appraised production, production not sold; and
- (d) Indemnities from named peril crop insurance, such as hail insurance.

Another use, notice of – The written notice required when you wish to put acreage to another use. (See sections 15 and 35).

Application – The form required to be completed by you and accepted by us before insurance coverage will commence. This form must be completed and filed in your agent's office not later than the sales closing date of the initial crop year for each crop for which insurance coverage is requested. If cancellation or termination of insurance coverage occurs for any reason, including but not limited to indebtedness, suspension, debarment, disqualification, cancellation by you or us or violation of the controlled substance provisions of the Food Security Act of 1985, a new application must be filed for the crop. Insurance coverage will not be provided if you are ineligible under the contract or under any Federal statute or regulation.

Approved expenses (per acre) – The dollar amount of your allowable expenses (per acre) that are approved by us.

Approved yield – The amount of production per acre computed in accordance with FCIC's Actual Production History Program (7 CFR part 400, subpart G) including any adjustments elected under section 37 or for crops not included under 7 CFR part 400, subpart G, the yield used to determine the expected gross income and premium rate will be calculated in accordance with the Crop Provisions and the Special Provisions.

Assignment of indemnity – A transfer of policy rights, made on our form, and effective when approved by us. It is the arrangement whereby you assign your right to an indemnity payment to any party of your choice for the crop year.

Bypassed acreage – Land on which a crop, grown under a processor contract, is ready for harvest but the buyer elects not to accept such crop; so it is not harvested.

Cancellation date – The calendar date specified in the Crop Provisions on which coverage for the crop will automatically renew unless canceled in writing either by you or us or terminated in accordance with the policy terms.

Catastrophic risk protection - The minimum level of coverage offered by FCIC that is required before you may qualify for certain other USDA program benefits unless you execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop. In accordance with section 4(k), this coverage is not available under these Basic Provisions.

Claim for indemnity – A claim made on our form by you for loss to an insured crop and submitted to us not later than 60 days after the end of the insurance period (see section 15).

Consent – Approval in writing by us allowing you to take a specific action.

Contract – (See “Policy”).

Contract change date – The calendar date by which we make any policy changes available for inspection in the agent’s office (see section 5).

Contract price – A price for production agreed upon for the sale of a COP insured crop between the grower (insured) and a buyer of the COP insured crop.

COP – Cost of Production.

County – Any county, parish, or other political subdivision of a state shown on your accepted application, including acreage in a field that extends into an adjoining county if the county boundary is not readily discernable.

Coverage – The insurance provided by this policy, against insured causes of loss resulting in allowable income less than the covered expenses.

Coverage begins, date – The later of the calendar date that insurance begins for the insured crop, as contained in the Crop Provisions, or the date planting begins on the unit. (See section 18 of these Basic Provisions for specific provisions related to prevented planting).

Covered expenses (per acre)– The total of your approved expenses (per acre) multiplied by your coverage level percentage. In the event of loss or damage covered by this policy, your covered expenses will be reduced if the approved expenses cannot be documented or were not expended. Such reduction will not reduce the premium earned at the time coverage began.

Covered expenses worksheet – The form required to be completed by you and accepted by us, submitted with your application, on which you certify your allowable expenses (per acre) and we certify the approved expenses (per acre) and your expected gross income for the initial crop year. All variable cost expenses for each insured crop must be supported by verifiable records. You and we may mutually agree to change applicable entries for subsequent crop years in accordance with the terms of the

policy, Crop Provisions, or Special Provisions on or before the applicable sales closing date for the crop. If during the crop year, you become aware of a cost increase in excess of 20 percent in a variable cost expense category, you must notify your agent. YOUR POLICY LIABILITY WILL NOT BE INCREASED. In the event of a claim, failure to revise your covered expenses worksheet will result in the cost category increase being limited to 120 percent of the expected cost.

Crop provisions – The part of the policy that contains the specific provisions of insurance for each crop insured.

Crop specific expenses – Expenses, which apply to only one crop, such as capital depreciation of a cotton harvester.

Crop year – The period within which the insured crop is normally grown regardless of whether or not it is actually grown and designated by the calendar year in which the crop is normally harvested.

Damage – Injury, deterioration, or loss of production of the insured crop due to insured or uninsured causes.

Damage, notice of – A written notice required to be filed in your agent’s office whenever you initially discover the insured crop has been damaged to the extent that a loss is probable (see section 15).

Days – Calendar days.

Deductible – The amount determined by subtracting the coverage level percentage you choose from 100 percent. For example, if you elect a 70 percent coverage level, your deductible would be 30 percent (100% - 70% = 30%).

Delayed payments – Payments for agricultural commodities that are not made in full at the time of delivery.

Delinquent account – Any account you have with us in which premiums and interest on those premiums are not paid by the termination date specified in the Crop Provisions, or any other amounts due us, such as indemnities found not to have been earned, which are not paid within 30 days of our mailing or other delivery of notification to you of the amount due.

Direct marketing – Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper, or buyer. Examples of direct marketing include selling through an on-farm or roadside stand, farmer’s market, or permission for the general public to enter the field for the purpose of picking all or a portion of the crop.

Earliest planting date – The earliest date established for planting the insured crop (see Special Provisions and section 14).

Economic significance – The value of the crop, or of a type or variety of the crop (if the applicable crop policy allows you the option to separately insure individual crop types or varieties) equal to ten percent (10%) or more of the total value of your share of all crops grown in the county the previous crop year or that you expect to grow in the current crop year.

End of insurance period, date of – The date upon which your crop insurance coverage ceases for the crop year (see Crop Provisions and section 12).

Establishment costs – Expenses incurred during the nonproductive (establishment) phase of a perennial crop.

These costs are recognized over the productive life of the crop and are not covered under this insurance program.

Expected gross income (per acre) – The revenue anticipated, on a per acre basis, calculated by multiplying your approved yield times the expected market price times your share. For crops where insurance is offered that do not require approved yields, the revenue anticipated on a per acre basis, calculated by multiplying the maximum amount of insurance available times your share.

Expected market price – The higher of the applicable FSA county loan rate, the FCIC issued established or additional price election, whichever is applicable, or a contract price if requested and approved by us on or before the sales closing date. If a contract price is approved for less production than the total approved yield, the expected market price will be a weighted average of the contract price and the other applicable price.

FCIC – The Federal Crop Insurance Corporation, a wholly owned government corporation within USDA.

Field – All acreage of tillable land within a natural or artificial boundary (e.g. roads, waterways, fences, etc.).

Final planting date – The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full covered expenses per acre.

FSA – The Farm Service Agency, an agency of the USDA, or a successor agency.

FSA farm serial number – The number assigned to the farm by the local FSA office.

Good farming and management practices – The practices used in the area for the production and marketing of the agricultural commodities produced by you that are determined by us as necessary to produce at least the approved yield. For crops, the practices are those determined by us to be recognized by the Cooperative State, Research, Education, and Extension Service as compatible with the agronomic, weather and other conditions in the area. Good farming and management practices will include replacing (or replanting annual crops) damaged or destroyed agricultural commodities when it is reasonable to expect the allowable income from the sale of such agricultural commodities to exceed the cost of replacing or replanting the agricultural commodities.

Harvest – The picking or removal of the mature insured crop from plants or trees by hand or machine.

Increased Covered Expenses Endorsement – An endorsement, available on a crop basis, which will provide for additional covered expenses for unforeseen necessary pesticide purchase and application.

Insured – The named person as shown on the application accepted by us. This term does not extend to any other person having a share or interest in the crop (for example, a partnership, landlord, or any other person) unless specifically indicated on the accepted application.

