

Protection for business



Not For Profit Indemnity Policy Document

Not For Profit Indemnity

Policy Document

General Insuring Clause

We the *Insurer* hereby agree, in consideration of the payment of premium specified in the *Schedule*, to insure against *Loss* in accordance with the Policy terms and conditions.

This Policy, the *Proposal* and *Schedule*, including any *Schedule* issued in addition or substitution, and any Endorsements or Memoranda shall be considered one document and any word or expression to which a specific meaning has been attached shall bear such meaning wherever it appears.

A handwritten signature in blue ink, appearing to read 'D. Douetil', is positioned above the signature text.

Signed by Dane Douetil, Chief Executive
on behalf of Brit Insurance Limited

Contents

Page

- 1** General Insuring Clause
- 3** General Definitions
- 5** Section 1 The Policy Cover
- 5** Section 2 Limit of Liability
- 5** Section 3 Settlements
- 5** Section 4 Excess
- 5** Section 5 General Conditions
- 7** Section 6 General Exclusions
- 9** Further Information

General Definitions

These Definitions are applicable throughout this Policy wherever they appear in italics and starting with a capital letter. These Definitions are subject to the terms, conditions, limits and exclusions of the Policy.

C

Claim

Claim means any judicial administrative or regulatory proceeding initiated against the *Insureds* and/or the *Not for Profit* for damages or other relief or any *Investigation Costs*.

Costs, Charges and Expenses

Costs, Charges and Expenses means any costs, fees and expenses incurred by or on behalf of any *Insured*, with the prior written consent of the *Insurer*:

- a in defence of a *Claim*; or
- b as *Investigation Costs*;

excluding salaries, wages and other expenses of the *Insureds* or employees of the *Not For Profit*.

D

Documents

Documents means deeds, wills, agreements, maps, plans, records, books, letters, certificates, forms and documents of any nature whatsoever, whether written, printed or reproduced by any other method (other than bearer bonds, coupons, bank notes, currency notes, letters of credit and negotiable instruments).

E

Excess

Excess means the amounts stated in the *Schedule* that are to be deducted from any *Loss* and which shall be borne by the *Not For Profit*.

F

Fungi

Fungi means any fungus or mycota or any by-product or type of infestation produced by such fungus or mycota, including but not limited to mould, mildew, mycotoxins, spores or any biogenic aerosols.

G

Geographical Limits

Geographical Limits shall mean Worldwide, excluding the USA.

I

Insured

Insured shall mean any persons who were, are now or shall be trustees, directors or officers of the *Not For Profit* and shall include any person under a Contract of Employment with, and any volunteer working for, the *Not For Profit*, or in the event of the death, incapacity, insanity, insolvency or bankruptcy of any such person, the *Insurer* agrees to indemnify, in respect of liability incurred by them in the terms of this Policy, their estate, heirs, legal personal representatives or assigns, subject to the observance and compliance with the terms, conditions and exclusions of this Policy insofar as they can apply.

Insurer

Insurer shall mean Brit Insurance Limited.

Investigations Costs

Investigations Costs means any costs fees and expenses incurred in attending and being represented at any investigation initiated by a formal, regulatory, administrative, criminal or investigative inquiry into the *Not For Profit's* business, where the investigating body has the powers to carry out such an inquiry, and where any *Insureds* are required to attend such an inquiry.

L

Limit of Liability

Limit of Liability means the limit of the Insurer's liability under this Policy which shall be in the amount set out in the *Schedule*.

Loss

Loss shall mean damages, settlement and *Costs, Charges and Expenses*, excluding:

- a punitive or exemplary damages;
- b criminal or civil fines or penalties;
- c taxes;
- d matters deemed uninsurable under the laws of England and Wales.

N

Not For Profit

Not For Profit shall mean the entity shown in the *Schedule* and any *Subsidiary*.

O

Optional Extension Period

Optional Extension Period means the period described in Section 5 General Conditions 9.

P

Policy Period

Policy Period means the period shown in the *Schedule* plus the *Optional Extension Period* if applicable.

