Trustee Liability for Not for Profit Companies

Significant Policy Features

This summary of insurance cover gives a brief overview of significant features, benefits, exclusions and limitations of the Angel Trustee Liability Insurance with optional Organisational, Professional Indemnity and Employment Practice Extensions – NFP2012-Angel, March 2012 Policy wording, underwritten by Catlin Insurance Company (UK) Ltd.

Whilst care has been taken to prepare this cover summary it does not represent a comprehensive account of the cover provided and for complete details of the insurance provided it is essential to refer to the Policy wording, Schedule and any amendatory endorsements. Amendatory endorsements are changes to the Policy that are applied by the Insurer in specific circumstances and, therefore, will not be shown below.

Please read the Policy carefully and make sure that it meets your needs. You should contact your broker immediately if any corrections are necessary.

- **Introduction**
  
The Policy consists of the Terms, Definitions, Exclusions and Conditions, the coverage Sections purchased, Schedules and endorsements, all of which are a single document and are to be read as one contract. The Proposal is the basis of the contract and must be understood as being incorporated into the Policy.

- **Data Protection Act**
  
  Information provided will be processed in compliance with the provisions of the Data Protection Act 1998, which may necessitate providing such information to third parties.

- **Third Party Rights**
  
  No party except the Insurer and the Insured shall have any rights under the Policy.

- **Complaints Procedure**
  
  Catlin Insurance Company (UK) Ltd. is dedicated to providing a high quality service and we want to ensure that we maintain this at all times. If you feel that you have not been offered a first class service or if you have any questions or concerns about the Policy or the handling of a claim you should, in the first instance, contact your representative through whom the Policy was placed.

  If you wish to make a complaint you can do so at any time by referring the matter to:

  Compliance Officer
  Catlin Insurance Company (UK) Ltd.
  20 Gracechurch Street
  London, EC3V 0BG

  Telephone Number: 020 7743 8487
  Email: xlcatinukcomplaints@xlcatlin.com

Trustee Liability

- **Type of Insurance:**
  
  Trustee Liability – legal liability for losses, defence costs and expenses arising from negligence and breach of duty committed by a Trustee in the conduct of the business described on the Policy Schedule.

  Organisational Reimbursement – pay on behalf of the Organisation losses and criminal defence costs it is legally required or permitted to pay the Trustee as an advancement of indemnity.

- **Basis of Insurance:**
  
  Claims made - meaning that the insurance only responds to claims first made and notified to the Insurer during the period of insurance stated on the Policy Schedule.

- **Limits of Indemnity:**
  
  Up to £5,000,000 is available; limits purchased will be shown on the Policy Schedule.

- **Limit basis:**
  
  Aggregate with defence costs inclusive.

- **Jurisdiction and Territorial Limits:**
  
  Cover for legal proceedings first brought anywhere in the world except within the USA & Canada.

Angel Trustee Liability NFP2012-Angel (May 2015)
• Cover is provided for defence and investigation costs.

• Cover is provided for Employment Practice claims against a Trustee (for example discrimination, harassment or defamation).

• Cover is provided for defence and investigation costs of an identity theft claim up to the sub limit shown on the Policy Schedule.

• Cover is provided for criminal defence and investigation costs.

• Cover is provided for pollution and contamination defence and investigation costs up to the sub limit shown on the Policy Schedule.

• Cover is provided for an extradition defence and investigation costs up to the sub limit shown on the Policy Schedule.

• Cover is provided for asset and liberty (for example a restriction in movement or deportation) proceedings defence and investigation costs up to the sub limit shown on the Policy Schedule.

• Cover is provided for public relations costs up to the sub limit shown on the Policy Schedule.

**Extensions**

• Additional Limit – in the event all limits available to the Trustee become exhausted each Trustee will be provided an additional limit for any subsequent claim within the period of insurance up to the sub limit shown on the Policy Schedule.

• Automatic Acquisition – cover for Trustees of newly created or acquired privately held subsidiaries, provided the negligent act takes place whilst a subsidiary and the total assets of the Organisation are not increased by more than 50%.

• Discovery – a discovery period of 12 or 24 months may be purchased provided this section of the Policy is not replaced or there has not been an insolvency, takeover or merger. Discovery is subject to the following conditions:
  o cover only applies to a negligent act or breach of duty occurring prior to expiry,
  o the limit of indemnity remains unaltered,
  o the payment of the additional premium shown on the Policy Schedule,
  o cover will lapse upon the purchase of another policy broadly the same.