Interplanted – Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice – A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper time, with the intention of providing the quantity of water needed

to produce at least the approved yield on the irrigated acreage planted to the insured crop.

Late planted acreage – Acreage initially planted to the insured crop after the final planting date.

Late planting period – The period that begins the day after the final planting date for the insured crop and ends 25 days after the final planting date, unless otherwise specified in the Crop Provisions or Special Provisions.

Limited resource farmer – A producer or operator of a farm:

- (a) With an annual gross income of \$20,000 or less derived from all sources, including income from a spouse or other members of the household, for each of the prior two years; or
- (b) With less than 25 acres aggregated for all crops, where a majority of the producer's gross income is derived from such farm or farms, but the producer's gross income from farming operations does not exceed \$20,000.

Loss, notice of – The notice required to be given by you not later than 72 hours after certain occurrences or 15 days after the end of the insurance period, whichever is earlier (see section 15).

Negligence – The failure to use such care as a reasonably prudent and careful person experienced in the production of insured crops would use under similar circumstances.

Person – An individual, partnership, association, corporation, estate, trust, or legal entity, and wherever applicable, a State or a political subdivision or agency of a State. "Person" does not include the United States Government or any agency thereof.

Planted acreage – Land in which seed, plants, or trees have been placed, appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice.

Policy – The agreement between you and us consisting of the accepted application, these Basic Provisions, the Crop Provisions, the Special Provisions, other applicable endorsements or options, the actuarial documents for the insured crop, and the applicable regulations published in 7 CFR chapter IV.

Practical to replant – Our determination, after loss or damage to the insured crop, based on all factors, including, but not limited to moisture availability, marketing window, condition of field, and time to crop maturity, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period or the final planting date if no late planting period is applicable, unless replanting is generally occurring in the area. Failure to replant due to unavailability of seed or plants will result in no insurance coverage if the policy requires the crop to be replanted.

Premium billing date – The earliest date upon which you will be billed for insurance coverage based on your acreage report. The premium billing date is contained in the Special Provisions.

Prevented planting – Failure to plant the insured crop with proper equipment by the final planting date

designated in the Special Provisions for the insured crop in the county. You may also be eligible for a prevented planting payment if you failed to plant the insured crop with the proper equipment within the late planting period. You must have been prevented from planting the insured crop due to an insured cause of loss that is general in the surrounding area and that prevents other producers from planting acreage with similar characteristics.

Processor – A business enterprise regularly engaged in the processing of a crop that possesses all licenses and permits for processing the crop required by the state in which it operates, and that possesses facilities, or has contractual access to such facilities, with enough equipment to accept and process the contracted crop within a responsible amount of time after harvest.

Production report – A written record showing your annual production and used by us to determine your yield for insurance purposes. The report contains yield information for previous years, including planted acreage and harvested production. This report must be supported by written verifiable records from a warehouseman or buyer of the insured crop, by measurement of farm-stored production, or by other records of production approved by us on an individual case basis.

Replanting – Performing the cultural practices necessary to prepare the land to replace the seed or plants of the damaged or destroyed insured crop and then replacing the seed or plants of the same crop in the insured acreage.

Replanting expenses – Expenses paid for the replanting of an insured crop.

Representative sample – Portions of the insured crop that must remain in the field for examination and review by our loss adjuster when making a crop appraisal, as specified in the Crop Provisions. In certain instances, we may allow you to harvest the crop and require only that samples of the crop residue be left in the field.

Sales closing date – A date contained in the Special Provisions by which an application must be filed. The sales closing date is the last date by which you may change your crop insurance coverage for a crop year.

Second crop – With respect to a single crop year, a crop that is planted on the same acreage after an initially planted crop is destroyed or was prevented from being planted on such acreage and does not include a replanted first crop.

Share – Your percentage of interest in the insured crop as an owner, operator, or tenant at the time insurance attaches. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share at the earlier of the time of loss or the beginning of harvest.

Special provisions – The part of the policy that contains specific provisions of insurance for each insured crop that may vary by geographic area.

State – The state shown on your accepted application.

Substantial beneficial interest – An interest held by any person of at least 10 percent in the applicant or insured.

Summary of coverage – Our statement to you, based upon information you supply, specifying the insured crop and the covered expenses by unit.

Tenant – A person who rents land from another person for a share of the crop or a share of the proceeds of the crop (see “share” above).

Termination date – The calendar date contained in the Crop Provisions upon which your insurance ceases to be in effect because of nonpayment of any amount due us under the policy, including premium.

Timely planted – Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

USDA – United States Department of Agriculture.

Verifiable records – Allowable variable cost expenses that are confirmed through valid documentation and provided to you by the seller of the inputs for the COP insured crop and written records developed contemporaneously with the event recorded (such as harvested production, sale of a crop, etc.) provided from a third party (such as records from a warehouse, processor, packer, broker, etc.) or by measurement of farm stored insured crops that are acceptable to us.

Void – When the policy is considered not to have existed for a crop year as a result of concealment, fraud, or misrepresentation (see section 29).

Written agreement – A document that alters designated terms of a policy as authorized under these Basic Provisions, the Crop Provisions, or the Special Provisions of the insured crop (see section 19).

2. Unit Structure.

- (a) Enterprise Unit – All insurable acreage of the insured crop in the county in which you have a share on the date coverage begins for the crop year.
- (b) Whole-farm Unit – All insurable acreage of the insured crops in the county in which you have a share on the date coverage begins for each crop for the crop year. This unit is established from two or more enterprise units that contain planted insured crop acreage as defined in section 2(a).
- (c) Selection of unit structure – You may elect a whole-farm unit if provided for in the actuarial documents subject to the following:
 - (1) You must make such election by the earliest sales closing date for the insured crops and report such unit structure to us in writing. Your unit selection will remain in effect from year to year unless you notify us in writing by the earliest sales closing date for the crop year for which you wish to change this election. The unit may not be further divided. If you select and qualify for a whole-farm unit, you will qualify for a premium discount. If you do not qualify for a whole-farm unit when the acreage is reported, we will assign the enterprise unit structure.
 - (2) For a whole-farm unit:
 - (i) You must report on your acreage report the acreage for each crop unit produced in the county that comprises the whole-farm unit; and
 - (ii) Although you may insure all of your crops under a whole-farm unit, you will be required to pay separate applicable administrative fees for each crop included in the whole-farm unit.

(d) The applicable unit structure must be stated on the acreage report for each crop year.

3. Life of Policy, Cancellation, and Termination.

(a) This is a continuous policy and will remain in effect for each crop year following the acceptance of the original application until canceled by you in accordance with the terms of the policy or terminated by operation of the terms of the policy by us.

(b) You must be a qualifying person and your application for insurance must contain all the information required by us to insure the crop. Applications that do not contain all Social Security numbers and employer identification numbers, as applicable (except as stated herein) coverage level, crop, type, variety, or class, plan of insurance, and any other material information required to insure the crop, are not acceptable. If a person with a substantial beneficial interest in the insured crop refuses to provide a Social Security number or employer identification number, the amount of coverage available under the policy will be reduced proportionally by that person's share of the crop.

(c) After acceptance of the application, you may not cancel this policy for the initial crop year. Thereafter, the policy will continue in force for each succeeding crop year unless canceled or terminated as provided below.

(d) Either you or we may cancel this policy after the initial crop year by providing written notice to the other on or before the cancellation date shown in the Crop Provisions.