Proposal

Proposal means any information supplied by the *Not For Profit* and/or an *Insured* in connection with this insurance and any declaration made in connection therewith by or on behalf of the *Not For Profit* and/or a *Insured* or their agent.

S

Schedule

Schedule means the document titled "Policy Schedule" attached to and forming part of this Policy.

Subsidiary

Subsidiary means any entity owned or controlled by the *Not For Profit*.

W

Wrongful Act

Wrongful Act shall mean any actual or alleged act or omission by:

- a** any *Insureds*, in the discharge of their duties solely for and on behalf of the *Not For Profit*; or
- b** the *Not For Profit*.

Section 1 | The Policy Cover

- 1 The *Insurer* agrees, subject to all the terms, conditions, *Limits of Liability* and exclusions of this Policy and of any Endorsements:
 - a To pay on behalf of the *Insureds* for *Loss* sustained as a result of any *Claims* which are first made during the *Policy Period* arising from a *Wrongful Act* except for *Loss* which is recoverable under any other section of Policy Cover.
 - b To pay on behalf of the *Not For Profit* for *Loss* sustained as a result of any *Claims* which are first made during the *Policy Period* arising from a *Wrongful Act* where an indemnity has been given or lawfully is required to be given by the *Not For Profit* to the *Insureds*.
 - c To pay on behalf of the *Not For Profit* for *Loss* sustained as a result of any *Claims* which are first made during the *Policy Period* arising from a *Wrongful Act*.
 - d To pay on behalf of the *Insureds* for any *Investigation Costs* where the relevant investigation is first initiated during the *Policy Period*.
- 2 It is hereby understood and agreed that notwithstanding General Exclusions 1.b. for the purpose of this Policy, the Definition of *Wrongful Act* is extended to include any actual or alleged act committed or alleged to have been committed by the *Insured* in the discharge of their duties solely in their capacity as *Insured* of the *Not For Profit*, individually or collectively, which act results in a legal liability arising from *Documents* having been destroyed, damaged, lost or mislaid.

Coverage is also extended to include costs and expenses reasonably incurred by the *Insured* in replacing or restoring such *Documents*, provided such costs and expenses are supported by bills or accounts which shall be subject to approval by a competent person to be nominated by the *Insurer* with the approval of the *Not For Profit*. The *Insurer's* liability for such costs and expenses shall be limited to £25,000 in the aggregate.

For the avoidance of doubt the extension of coverage afforded by this clause shall not operate to increase in any way the *Limit of Liability* stated in the Policy Schedule.

Section 2 | Limit of Liability

The *Limit of Liability* shall be the maximum aggregate amount payable hereunder inclusive of *Costs, Charges and Expenses*.

Section 3 | Settlements

- 1 No admittance of liability nor settlement of any *Claim* shall be made nor *Costs, Charges and Expenses* incurred without the *Insurer's* prior written consent, such consent not to be unreasonably withheld. The *Insurer* shall pay such *Costs, Charges and Expenses* no more than once every 60 days provided that:
 - a if it is ultimately established that the *Insurer* has no liability under this Policy, all sums advanced shall be repaid;
 - b any advance of *Costs, Charges and Expenses* shall reduce the *Limit of Liability* in accordance with the terms of the Policy.
- 2 It shall be the duty of the *Insureds* and/or the *Not For Profit* to defend any *Claim*, not the duty of the *Insurer*, however the *Insurer* shall be entitled but not obliged to assume the conduct of the defence or settlement of any *Claim* notified under this Policy.
- 3 An *Insured* shall be entitled at his own risk to contest any *Claim* which in the opinion of the *Insurer* should be compromised or settled provided that the *Insurer* shall not be liable for any damages or *Costs, Charges and Expenses* incurred directly or indirectly as a result of the *Insureds* and/or the *Not For Profit's* refusal to compromise or settle such *Claim* or legal proceedings.