• Emergency Defence Costs – emergency defence costs incurred may be reimbursed up to 14 days after the claim was first made up to the sub limit shown on the Policy Schedule.

• Outside Boards – cover is extended to cover a negligent act committed by a Trustee who has been formally appointed to the board of an outside company up to the sub limit shown on the Policy Schedule.

• Personal Appointments – cover is extended to cover a negligent act committed by a Trustee who has been formally appointed in a personal capacity as a governor or trustee of a school or charity up to the sub limit shown on the Policy Schedule.

• Retirement Run Off – a discovery period of 72 months from the time of retirement applies to a Trustee who has retired or voluntarily resigned during the period of insurance. This extension shall not apply to a Trustee who has been disqualified, left the as a result of a merger of acquisition or after the appointment of an insolvency practitioner as liquidator, administrator or receiver.

• Takeovers and Mergers Run Off – if the Organisation merges with or consolidates into another organisation where the other organisation or person assumes the right to appoint or remove the majority of the Organisation’s trustees or board of directors or assumes de-facto control of the Organisation this section of the Policy will thereafter apply only to claims resulting from a negligent act or breach of duty occurring prior to the merger, consolidation or acquisition. The Organisation may cancel the remainder of the period of insurance or request a discovery run off period of up to 72 months. Such extension to be at the discretion of the Insurer.
Exclusions & Limitations

Any liability from….

- Changes in the Proposal Information - any changes in the information provided in the Proposal must be notified to the Insurer, until such has been agreed no liability will attach for such the altered risk.
- Death or Bodily Injury – bodily injury except in respect of employment practices or criminal defence costs.
- Dishonest, Fraudulent or Criminal Acts – any dishonest, fraudulent or criminal act by the Trustee.
- Other Insurance – any matter in respect of which there is cover under any other policy.
- Other Pension and Employee Benefit Schemes – any other pension, welfare or related regulations.
- Pollution – any pollution except for defence costs.
- Known Claim or Circumstance – any claims or circumstances known about or ought to have known prior to the beginning of the period of insurance.
- Professional Liability (except if purchased and shown on the Schedule).
- Profit or Advantage – any unlawful personal profit, remuneration or advantage gained by the Trustee where there has been a final adjudication by a competent court or tribunal.
- Property Damage – any damage to or destruction or loss of any property including loss of use.
- Securities – any purchase, exchange or sale of securities by means of a prospectus or private placement on or after the commencement of the period of insurance.
- Subsidiary – any Claim resulting from a wrongful act occurring after any subsidiary ceases to be a subsidiary of the Organisation.
- United States of America and Canada – any claim brought in the United States of America or Canada.

Conditions

- Advanced Payment of Costs – defence costs and expenses are paid as they are incurred. In the event there is no entitlement to such payments the sums advanced must be repaid to the Insurer.
- Allocation – in the event of any loss being partially covered the Insurer shall use their best endeavours fairly and reasonably to agree such an allocation of loss as may be appropriate.
- Avoidance – if the Insurer is entitled to avoid this insurance, the Insurer may give notice that they regard this insurance as being in full force and effect, except that no cover will be given respect of any claim that arises from the ground(s) that entitled the Insurer to avoid.
- Changes in the Proposal Information - any changes in the information provided in the Proposal must be notified to the Insurer, until such has been agreed no liability will attach for such the altered risk.
- Notification of Claims and Circumstances- the Insurer will not make any payment under the Policy unless Claims or circumstances are notified as soon as practicable in writing to the Insurer within the period of insurance. No claim will be considered 30 days after the end of the period of insurance.
- No Admission of Liability - the Insured or any person or entity who claim for indemnity under this Policy shall not, admit liability for or make any offer or payment in respect of any Claim.
- Duty to Co-operate - the Insurer must be provided full co-operation and all details concerning any claim and any circumstance. Failure to comply will entitle the Insurer to refuse to pay the claim.
- Consent to Settle – the Insurer shall not settle any Claim without the consent of the person insured.
- Fraudulent Claims – if any claim is shown in any respect to be fraudulent, this insurance shall become void ab initio and all benefit hereunder shall be forfeited.
- Entitlement to Defend - the Insurer shall be entitled to take over the defence or settlement of any claim.
• Law and Dispute Jurisdiction - the Policy shall be governed by and construed in accordance with the laws of England and Wales. Any dispute shall be subject to the exclusive jurisdiction of the courts of England and Wales.