(e) If any amount due, including administrative fees or premium, is not paid or an acceptable arrangement for payment is not made on or before the termination date for the crop on which the amount is due, you will be determined to be ineligible to participate in any crop insurance program authorized under the Act in accordance with 7 CFR part 400, subpart U:

(1) For a policy with the unpaid administrative fees or premium, the policy will terminate effective on the termination date immediately subsequent to the billing date for the crop year;

(2) For a policy with other amounts due, the policy will terminate effective on the termination date immediately after the account becomes delinquent;

(3) Ineligibility will be effective as of the date that the policy was terminated for the crop for which you failed to pay an amount owed and for all other insured crops with coincidental termination dates;

(4) All other policies that are issued by us under the authority of the Act will also terminate as of the next termination date contained in the applicable policy;

(5) If you are ineligible, you may not obtain any crop insurance under the Act until payment is made, you execute an agreement to repay the debt and make the payments in accordance with the agreement, or you file a petition to have your debts discharged in bankruptcy;

(6) If you execute an agreement to repay the debt and fail to timely make any scheduled payment,

you will be ineligible for crop insurance effective on the date the payment was due until the debt is paid in full or you file a petition to discharge the debt in bankruptcy and subsequently obtain discharge of the amounts due;

(7) Dismissal of the bankruptcy petition before discharge will void all policies in effect retroactive to the date you were originally determined ineligible to participate;

(8) Once the policy is terminated, the policy cannot be reinstated for the current crop year unless the termination was in error;

(9) After you again become eligible for crop insurance, if you want to obtain coverage for your crops, you must reapply on or before the sales closing date for the crop (Since applications for crop insurance cannot be accepted after the sales closing date, if you make any payment after the sales closing date, you cannot apply for insurance until the next crop year); and

(10) If we deduct the amount due us from an indemnity, the date of payment for the purpose of this section will be the date you sign the properly executed claim for indemnity. For example, if crop A, with a termination date of January 31, 2002, and crop B, with a termination date of March 15, 2002, are insured and you do not pay the premium for crop A by the termination date, you are ineligible for insurance as of January 31, 2002, and crop A is terminated on that date. Crop B's policy is terminated as of March 15, 2002. If you enter an agreement to repay the debt on October 31, 2002, you can apply for insurance for crop A by the January 31, 2003, sales closing date and crop B by the March 15, 2003, sales closing date. If you fail to make a scheduled payment on February 1, 2003, you will be ineligible for crop insurance effective on February 1, 2003, and you will not be eligible for crop insurance unless the debt is paid in full or you file a petition to discharge the debt in bankruptcy and you make application in accordance with section 3(e).

(f) If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the policy will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after coverage begins for any crop year, this policy will continue in force for the crop year and will terminate at the end of the insurance period, and any indemnity will be paid to the person or persons determined to be beneficially entitled to the indemnity. The premium will be deducted from the indemnity or collected from the estate. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

(g) We may terminate your policy if no premium is earned for 3 consecutive years.

(h) The cancellation and termination dates are contained in the Crop Provisions.

4. Insurance Coverages and Coverage Levels.

(a) For each crop and crop year, the covered expenses will be those provided by you and approved by us on the covered expenses worksheet and will be used to calculate your summary of coverage. The coverage levels from which you may select will be contained in the actuarial documents. For example, if approved expenses per acre were \$300, and you select a 85% coverage level, your covered expenses per acre would be \$255. **Your approved expenses per acre cannot exceed your expected gross income per acre. If allowable expenses exceed your expected gross income per acre, then your approved expenses per acre will be your expected gross income per acre.** The Special Provisions will specify limitations on land fee expenses and fixed cost expenses as a maximum percentage of the expected gross income and will specify a maximum total variable cost expense dollar amount.

(b) We may revise your covered expenses if we find your covered expenses worksheet under paragraph (a) of this section:

(1) Is not supported by written verifiable records in accordance with the definition of covered expenses worksheet; or

(2) The approved expenses were not expended. For example, if approved expenses per acre were \$300, the coverage level was 85%, \$30 per acre was for harvesting and the insured acreage was not harvested, the reduced covered expenses per acre would be $\$300 - \$30 = \$270$ times 85% = \$230 per acre. The reduction in such covered expenses will not reduce the premium earned at the time coverage began.

(c) You may select only one coverage level from among those offered by us for each insured crop or of a type or variety of a crop (if the applicable crop policy allows you the option to separately insure individual crop types or varieties). You may change your coverage level and request to change the allowable expenses for the following crop year by giving written notice to us with a revised covered expenses worksheet (if applicable), not later than the sales closing date for the insured crop.

(d) You must report production to us for the previous crop year by the sales closing date unless otherwise stated in the Special Provisions:

(1) If you do not provide the required production report, we will assign a yield for the previous crop year. The yield assigned by us will not be more than 75 percent of the approved yield used by us the previous crop year. The production report or assigned yield will be used to compute your approved yield for the purpose of determining your expected gross income and premium for the current crop year;

(2) If you have filed a claim for any crop year, the documents signed by you which state the amount of production used to complete the claim for

indemnity will be the production report for that year unless otherwise specified by FCIC.

(e) We may revise your expected gross income, covered expenses, and premium only if we find that your production report under paragraph (d) of this section:

(1) Is not supported by written verifiable records in accordance with the definition of production report; or

(2) Fails to accurately report actual production, acreage, or other material information.

(f) In addition to the covered expenses available on the contract change date, we may provide an additional price election that could increase the expected market price that was available on the contract change date which would increase your expected gross income and allow increased covered expenses no later than 15 days prior to the sales closing date. You must submit a revised covered expenses worksheet to request the increased covered expenses on or before the sales closing date for the insured crop. These covered expenses will not be less than those available on the contract change date. If you elect the increased covered expenses, any claim settlement and amount of premium will be based on this amount, subject to the provisions of 4(b) above.

(g) You must obtain the same level of coverage for all acreage of the crop in the county unless the applicable Crop Provisions allow you the option to separately insure individual crop types or varieties. In this case, each individual type or variety insured by you will be subject to separate administrative fees. Although insurance may be elected by type or variety in these instances, failure to insure a type or variety that is of economic significance may result in the denial of other farm program benefits unless you execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop.

(h) Any person may sign any document relative to crop insurance coverage on behalf of any other person covered by such a policy, provided that the person has a properly executed power of attorney or such other legally sufficient document authorizing such person to sign.

(i) Hail and Fire coverage may be excluded from the covered causes of loss for a crop policy.

(j) Unless limited by the Crop Provisions, additional covered expenses may be included in your covered expenses if you have purchased the Increased Covered Expenses Endorsement.

(k) Catastrophic risk protection is not available under these Basic Provisions.

5. Contract Changes.

(a) We may change the terms of your coverage under this policy from year to year.

(b) Any changes in policy provisions, the FCIC issued established price election component of the expected market price, premium rates, and program dates will be provided by us to your crop insurance agent not later than the contract change date contained in the Crop Provisions, except that an opportunity for you to change the covered expenses may be offered after the contract change date in accordance with section

4. You may view the documents or request copies from your crop insurance agent.

- (c) You will be notified, in writing, of changes to the Basic Provisions, Crop Provisions, and Special Provisions not later than 30 days prior to the cancellation date for the insured crop. Acceptance of changes will be conclusively presumed in the absence of notice from you to change or cancel your insurance coverage.

6. Liberalization.

If we adopt any revision that broadens the coverage under this policy subsequent to the contract change date without additional premium, the broadened coverage will apply.