Section 4 | Excess

- 1 No *Loss* shall be paid by the *Insurer* until the applicable *Excess* is exceeded. The only exception being when the *Not For Profit* is unable to make actual indemnification to the *Insureds* under Section 1 Policy Cover by reason of insolvency.
- 2 If more than one *Claim* arises from the same *Wrongful Act*, then it will be deemed a single *Claim* for the purpose of determining the application of the *Excess*.
- 3 If a *Claim* is covered in part under more than one Policy Cover, the higher *Excess* of the applicable Policy Cover shall apply.

Section 5 | General Conditions

1 Adjustment

- a If the *Not For Profit* acquires or creates a *Subsidiary* subsequent to the inception of the Policy, the following provisions apply:
 - i full information must be supplied to the *Insurer* within 60 days. In this event the *Insurer* reserves the right to charge an additional premium and if deemed necessary, to alter the terms of the Policy;
 - ii upon agreement, coverage hereon shall only attach from the date of acquisition or creation for subsequent acts.

b From the date that an entity ceases to be a *Subsidiary* during the *Policy Period* or ceases to be a *Subsidiary* during any insurance of which this is a renewal, the following provisions apply:

- i** there shall be no coverage for subsequent *Wrongful Acts* relating to that *Subsidiary*;
- ii** coverage shall continue for the remainder of the *Policy Period* including the *Optional Extension Period* if applicable, for *Claims* arising from *Wrongful Acts* committed prior to the date the entity ceased to be a *Subsidiary*.

2 Assignment

This Policy may not be assigned without the *Insurer's* written consent.

3 Assistance and Cooperation

In the event of the notification of a *Claim* or of any *Wrongful Act* which may lead to a *Claim*, the *Insureds* and the *Not For Profit* agree to provide the *Insurer* with any information or assistance as may reasonably be requested

4 Authorisation

It is agreed that the *Not For Profit* shall act on behalf of the *Insureds* in matters concerning this Policy including cancellation and notification under Condition 8.

5 Choice of Law

The *Insureds* and the *Not For Profit* are free to choose the law applicable to this contract but in the absence of agreement to the contrary, the law which will apply is the law of England and Wales.

6 Cancellation

This Policy may be cancelled by the *Insurer* giving written notice in the event of non payment of the premium. In the event of such non payment the *Insurer* may elect to cancel this policy ab initio.

7 Contracts (Rights of Third Parties) Act 1999

No person other than the *Insureds*, or the *Not For Profit*, has any rights to enforce any term of the Policy under the Contracts (Rights of Third Parties) Act 1999.

8 Notification

- a** In the event of a *Claim*, it is a condition precedent to the *Insurers* liability under this Policy that notice must be given to the *Insurer* as soon as practicable at the address shown in the *Schedule*, but in no event more than 30 days after the expiry date of the *Policy Period* shown in the *Schedule*;
- b** If during the *Policy Period*, the *Not For Profit* or the *Insureds* become aware of a *Wrongful Act* which they believe may lead to a *Claim*, it is a condition precedent to the *Insurers* liability under this Policy that notice must be given to the *Insurer* during the *Policy Period*. Any *Claim* arising out of such *Wrongful Act* shall then be deemed to have been made during the *Policy Period*. Such notice must state why it is believed that a *Claim* will be made.

9 Optional Extension Period

If the *Insurer* cancels or refuses to renew this Policy for any reason other than non payment of premium or non compliance with terms and conditions of this Policy, or the *Not For Profit* does not renew this Policy the *Not For Profit* has the right to purchase an *Optional Extension Period* of 365 days following the effective date of cancellation or non renewal. However, coverage during the *Optional Extension Period* shall only apply to *Claims* made in respect of *Wrongful Acts* prior to such effective date and/or *Investigation Costs* for investigations initiated prior to such effective date.

In order to invoke the *Optional Extension Period*:

- a** the *Not For Profit* must give written notice within 30 days of the effective date of cancellation or non-renewal;
- b** the *Not For Profit* must pay a further 100% of the total premium shown in the *Schedule* (or annualised if the *Policy Period* is not 12 months). This premium is non-returnable in whole or in part.

Upon request the *Insurer* will consider an *Optional Extension Period* for 36 months or 72 months.

The purchase of the *Optional Extension Period* does not increase the *Limit of Liability*.