• Misrepresentation and Non-Disclosure - the insurance is provided on the basis of the information received by the Insurer in the Proposal. The person completing the Proposal must make full and proper enquiries ensuring that all the statements in the Proposal are accurate and that no information has been withheld or misrepresented.

• Order of Payments – where there are multiple Claims for indemnities under this Section, the Insurer shall make payments in the order those Claims are presented to it. If it becomes apparent to the Insurer that the Limit of Indemnity will not be sufficient then the Insurer will make payments in the following order:
  o payments under the Operative Clause 1 (a) direct to the Trustee; followed by
  o payments under the Operative Clause 1 (b) to the Organisation; followed by
  o any other payments to the Organisation.

• Proposal Operation – the Proposal shall operate severally in relation to each Trustee and no statement, information or knowledge on the part of any Trustee shall be imputed to any other Trustee for the purposes of determining whether cover is available to that other Trustee. This clause shall not apply to any Claim against a Trustee excluded under General Exclusions Changes in or Failure to Provide Information.

Organisational and Professional Liability (Entity) – Extension

This extension only applies if it is shown in the Schedule.

• Type of Insurance: Organisational and Professional Liability – legal liability for losses, defence costs and expenses arising from a negligent act committed by the Organisation in the conduct of the business described on the Policy Schedule.
  Professional Liability includes:
  i) dishonesty of employees
  ii) libel and slander committed unintentionally by the Organisation or an employee.
  iii) breach of confidentiality committed unintentionally by the Organisation or an employee

• Basis of Insurance: Claims made - meaning that the insurance only responds to claims first made and notified to the Insurer during the period of insurance stated on the Policy Schedule.

• Limits of Indemnity: Up to £5,000,000 is available; limits purchased will be shown on the Policy Schedule.

• Limit basis: Aggregate with defence costs inclusive.

• Jurisdiction and Territorial Limits: Cover for legal proceedings first brought anywhere in the world except within the USA & Canada.

• Cover is provided for corporate defence and investigation costs.

• Cover is provided for defence and investigation costs of an identity theft claim up to the sub limit shown on the Policy Schedule.

• Cover is provided for criminal defence and investigation costs incurred under the Corporate Manslaughter and Homicide Act 2007.

• Cover is provided for criminal defence and investigation costs incurred under the Bribery Act 2010.

• Cover is provided for pollution and contamination defence and investigation costs up to the sub limit shown on the Policy Schedule.

• Cover is provided for public relations costs up to the sub limit shown on the Policy Schedule.
Extensions

- Automatic Acquisition – cover for the Organisation of newly created or acquired privately held subsidiaries, provided the negligent act takes place whilst a subsidiary and the total assets of the Organisation are not increased by more than 50%.

- Breach of Contract – cover is provided for defence costs arising from a claim within the period of insurance for an alleged breach by the Organisation of a written contract or agreement, other than any Employment contract up to the sub limit shown on the Policy Schedule.

- Data Protection – cover is provided for loss and defence costs first discovered and notified to the Insurer during the period of insurance from a prosecution brought under the Data Protection Regulations arising out of the conduct of the Organisation, up to the sub limit shown on the Policy Schedule.

- Discovery – cover shall be provided to the Organisation where the discovery period is purchased in accordance with the requirements of Trustee Liability section of the insurance. Cover for the Organisation shall automatically lapse upon the appointment of an insolvency practitioner (or equivalent) as a liquidator, administrator or receiver.

- Emergency Defence Costs – emergency defence costs incurred may be reimbursed up to 14 days after the claim was first made up to the sub limit shown on the Policy Schedule.

- Fidelity – cover is provided for direct loss of money belonging to the Organisation first discovered and notified to the Insurer during the period of insurance arising from the dishonest, fraudulent, criminal or malicious act(s) of any employee up to the sub limit shown on the Policy Schedule.

- Loss of Documents - cover is provided up to the sub limit shown on the Policy Schedule for the reasonable and necessary costs and expenses incurred in replacing, restoring or reconstituting any documents which are the property of the Organisation or are in the Organisation’s care, custody or control provided loss is suffered and notified to the Insurer within the policy period.