7. Report of Acreage.

(a) An annual acreage report must be submitted to us on our form for each insured crop in the county on or before the acreage reporting date contained in the Special Provisions, except as follows:

(1) If you insure multiple crops with us that have final planting dates on or after August 15 but before December 31, you must submit an acreage report for all such crops on or before the latest applicable acreage reporting date for such crops; and

(2) If you insure multiple crops with us that have final planting dates on or after December 31 but before August 15, you must submit an acreage report for all such crops on or before the latest applicable acreage reporting date for such crops;

(3) Notwithstanding the provisions in sections 7(a)(1) and (2):

(i) If the Special Provisions designate separate planting periods for a crop, you must submit an acreage report for each planting period on or before the acreage reporting date contained in the Special Provisions for the planting period; and

(ii) If planting of the insured crop continues after the final planting date or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(A) The acreage reporting date contained in the Special Provisions;

(B) The date determined in accordance with section 7(a)(1) or (2); or

(C) Five (5) days after the end of the late planting period for the insured crop, if applicable.

(b) If you do not have a share in an insured crop in the county for the crop year, you must submit an acreage report on or before the acreage reporting date, so indicating.

(c) Your acreage report must include the following information, if applicable:

(1) All acreage of the crop in the county (insurable and not insurable) in which you have a share;

(2) Your share at the time coverage begins;

(3) The practice;

(4) The type; and

(5) The date the insured crop was planted.

(d) Because incorrect reporting on the acreage report may have the effect of changing your premium and

any indemnity that may be due, you may not revise this report after the acreage reporting date without our consent.

(e) We may elect to determine all premiums and indemnities based on the information you submit on the acreage report or upon the factual circumstances we determine to have existed.

(f) If you do not submit an acreage report by the acreage reporting date, or if you fail to report all units, we may elect to determine by unit the insurable crop acreage, share, type and practice, or to deny liability on such units. If we deny liability for the unreported units, your share of any production from the unreported units will be allocated, for loss purposes only, as production to count to the reported units in proportion to the liability on each reported unit. However, such production will not be allocated to prevented planting acreage or otherwise affect any prevented planting payment.

(g) If the information reported by you on the acreage report for share, acreage, practice, type, or other material information is inconsistent with the information that is determined to actually exist for a unit and results in:

(1) A lower liability than the actual liability determined, the covered expenses will be reduced to an amount that is consistent with the reported information. In the event that insurable acreage is under-reported, all production or value from insurable acreage in that unit will be considered production or value to count in determining the indemnity; or

(2) A higher liability than the actual liability determined, the information contained in the acreage report will be revised to be consistent with the correct information. If we discover that you have incorrectly reported any information on the acreage report for any crop year, you may be required to provide documentation in subsequent crop years that substantiates your report of acreage for those crop years, including, but not limited to, an acreage measurement service at your own expense.

(h) We may correct errors in reporting units at the time of adjusting a loss to reduce our liability and to conform to applicable unit division guidelines.

8. Covered Expenses, Annual Premium, and Administrative Fees.

(a) The amount of covered expenses is determined by multiplying your coverage level times your approved expenses per acre. This result multiplied by the insured acreage equals the covered expenses for the unit.

(b) The annual premium is earned and payable at the time coverage begins. You will be billed for premium due not earlier than the premium billing date specified in the Special Provisions. The premium due, plus any accrued interest, will be considered delinquent if it is not paid on or before the termination date specified in the Crop Provisions.

(c) Any amount you owe us related to any crop insured with us under the authority of the Act will be deducted from any prevented planting payment or indemnity

due you for any crop insured with us under the authority of the Act.

- (d) The annual premium amount is determined, as applicable, at the time insurance attaches, by multiplying the covered expenses per acre (approved expenses times coverage level), times the insured acreage, times your share at the time coverage begins, times the premium rate, times any premium adjustment factors to establish the total premium for the unit. The total premium for the unit, times any premium adjustment percentages that may apply times the premium subsidy factor equals the premium subsidy. This amount is then subtracted from the total premium to determine your premium.

For example:

You have approved expenses of \$212 per acre and you have selected the 85% coverage level. You have 200 insurable acres, the premium rate is .060 and the premium subsidy factor is .38. Your premium is calculated as follows:

- (1) \$212 per acre approved expenses times 85% coverage level = \$180 covered expenses per acre; and
 - (2) \$180 per acre times 200 acres = \$36,000 covered expenses for the unit.
 - (3) \$36,000 liability times .060 premium rate = \$2,160 total premium;
 - (4) \$2,160 times .38 premium subsidy factor = \$820.80 premium subsidy; and
 - (5) \$2,160 (Total Premium) – \$820.80 (Premium Subsidy) = \$1,339.20 annual premium amount.
- (e) The premium will be computed using the approved expenses and coverage level in accordance with section 4(c).
- (f) In addition to the premium charged:
- (1) You, unless otherwise authorized in 7 CFR part 400, must pay an administrative fee each crop year of \$30 per crop per county for all levels of coverage.
 - (2) The administrative fee must be paid no later than the time premium is due.
 - (3) Payment of an administrative fee will not be required if you file a bona fide zero acreage report on or before the acreage reporting date for the crop. If you falsely file a zero acreage report you may be subject to criminal and administrative sanctions.
 - (4) The administrative fee will be waived if you request it and you qualify as a limited resource farmer.
 - (5) Failure to pay the administrative fees when due may make you ineligible for certain other USDA benefits.

9. Insured Crop.

- (a) The insured crop will be that shown on your accepted application and as specified in the Crop Provisions and Special Provisions and must be grown on insurable acreage.
- (b) You must insure all of the insurable acreage of the insured crop wherever grown in the United States and the cost of production insurance actuarial documents are available.

- (c) A crop not to be insured will include, but not be limited to, any crop:

- (1) You cannot provide the required written verifiable records of allowable expenses directly associated with the production of the crop;
- (2) If the farming practices carried out are not in accordance with the farming practices for which the premium rates or covered expenses have been established;
- (3) Of a type, class or variety not adapted to the area or excluded by the policy provisions;
- (4) That is a volunteer crop;
- (5) That is a second crop following the same crop (insured or not insured) harvested in the same crop year unless specifically permitted by the Crop Provisions or the Special Provisions;
- (6) That is planted for the development or production of hybrid seed or for experimental purposes, unless permitted by the Crop Provisions; or
- (7) That is used solely for wildlife protection or management. If the lease states that specific acreage must remain unharvested, only that acreage is uninsurable. If the lease specifies that a percentage of the crop must be left unharvested, your share will be reduced by such percentage.

10. Insurable Acreage.

- (a) Acreage planted to the insured crop in which you have a share is insurable except acreage:
 - (1) That has not been planted and harvested within one of the 3 previous crop years unless:
 - (i) Such acreage was not planted:
 - (A) To comply with any USDA Program;
 - (B) Because of crop rotation, (e.g., corn, soybean, alfalfa, and the alfalfa remained for 4 years before the acreage was planted to corn again);
 - (C) Due to an insurable cause of loss that prevented planting; or
 - (D) Because a perennial tree, vine, or bush crop was grown on the acreage.
 - (ii) Such acreage was planted but was not harvested due to an insurable cause of loss; or
 - (iii) The Crop Provisions or Special Provisions;
 - (2) That has been strip-mined unless a crop other than a cover, hay, or forage crop (except corn silage), has been harvested from the acreage for at least five crop years after the strip-mined land was reclaimed;
 - (3) On which the insured crop is damaged and it is practical to replant the insured crop, but the insured crop is not replanted;
 - (4) That is interplanted, unless allowed by the Crop Provisions;
 - (5) That is otherwise restricted by the Crop Provisions or Special Provisions; or
 - (6) That is planted in any manner other than as specified in the policy provisions for the crop.
- (b) If insurance is provided for an irrigated practice, you must report as irrigated only that acreage for which you have adequate facilities and adequate water, or

the reasonable expectation of receiving adequate water at the time coverage begins, to carry out a good irrigation practice. If you knew or had reason to know that your water may be reduced before coverage begins, no reasonable expectation existed.