10 Retired Insured Extension Period

It is agreed that this Policy will provide any *Insured* with a six year extension period from the date at which time the *Insured* ceases to become an *Insured*. However, cover during the Retired Insured Extension Period shall only apply to *Claims* made in respect of *Wrongful Acts* committed and/or *Investigation Costs* incurred prior to the date the *Insured* ceased their duties.

11 Subrogation

In the event of the notification of any *Claim* or of any *Wrongful Act* which may lead to a *Claim*, the *Insurer* has the right of subrogation against any person or entity.

12 Termination

In the event that:

- a** there is a takeover of the *Not For Profit*;
- b** the *Not For Profit* is merged or consolidated with another entity so that the *Not For Profit* is not the surviving entity;

then from the date that such event takes place, this Policy does not cover any *Wrongful Act* occurring subsequently, except in accordance with the provisions of Condition 9.

13 Warranty Clause

- a** The truth of the particulars and statements contained in the *Proposal* is the basis of this Policy and those particulars and statements are to be considered as incorporated into and constituting a part of this Policy.
- b** In the event of any non-disclosure or misrepresentation by any *Insureds*, whether in the *Proposal* or otherwise, being construed as impacting upon the availability of cover under this Policy then such material misrepresentation or non-disclosure shall not be imputed to any other *Insureds*.

Section 6 | General Exclusions

The *Insurer* shall not be liable to make any payment for *Loss* in connection with any *Claim*:

- 1** for:
 - a** bodily injury, mental anguish, emotional distress, sickness, disease or death;
 - b** damage to, destruction of, or loss of use of any tangible property;
 - c** Loss or destruction of or damage to any property whatsoever or any Loss or whatsoever resulting or arising therefrom or any consequential loss;
 - d** any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:
 - i** ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
 - ii** the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.
- 2** based upon or arising out of:
 - a** any *Wrongful Act*, circumstance or situation which has been or should have been the subject of notice given to any prior insurance;
 - b** any proven dishonest, fraudulent or criminal act or omission of any *Insured*;
 - c** any *Insured* gaining any personal profit or advantage to which they were not legally entitled either at law or in equity;
 - d** the return by the *Insureds* of remuneration to which they were not legally entitled either at law or in equity;
provided that any *Wrongful Act* pertaining to any *Insured* shall not be imputed to any other person for the purposes of determining the applicability of General Exclusion 2.
- 3** which is insured under any other existing policy regardless of whether such *Claim* is collectable or recoverable. However this exclusion shall not apply to *Loss* which exceeds the deductible and limit of indemnity of such other insurance.
- 4** by the *Not For Profit* except where such *Claim* is:
 - a** brought by or under the direction of an Administrator, Liquidator or Receiver;
 - b** for *Costs, Charges and Expenses* in respect of the *Claim* brought by the *Not For Profit*.
- 5** of any *Subsidiary* for, or in consequence of, any *Wrongful Act* occurring prior to the date such entity became a *Subsidiary*.
- 6** based upon, arising out of directly or indirectly resulting from or in consequence of, or in any way involving:
 - a** any prior and/or pending litigation as at the date specified in the *Schedule*; or
 - b** any fact, circumstance, situation, transaction or event underlying or alleged in such litigation, regardless of the legal theory upon which such *Claim* is predicated.
- 7** based upon or arising directly or indirectly out of:
 - a** war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, riot, civil commotion assuming the proportion of or amounting to a popular uprising, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority; or
 - b** any act or acts, or threat thereof, of terrorism, force or violence for political, religious or other ends directed towards the overthrowing or influencing of any government, or for the purpose of putting the public in fear, by any person or persons acting alone or on behalf of, or in connection with any organisation.
- 8** based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving or related to:
 - a** any act, error or omission which the *Insured* knew to be a breach of trust or breach of duty or which was committed by the *Insured* in reckless disregard of whether or not it was in breach of trust or breach of duty;
 - b** actual or alleged seepage, pollution or contamination of any kind;
 - c** the manufacture, mining, processing, distribution, testing, remediation, removal, storage, disposal, sale, use of or exposure to asbestos or materials or products containing asbestos whether or not there is another cause of *Loss* which may have contributed concurrently or in any sequence to a *Claim*;
 - d** *Fungi* whether or not there is another cause of *Loss* which may have contributed concurrently or in any sequence to a *Claim*.
- 9** brought outside the *Geographical Limits* or under the laws of countries outside the *Geographical Limits* or brought to enforce a judgement obtained in any court of law or under the laws of any country outside the *Geographical Limits*.
- 10** based upon or arising out of any *Insured* acting in the capacity of trustee or fiduciary or administrator of any employer-sponsored pension or super-annuation scheme or super-annuation programme, including any actual or alleged violation of any responsibilities, obligations or duties imposed by the UK Pensions Act 1995 or any amendments or re-enactments thereof, or any similar legislation applicable in any other jurisdiction.