- Pension and Employee Benefit Schemes – cover is provided claims arising from negligence committed by the Organisation in their capacity as administrators of any Pension/Employee Benefit Scheme up to the sub limit shown on the Policy Schedule.

Exclusions & Limitations

In addition to the Trustee Liability Exclusions

Any liability from....

- Breach of Contract or Agreement – any breach of contract or agreement, either oral or written, except to the extent as provided for defence costs in the extension.

- Breach of Copyright – any plagiarism or breach of copyright or trademark, patents, database rights, registered design or design rights except to the extent as provided for defence costs in the extension.

- Death or Bodily Injury – death or bodily injury except in respect of criminal defence costs.

- Documents or Data – any repair, replacement or reconstitution cost of any document or data.

- Other Pension and Employee Benefit Schemes – any other pension, welfare or related regulations except to the extent as provided for defence costs in the extension.

- Employers Liability – any breach of any obligation owed by the Organisation to any employee.

- Employment Practices – any employment practices wrongful act, except where it has been purchased by the Organisation and appears in the Policy Schedule.

- Fidelity – arising from any accounting error or unexplained shortage or default or non-payment of any loan or other credit arrangement or for expenses incurred in establishing the amount of any loss of money or other property.

- Information Technology – any failure of any computer or other electronic processing device or the transmission or receipt of any virus, program or code that causes loss or damage to any computer system and/or prevents or impairs its proper function or performance.

- Insolvency – the insolvency or bankruptcy of the Organisation.

- Joint Venture – any association or joint venture conducted with any third party.
• Manufacture, Supply or Sale of Goods - arising out of the manufacture, supply, installation or maintenance of any products or goods.
• Pollution - any pollution except for defence costs.
• Price Fixing – any breach of law aimed at preventing monopolies, price fixing or other unfair trade practices.
• Related Organisations - any claim brought by or on behalf of the Organisation having a controlling interest in the Organisation or by any entity controlled by the Organisation.
• Trading Losses - any trading losses incurred by the Organisation.

Fidelity Special Conditions
The Insurer will not make any payment under the Policy unless all of this condition has been complied with. The Organisation operates and can demonstrate to the satisfaction of the Insurer the following minimum controls:
• All cheques or other bank instruments exceeding £10,000 require two manually applied signatures to be added after the payee and amount have been inserted, all electronically activated or online payments exceeding £10,000 require approval and release steps performed by different individuals other than the individuals entering the payment details onto the payments system; and
• At least quarterly and independently of the Employee responsible for payroll, all payroll expenditure is reconciled against personnel records to verify accuracy; and
• Any Employee receiving cash and cheques on behalf of the Organisation is required to remit all monies received and/or bank them within three working days of receipt; and
• Statements of account for all amounts due to the Organisation are issued at least monthly and directly to the relevant customers or other debtors; and
• Bank reconciliations are carried out and cash in hand / petty cash are checked independently of the Employee or person responsible at least monthly.

Employment Practices Liability (EPL) – Extension
This extension only applies if it is shown is the Schedule.
The Exclusions, Limits of Indemnity and Conditions contained in this Employment Practices Liability Extension apply to this extension only.

• Type of Insurance: Employment Practice Liability – legal liability for losses, defence costs and expenses arising from an employment practices wrongful act committed by the Organisation in the conduct of the business described on the Policy Schedule.
• Basis of Insurance: Claims made - meaning that the insurance only responds to claims first made and notified to the Insurer during the period of insurance stated on the Policy Schedule.
• Limits of Indemnity: Limits purchased will be shown on the Policy Schedule and are a sub aggregate inclusive of defence costs within the Organisational and Professional Liability Extension.
• Cover is provided for defence and investigation costs.

Exclusions & Limitations
Any liability from….
• Non Consulted Dismissal - any claim arising from actual or threatened redundancy, dismissal or the suspension of any Employee where the Organisation did not consult and follow the advice of a properly qualified human resource person or employment solicitor prior to the actual or threatened redundancy, dismissal or suspension.
• Trade Union – any claim arising from the failure to act in accordance with any Trade Union agreement or collective bargaining agreement.
• Minimum Wage – any claim arising from the failure to act in accordance with any minimum wage legislation.