- (c) Notwithstanding the provisions in section 9(c)(1), if acreage is irrigated and we do not provide a premium rate for an irrigated practice, you may either report and insure the irrigated acreage as "non-irrigated," or report the irrigated acreage as not insured.
- (d) We may restrict the amount of acreage that we will insure to the amount allowed under any acreage limitation program established by USDA if we notify you of that restriction prior to the sales closing date.

11. Share Insured.

- (a) Insurance will attach only to the share of the person completing the application and will not extend to any other person having a share in the crop unless the application clearly states that:
 - (1) The insurance is requested for an entity such as a partnership or a joint venture; or
 - (2) You as a landlord will insure your tenant's share, or you as a tenant will insure your landlord's share. In this event, you must provide evidence of the other party's approval (lease, power of attorney, etc.). Such evidence will be retained by us. You also must clearly set forth the percentage shares of each person on the acreage report.
- (b) We may consider any acreage or interest reported by or for your spouse, child or any member of your household to be included in your share.
- (c) Acreage rented for a percentage of the crop, or a lease containing provisions for BOTH a minimum payment (such as a specified amount of cash, bushels, pounds, hundred weights, tons, etc.) AND a crop share will be considered a crop share lease.
- (d) Acreage rented for cash, or a lease containing provisions for EITHER a minimum payment OR a crop share (such as 50/50 share or \$100.00 per acre, whichever is greater) will be considered a cash lease.
- (e) If a crop share arrangement exists, each person having an interest in the crop can be individually insured based on their approved expenses (per acre).

12. Insurance Period.

- (a) Except for prevented planting coverage (see section 18), coverage begins for each insured crop at the later of:
 - (1) The date we accept your application. (For the purposes of this paragraph, the date of acceptance is the date that you submit a properly executed application in accordance with section 3);
 - (2) The date that the insured crop is planted; or
 - (3) The calendar date contained in the Crop Provisions for the beginning of the insurance period.
- (b) Coverage ends at the earliest of:
 - (1) Total destruction of the insured crop on the unit;
 - (2) Harvest of the unit;
 - (3) Final adjustment of a loss on a unit;

- (4) The calendar date contained in the Crop Provisions for the end of the insurance period;
- (5) Abandonment of the crop on the unit; or
- (6) As otherwise specified in the Crop Provisions.

13. Causes of Loss.

Insurance is provided against any unavoidable loss of allowable income directly caused by specific causes of loss contained in the Crop Provisions. Any other causes of loss, included but not limited to the following are not covered:

- (a) Negligence, mismanagement, or wrongdoing by you, any member of your family or household, your tenants, employees, or contractors;
- (b) Failure to follow recognized good farming and management practices for each insured crop;
- (c) Water contained by any governmental, public, or private dam or reservoir project;
- (d) Failure or breakdown of irrigation equipment or facilities;
- (e) Failure to carry out a good irrigation practice for the insured crop, if applicable;
- (f) Theft or mysterious disappearance;
- (g) Vandalism;
- (h) Inability to market the insured crops due to quarantines, boycotts, or refusal of any person to accept your insured crops;
- (i) Lack of labor to properly care for, harvest or perform any necessary production or post-production operations for any insured crop;
- (j) Failure of any buyer to pay you for insured crops you produced;
- (k) Failure to follow the requirements contained in any processor contract;
- (l) Abandonment; or
- (m) Failure to obtain a price for any crop that is reflective of the local market value.

14. Increase in Covered Expenses due to Replanting.

- (a) If allowed by the Crop Provisions, an increase in covered expenses due to replanting may be made on an insured crop replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured planted acreage for the unit (as determined on the final planting date or within the late planting period if a late planting period is applicable).
- (b) The insured crop must be damaged by an insurable cause of loss to the extent that the remaining crop will not produce at least 90% of your approved yield times your coverage level for the acreage.
- (c) No increase in covered expenses due to replanting will be made on acreage:
 - (1) On which our appraisal of the potential production times the expected market price establishes that the value of production thus determined will exceed the covered expenses;
 - (2) Initially planted prior to the earliest planting date established by the Special Provisions; or
 - (3) On which one increase in covered expenses due to replanting has already been allowed for the crop year.

- (d) The increase in covered expenses due to replanting per acre for your share of the insured acreage will be stated on the Special Provisions.
- (e) No increase in covered expenses due to replanting will be allowed if we determine it is not practical to replant.

15. Duties in the Event of Damage or Loss.

Your Duties –

- (a) In case of damage to any insured crop you must:
 - (1) Protect the crop from further damage by providing sufficient care;
 - (2) Give us notice within 72 hours of your initial discovery of damage (but not later than 15 days after the end of the insurance period), by unit, for each insured crop (we may accept a notice of loss provided later than 72 hours after your initial discovery if we still have the ability to accurately adjust the loss);
 - (3) Leave representative samples intact for each field of the damaged unit as may be required by the Crop Provisions; and
 - (4) Record your actual variable cost expenses on your copy of the covered expenses worksheet and provide the worksheet to us;
 - (5) Cooperate with us in the investigation or settlement of the claim, and, as often as we reasonably require:
 - (i) Show us the damaged crop;
 - (ii) Allow us to remove samples of the insured crop; and
 - (iii) Provide us with records and documents we request and permit us to make copies;
 - (6) Provide documentation of the allowable income received including but not limited to:
 - (i) Receipts from crop sales;
 - (ii) Applicable USDA payments;
 - (iii) Verifiable crop inventory; and
 - (7) Upon our request, provide documentation of allowable expenses including but not limited to:
 - (i) Purchase receipts for all variable cost expenses for the insured crop;
 - (ii) Records showing labor expense;
 - (iii) Accounting records of all prepaid expenses and carry-over input inventory and its value; and
 - (iv) Other allowable expenses.
- (b) You must obtain consent from us before, and notify us after you:
 - (1) Destroy any of the insured crop that is not harvested;
 - (2) Put the insured crop to an alternative use;
 - (3) Put the acreage to another use; or
 - (4) Abandon any portion of the insured crop. We will not give consent for any of the actions in sections 15(b)(1) through (4) if it is practical to replant the crop or until we have made an appraisal of the potential production of the crop.
- (c) In addition to complying with all other notice requirements, you must submit a claim for indemnity declaring the amount of your loss not later than 60 days after the end of the insurance period. This claim

must include all the information we require to settle the claim.

- (d) Upon our request, you must:
 - (1) Provide a complete harvesting and marketing record of each insured crop including separate records showing the same information for production from any acreage not insured; and
 - (2) Submit to examination under oath.
- (e) You must establish the total production or value received for the insured crop on the unit, that any loss of production or value occurred during the insurance period, and that the loss of production or value was directly caused by one or more of the insured causes specified in the Crop Provisions.
- (f) All notices required in this section that must be received by us within 72 hours may be made by telephone or in person to your crop insurance agent but must be confirmed in writing within 15 days.