Further Information

Data Protection Act 1998

We may store your information on a computer and use it for administration, risk assessment, research and statistical purposes, marketing purposes and for crime prevention (see further details below). We will only disclose your personal details to third parties, if it is necessary for the performance of your contract with us.

In order to assess the terms of the insurance contract or administer claims that arise, we may need to collect data that the Data Protection Act defines as sensitive, such as medical history or criminal convictions. By proceeding with this contract you will signify your consent to such information being processed by us or our agents.

We will keep your information secure at all times. In certain circumstances, for example for systems administration purposes, we may have to transfer your information to another country, which may be a country outside the European Economic Area (EEA). By proceeding with your insurance application, we will assume you are agreeable for us to transfer your information to a country outside the EEA.

Should you wish to receive a copy of the information we hold on you, please contact:

[The Compliance Officer](#)
[Brit Insurance Limited](#)
[55 Bishopsgate, London EC2N 3AS](#)

Financial Services Compensation Scheme

We are covered by the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation from the scheme if we cannot meet our obligations. This depends on the type of business and the circumstances of the claim. Further information about compensation scheme arrangements is available from the FSCS.

[Financial Services Compensation Scheme](#)
[7th Floor Lloyds Chambers](#)
[Portsoken Street](#)
[London](#)
[E1 8BN](#)

[Fax: 020 7892 7301](#)

Complaints Procedure

We are dedicated to providing you with a high quality service and we want to ensure that we maintain this at all times. If you feel we have not offered you a first class service please write and tell us and we will do our best to resolve the problem.

[In the first instance please contact your broker or agent from whom you bought your policy of insurance.](#)

In the unlikely event you remain dissatisfied, please contact:

[The Customer Relations Manager](#)
[Brit Insurance Limited](#)
[55 Bishopsgate, London EC2N 3AS](#)

[Tel: 020 7984 8600](#)
[Fax: 020 7984 8859](#)
[E-mail: \[customer.relations@britinsurance.com\]\(mailto:customer.relations@britinsurance.com\)](#)

In the event you wish to pursue matters further you may be able to refer the matter to The Financial Ombudsman Service. The Financial Ombudsman Service can normally deal with complaints from private individuals and from small businesses with an annual turnover of less than £1 million (for a group of companies, this means a group annual turnover of less than £1 million). The Financial Ombudsman Service can also help with complaints from charities with an annual income of less than £1 million; and from trusts with a net asset value of less than £1 million.

[The Financial Ombudsman Service](#)
[South Quay Plaza](#)
[183 Marsh Wall, London E14 9SR](#)

[Helpline: 0845 080 1800](#)
[Switchboard: 020 7964 1000](#)
[Website: \[www.financial-ombudsman.org.uk\]\(http://www.financial-ombudsman.org.uk\)](#)

Brit Insurance Limited

55 Bishopsgate, London EC2N 3AS
T. 020 7984 8500 F. 020 7984 8501

www.britinsurance.com

Registered in England and Wales number 2763688 at 55 Bishopsgate, London EC2N 3AS
Authorised and regulated by the Financial Services Authority
Member of the Association of British Insurers
A member of the Brit Insurance Group

BIL/DO/D&O/NFPV1/UK/PD/FEB10/2/0496