Our Duties –

- (a) If you have complied with all the policy provisions, we will pay your loss within 30 days after:
 - (1) We reach an agreement with you;
 - (2) Completion of arbitration or appeal proceedings; or
 - (3) The entry of a final judgment by a court of competent jurisdiction.
- (b) In the event that we are unable to pay your loss within the 30 days, we will give you notice of our intentions within the 30-day period.
- (c) We may defer the adjustment of a loss until the amount of loss can be accurately determined. We will not pay for additional damage resulting from your failure to provide sufficient care for the crop during the deferral period.
- (d) We recognize and apply the loss adjustment procedures established or approved by the FCIC.

16. Production Included in Determining Indemnities and Payment Reductions.

- (a) The total production to be counted for a unit will include all production determined in accordance with the policy.
- (b) The amount of production of any unharvested insured crop may be determined on the basis of our field appraisals conducted after the end of the insurance period.
- (c) If you elect to exclude hail and fire as insured causes of loss and the insured crop is damaged by hail or fire, appraisals will be made as described in the applicable Form FCI-78 "Request To Exclude Hail and Fire", or a form containing the same terms approved by the Federal Crop Insurance Corporation.
- (d) In the event of an insurable loss on the first planted crop and you are unable to replant on or before the final planting date and you choose not to plant a second crop, your indemnity will be based on the covered expenses expended. If you plant a second crop, the fixed cost expenses and land fee expenses will be allocated based on the expected gross income of the two crops if any subsidized insurance under the FCI Act was offered on both crops.
- (e) In the event you are prevented from planting the intended crop and there is no other crop planted, your

indemnity will be based on the approved expenses (per acre) expended. If you or any other person plants a crop (including a cover crop that is hayed, harvested, or grazed prior to the end of the insurance period of the intended crop), the fixed costs and land fee expenses will be allocated based on the expected gross income of the intended crop and the planted crop if subsidized insurance under the FCI Act was offered on both crops.

- (f) Appraised production will be used to calculate your claim if you will not be harvesting the acreage. To determine your indemnity based on appraised production, you must agree to notify us if you harvest the crop and advise us of the production. If the acreage will be harvested, harvested production will be used to determine any indemnity due, unless otherwise specified in the policy.

17. Late Planting.

Unless limited by the Crop Provisions, insurance will be provided for acreage planted to the insured crop after the final planting date in accordance with the following:

- (a) The covered expenses for each acre planted to the insured crop during the late planting period will be reduced by 1 percent per day for each day planted after the final planting date.
- (b) Acreage planted after the late planting period (or after the final planting date for crops that do not have a late planting period) may be insured as follows:
- (1) The covered expenses for each acre planted as specified in this subsection will be determined by multiplying such covered expenses that are provided for acreage of the insured crop that is timely planted by 50%;
- (2) Planting on such acreage must have been prevented by the final planting date (or during the late planting period, if applicable) by an insurable cause occurring within the insurance period for prevented planting coverage; and
- (3) All production from acreage as specified in this section will be included as the value of production to count for the unit.
- (c) The premium amount for insurable acreage specified in this section will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less the FCIC subsidy) for such acreage exceeds the liability, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid).
- (d) Any acreage on which an insured cause of loss is a material factor in preventing completion of planting, as specified in the definition of "planted acreage" (e.g. seed is broadcast on the soil surface but cannot be incorporated) will be considered as acreage planted after the final planting date and the covered expenses will be calculated in accordance with section 17(b)(1).

18. Prevented Planting.

- (a) Unless limited by the policy provisions, a prevented planting payment may be made to you for eligible acreage if:
- (1) You were prevented from planting the insured crop by an insured cause that occurs:

(i) On or after the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on or after the sales closing date for the previous crop year for the insured crop in the county, provided insurance has been in force continuously since that date. Cancellation for the purpose of transferring the policy to a different insurance provider for the subsequent crop year will not be considered a break in continuity for the purpose of the preceding sentence.

(2) You include any acreage of the insured crop that was prevented from being planted on your acreage report; and

(3) You did not plant the insured crop during or after the late planting period. If such acreage was planted to the insured crop during or after the late planting period, it is covered under the late planting provisions.

(b) The premium amount for acreage that is prevented from being planted will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less the FCIC subsidy) for acreage that is prevented from being planted exceeds the liability on such acreage, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid for such acreages).

(c) Drought or failure of the irrigation water supply will be considered to be an insurable cause of loss for the purposes of prevented planting only if, on the final planting date (or within the late planting period if you elect to try to plant the crop):

(1) For non-irrigated acreage, the area that is prevented from being planted has insufficient soil moisture for germination of seed and progress toward crop maturity due to a prolonged period of dry weather. Prolonged precipitation deficiencies must be verifiable using information collected by sources whose business it is to record and study the weather, including, but not limited to, local weather reporting stations of the National Weather Service; or

(2) For irrigated acreage, there is not a reasonable probability of having adequate water to carry out an irrigated practice.

(d) The maximum number of acres that may be eligible for a prevented planting payment for any crop will be determined as follows:

(1) The total number of acres eligible for prevented planting coverage for all crops cannot exceed the number of acres of cropland in your farming operation for the crop year, unless you are eligible for prevented planting coverage on double cropped acreage in accordance with section 18(e)(4) or (5). The eligible acres for each insured crop will be determined in accordance with the following table:

Type of Crop	Eligible acres if, in any of the 4 most recent crop years, you have planted any crop in the county for which prevented planting insurance was available or have received a prevented planting insurance guarantee	Eligible acres if, in any of the 4 most recent crop years, you have not planted any crop in the county for which prevented planting insurance was available or have not received a prevented planting insurance guarantee
(i) The crop is not required to be contracted with a processor to be insured	(A) The maximum number of acres certified for APH purposes or reported for insurance for the crop in any one of the 4 most recent crop years (not including reported prevented planting acreage that was planted to a substitute crop other than an approved cover crop). The number of acres determined above for a crop may be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the total cropland acres that you farmed in the previous year, provided that you submit proof to us that for the current crop year you have purchased or leased additional land or that acreage will be released from any USDA program which prohibits harvest of a crop. Such acreage must have been purchased, leased, or released from the USDA program, in time to plant it for the current crop year using good farming practices. No cause of loss that will or could prevent planting may be evident at the time the acreage is purchased, leased, or released from the USDA program.	(B) The number of acres specified on your intended acreage report which is submitted to us by the sales closing date for all crops you insure for the crop year and that is accepted by us. The total number of acres listed may not exceed the number of acres of cropland in your farming operation at the time you submit the intended acreage report. The number of acres determined above for a crop may only be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the number of acres listed on your intended acreage report, if you meet the conditions stated in section 18(d)(1)(i)(A).
(ii) The crop must be contracted with a processor to be insured	(A) The number of acres of the crop specified in the processor contract, if the contract specifies a number of acres contracted for the crop year; or the result of dividing the quantity of production stated in the processor contract by your approved yield, if the processor contract specifies a quantity of production that will be accepted. (For the purposes of establishing the number of prevented planting acres, any reductions applied to the transitional yield for failure to certify acreage and production for four prior years will not be used).	(B) The number of acres of the crop as determined in section 18(d)(1)(ii)(A).

- (2) Any eligible acreage determined in accordance with the table contained in section 18(d)(1) will be reduced by subtracting the number of acres of the crop (insured and uninsured) that are timely and late planted, including acreage specified in section 17(b).
- (e) Regardless of the number of eligible acres determined in section 18(d), prevented planting coverage will not be provided for any acreage:
- (1) That does not constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit, whichever is less. Any prevented planting acreage within a field that contains planted

acreage will be considered to be acreage of the same crop, type, and practice that is planted in the field unless the acreage that was prevented from being planted constitutes at least 20 acres or 20 percent of the total insurable acreage in the field and you produced both crops, crop types, or followed both practices in the same field in the same crop year within any of the four most recent crop years;

- (2) For which the actuarial documents do not designate a premium rate unless a written agreement designates such premium rate;
- (3) Used for conservation purposes or intended to be left unplanted under any program administered by the USDA;
- (4) On which the insured crop is prevented from being planted, if you or any other person receives a prevented planting payment for any crop for the same acreage in the same crop year (excluding share arrangements), unless you have records of acreage and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage (if one of the crops being double-cropped is not insurable, other verifiable records of it being planted may be used);
- (5) On which the insured crop is prevented from being planted, if any crop from which any benefit is derived under any program administered by the USDA is planted and fails, or if any crop is harvested, hayed, or grazed on the same acreage in the same crop year (other than a cover crop which may be hayed or grazed after the final planting date for the insured crop), unless you have records of acreage and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage (If one of the crops being double cropped is not insurable, other verifiable records of it being planted may be used);
- (6) Of a crop that is prevented from being planted if a cash lease payment is also received for use of the same acreage in the same crop year (not applicable if acreage is leased for haying or grazing only). (If you state that you will not be cash renting the acreage and claim a prevented planting payment on the acreage, you could be subject to civil and criminal sanctions if you cash rent the acreage and do not return the prevented planting payment for it);
- (7) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes;
- (8) That exceeds the number of acres eligible for a prevented planting payment;
- (9) That exceeds the number of eligible acres physically available for planting;
- (10) For which you cannot provide proof that you had the inputs available to plant and produce a crop

with the expectation of at least producing the yield used to determine the expected gross income (evidence that you have previously planted the crop on the unit will be considered adequate proof unless your planting practices or rotational requirements show that the acreage would have remained fallow or been planted to another crop);

- (11) Based on an irrigated practice, covered expenses unless adequate irrigation facilities were in place to carry out an irrigated practice on the acreage prior to the insured cause of loss that prevented you from planting. Acreage with an irrigated practice covered expenses will be limited to the number of acres allowed for that practice under sections 18(d) and (e); or
 - (12) Based on a crop type that you did not plant, or did not receive a prevented planting insurance guarantee for, in at least one of the four most recent crop years. Types for which separate covered expenses are available must be included in your APH database in at least one of the four most recent crop years, or crops that do not require yield certification (crops for which the insurance guarantee is not based on APH) must be reported on your acreage report in at least one of the four most recent crop years except as allowed in section 18(d)(1)(i)(B). We will limit prevented planting payments based on a specific crop type to the number of acres allowed for that crop type as specified in sections 18(d) and (e).
- (f) If you are prevented from planting a crop for which you do not have an adequate base of eligible prevented planting acreage, as determined in accordance with section 18(d)(1), your prevented planting covered expenses, premium, and prevented planting indemnity payment will be based on the crops insured for the current crop year, for which you have remaining eligible prevented planting acreage. The crops used for this purpose will be those that result in a prevented planting indemnity payment most similar to the prevented planting indemnity payments that would have been made for the crop that was prevented from being planted.
- (1) For example, assume you were prevented from planting 200 acres of corn and have 100 acres eligible for a corn prevented planting payment that would result in a payment of \$40 per acre. You also had 50 acres of potato eligibility that would result in a \$100 per acre payment, 90 acres of grain sorghum eligibility that would result in a \$30 per acre payment, and 100 acres of soybean eligibility that would result in \$25 per acre payment. Your prevented planting coverage for the 200 acres would be based on 100 acres of corn (\$40 per acre), 90 acres of grain sorghum (\$30 per acre), and 10 acres of soybeans (\$25 per acre).
 - (2) Prevented planting coverage will be allowed as specified in section 18(f) only if the crop that was prevented from being planted meets all policy provisions, except for having an adequate base

of eligible prevented planting acreage. Payment may be made based on crops other than those that were prevented from being planted even though other policy provisions, including but not limited to, processor contract and rotation requirements, have not been met for the crop on which payment is being based.

- (g) The prevented planting indemnity payment for any eligible acreage within a unit will be determined by:
- (1) Totaling your approved expenses (per acre) that have been expended or documented at the time of the loss inspection, times the coverage level elected, which equals your covered expenses. In the case of second crops, the land fee expenses and fixed cost expenses for the crop that was prevented from being planted will be based on the expected gross income of each crop if subsidized insurance under the FCIC Act was offered on both crops. (For example, assume corn was prevented from being planted and the land fee and fixed costs were \$100 per acre. The expected gross income for corn was \$300 per acre and the acreage was planted to a second crop of soybeans with an expected income of \$200 per acre. The land fee expenses and fixed cost expenses for corn would be \$60 per acre ($\$100 * (\$300 / \$500)$). The land fee expenses and fixed cost expenses for the soybeans would be \$40 per acre ($\$100 * (\$200 / \$500)$);
 - (2) Multiply the results of 18(g)(1) by the number of eligible prevented planting acres in the unit.

19. Written Agreements.

Terms of this policy which are specifically designated for the use of written agreements may be altered by written agreement in accordance with the following:

- (a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 19(e);
- (b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;
- (c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the covered expenses and premium rate;
- (d) Each written agreement will only be valid for one crop year (If a written agreement is not specifically renewed the following crop year, insurance coverage for the subsequent crop year will be in accordance with the printed policy); and
- (e) An application for a written agreement submitted after the sales closing date may be approved if you demonstrate your physical inability to apply prior to the sales closing date, or it is submitted in accordance with any regulation which may be promulgated under 7 CFR part 400, and after inspection of the acreage by us, if required, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

20. Carryover of Purchased Crop Inputs.

You may elect to purchase a larger quantity of production inputs, i.e., seed, fertilizer, chemicals, fuel, etc., than are actually used for the crop year's production in which you have purchased COP insurance. You will be allowed to apply those expenses to any subsequent insured year when that pre-purchased input is actually used in the production of your insured crop.

21. Agricultural Commodity as Payment.

You must not forfeit any commodity to us. We will not accept any agricultural commodity as compensation for payment due us.

22. Arbitration.

(a) If you and we fail to agree on any factual determination, you may seek resolution of the disagreement. The disagreement will be resolved in accordance with the rules of the American Arbitration Association. Failure to agree with any factual determination made by FCIC must be resolved through the FCIC appeal provisions published at 7 CFR part 11.

(b) No award determined by arbitration or appeal can exceed the amount of liability established or that should have been established under the policy.

23. Access to Insured Crop and Records, and Record Retention.

(a) We may examine your agricultural operation as often as we reasonably require. We will have access to the insured acreage to take soil samples to verify claimed fertilizer expenses.

(b) For three years after the end of the crop year, you must retain, and provide upon request, complete records of the harvesting, storage, shipment, sale, or disposition of all covered insured crops. Records used to establish your COP allowable expenses and allowable income by crop must be kept for the same time period. This requirement also applies to the records used to establish the basis for the production report and the covered expenses worksheet. You must also provide upon our request, separate records showing the same information for expenses and production from any acreage not insured. We may extend the record retention period beyond three years by notifying you of such extension in writing. Your failure to keep and maintain such records will, at our option, result in:

- (1) Cancellation of the policy;
- (2) Assignment by us of the covered expenses;
- (3) Assignment by us of the value to, or quantities of, insured crops; or
- (4) A determination that no indemnity is due.

(c) Any person designated by us will, at any time during the record retention period, have access:

- (1) To the farm; and
- (2) To any records relating to this insurance at any location where such records may be found or maintained.

(d) By applying for insurance under the authority of the Act or by continuing insurance for which you previously applied, you authorize us, or any person acting for us, to obtain records relating to the insured crop from any person who may have custody of those

records including, but not limited to, FSA offices, banks, warehouses, gins, cooperatives, marketing associations, and accountants. You must assist us in obtaining all records, which we request from third parties.

24. Other Insurance.

(a) **Other Like Insurance** - You must not obtain any other crop insurance issued under the authority of the Act on your share of the insured crop. If we determine that more than one policy on your share is intentional, you may be subject to the sanctions authorized under this policy, the Act, or any other applicable statute. If we determine that the violation was not intentional, the policy with the earliest date of application will be in force and all other policies will be void. Nothing in this paragraph prevents you from obtaining other insurance not issued under the Act.

(b) **Other Insurance Against Fire** - If you have other insurance against damage to the insured crop by fire during the insurance period, we will include as allowable income any indemnity from such insurance.

25. Conformity to Food Security Act.

Although your violation of a number of federal statutes, including the Act, may cause cancellation, termination, or voidance of your insurance contract, you should be specifically aware that your policy will be canceled if you are determined to be ineligible to receive benefits under the Act due to violation of the controlled substance provisions (title XVII) of the Food Security Act of 1985 (Pub. L. 99-198) and the regulations promulgated under the Act by USDA. Your insurance policy will be canceled if you are determined, by the appropriate agency, to be in violation of these provisions. You must repay us any and all monies paid to you or received by you during your period of ineligibility, and your premium will be refunded, less a reasonable amount for expenses and handling not to exceed 20 percent of the premium paid or to be paid by you.

26. Amounts Due Us.

(a) Interest will accrue at the rate of 1.25 percent simple interest per calendar month, or any portion thereof, on any unpaid amount due us.

(b) For the purpose of premium amounts due us, the interest will start to accrue on the first day of the month following the premium billing date specified in the Special Provisions.

(c) For the purpose of any other amount due us, such as repayment of indemnities found not to have been earned, interest will start to accrue on the date that notice is issued to you for the collection of the unearned amount. Amounts found due under this paragraph will not be charged interest if payment is made within 30 days of issuance of the notice by us. The amount will be considered delinquent if not paid within 30 days of the date the notice is issued by us.

(d) All amounts paid will be applied first to expenses of collection (see subsection (e) of this section) if any, second to the reduction of accrued interest, and then to the reduction of the principal balance.

(e) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in

collection, you agree to pay all of the expenses of collections.

- (f) Amounts owed to us by you may be collected in part through administrative offset from payments you receive from United States government agencies in accordance with 31 U.S.C. chapter 37.

27. Legal Action Against Us.

- (a) You may not bring legal action against us unless you have complied with all of the policy provisions.
- (b) If you do take legal action against us, you must do so within 12 months of the date of denial of the claim. Suit must be brought in accordance with the provisions of 7 U.S.C. 1508(j).
- (c) Your right to recover damages (compensatory, punitive, or other), attorney's fees, or other charges is limited or excluded by this contract or by Federal Regulations.

28. Payment and Interest Limitations.

- (a) Under no circumstances will we be liable for the payment of damages (compensatory, punitive, or other), attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim.
- (b) We will pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment of a court of competent jurisdiction, from and including the 61st day after the date you sign, date, and submit to us the properly completed claim form. Interest will be paid only if the reason for our failure to timely pay is NOT due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) and published in the **Federal Register** semiannually on or about January 1 and July 1 of each year, and may vary with each publication.

29. Concealment, Misrepresentation or Fraud.

- (a) If you have falsely or fraudulently concealed the fact that you are ineligible to receive benefits under the Act or if you or anyone assisting you has intentionally concealed or misrepresented any material fact relating to this policy:
 - (1) This policy will be voided; and
 - (2) You may be subject to remedial sanctions in accordance with 7 CFR part 400 subpart R.
- (b) Even though the policy is void, you will still be required to pay 20 percent of the premium due under the policy to offset costs incurred by us in the service of this policy. If previously paid, the balance of the premium will be returned.
- (c) Voidance of this policy will result in you having to reimburse all indemnities paid for the crop year in which the voidance was effective.
- (d) Voidance will be effective on the first day of the insurance period for the crop year in which the act occurred and will not affect the policy for subsequent crop years unless a violation of this section has occurred in such crop years.

30. Transfer of Coverage and Right to Indemnity.

If you transfer any part of your share during the crop year, you may transfer your coverage rights, if the transferee is eligible for crop insurance. We will not be liable for any more than the liability determined in accordance with your policy that existed before the transfer occurred. The transfer of coverage rights must be on our form and will not be effective until approved by us in writing. Both you and the transferee are jointly and severally liable for the payment of the premium and administrative fees. The transferee has all rights and responsibilities under this policy consistent with the transferee's interest.

31. Assignment of Indemnity.

You may assign your right to an indemnity for the crop year. The assignment must be on our form and will not be effective until approved in writing by us. The assignee will have the right to submit all loss notices and forms as required by the policy. If you have suffered a loss from an insurable cause and fail to file a claim for indemnity within 60 days after the end of the insurance period, the assignee may submit the claim for indemnity not later than 15 days after the 60-day period has expired. We will honor the terms of the assignment only if we can accurately determine the amount of the claim. However, no action will lie against us for failure to do so.

32. Subrogation (Recovery of Loss From A Third Party).

Since you may be able to recover all or a part of our loss from someone other than us, you must do all you can to preserve that right. If we pay you for your loss, your right to recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

33. Applicability of State and Local Statutes.

If provisions of this policy conflict with statutes of the State or locality in which this policy is issued, the policy provisions will prevail. State and local laws and regulations in conflict with federal statutes, this policy, and the applicable regulations do not apply to this policy.

34. Descriptive Headings.

The descriptive headings of the various policy provisions are formulated for convenience only and are not intended to affect the construction and meaning of any of the policy provisions.

35. Notices.

- (a) All notices required to be given by you must be in writing and received by your crop insurance agent within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice. If the date by which you are required to submit a report or notice falls on Saturday, Sunday, or a Federal holiday, or if your agent's office is, for any reason, not open for business on the date you are required to submit such notice or report, such notice or report must be submitted on the next business day.
- (b) All notices and communications required to be sent by us to you will be mailed to the address contained in your records located with your crop insurance agent. Notice sent to such address will be conclusively

presumed to have been received by you. You should advise us immediately of any change of address.

36. Multiple Benefits.

- (a) If you are eligible to receive an indemnity under this policy and are also eligible to receive benefits for the same loss under any other USDA program, you may receive benefits under both programs, unless specifically limited by the crop insurance contract or by law.
- (b) The total amount received from all such sources may not exceed the amount of your actual loss. The total amount of the actual loss is the difference between the fair market value of the insured crop before and after the loss based on your production records and expected market price or the highest amount of insurance available for the crop.
- (c) FSA will determine and pay the additional amount due you for any applicable USDA program, after first considering the amount of any crop insurance indemnity.

37. Substitution of Yields.

You may elect to exclude actual yields used to calculate the approved yield that are less than 60 percent of the applicable transitional yield (T-yield), as defined in 7 CFR 400.52. Each excluded actual yield will be replaced with a yield equal to 60 percent of the T-yield for the county. The replacement yields will be used in the same manner as actual yields for the purpose of calculating the approved yield. Premium rates for approved yields that are adjusted under this section will be based on the producer's yield prior to replacing the actual yields or such other basis as determined appropriate by FCIC.

38. High Risk Land.

The High Risk Land Exclusion Option is not available under this policy.