

# Directors' and Officers' (D&O) Liability Insurance Program

Provided exclusively by Affinity Nonprofits and Arch Insurance Company

Endorsed by the Council on Foundations (COF)

**Cyber Liability Coverage Extension:** Reimburses expenses resulting from network security breaches. Includes up to \$100,000 for notification and monitoring costs, as well as public relations firm to aid in image restoration.

**Duty-to-Defend Coverage:** Arch will assign experienced defense counsel for covered claims, even if allegations are groundless, false, or fraudulent.

**Broad Definition of Insured:** Includes the Foundation and any director, officer, trustee, committee member, employee or volunteer. Employee definition includes part-time, seasonal, temporary, and leased employees.

**Employment Practices Liability Coverage:** Protects against employee related allegations of discrimination, wrongful termination and sexual harassment, as well as failure to hire or promote.

**Third Party Coverage:** Protects against third party allegations of discrimination and sexual harassment.

**Expanded Claim Trigger:** Broadened wording to include Insureds once identified in a Wells Notice, subpoena or target letter as a target against whom a formal proceeding may be commenced.

**Defense Costs Outside the Limit of Liability Options:** Amount of limits varies by insured. Uncapped defense costs may be available. Helps to preserve policy limit for indemnity payments.

**Personal Injury & Publishers Liability Coverage:** Protects against allegations of libel, slander and copyright or trademark infringement. Broadened wording includes coverage for electronic media.

**Fair Labor Standards Act (FLSA) Sublimit:** Provides a defense cost sublimit for Wage and Hour claims. Insureds outside of California, with under 15 employees, are eligible for limits as high as \$500,000.

**First Party Coverage Enhancements:** See our separate highlight sheet on the Arch Strength Endorsement to learn more about over a dozen additional first party coverage features.

**10% Premium Credit:** We are pleased to offer both COF members and Regional Association of Grantmakers members a 10% premium credit for directors' and officers' liability insurance.

**IRS Fines and Penalties Coverage:** Defense costs coverage provided for alleged violations of IRS tax code provisions. This feature protects the Foundation against allegations of self-dealing, jeopardizing investments and taxable expenditures.

**Breach of Contract Coverage (Defense Costs):** Provides defense for allegations of non-employment related breach of contract.

**\$100,000 Fiduciary Liability (ERISA) Defense Costs Sublimit:** Provides a \$100,000 sublimit for defense costs for allegations of mismanagement of employee benefit plans. Full Fiduciary indemnity and defense costs coverage available upon request for an additional charge.

**Fundraising Fraud Coverage:** Provides a \$250,000 sublimit for public relations and related costs should the Foundation learn that a third party has improperly used the Foundation's name to solicit funds.

**Excess Benefit Transaction Excise Tax:** provides coverage for defense costs as well as up to \$250,000 in penalties pertaining to IRS section 4958, 4941(a)(2), 4965(a)(2), 4966(a)(2) and 4967(a)(2), for both Public and Private Foundations.

**Fiscal Sponsor Activities Coverage:** Provides protection for the Foundation and its employees acting in a fiscal sponsorship capacity for other nonprofits.

## Optional Coverage Parts:

- ▶ **Fiduciary Liability** – Protects against allegations of mismanagement of employee benefit plans.
- ▶ **Crime Coverage** – Reimburses loss caused by theft, robbery, forgery or alteration, computer fraud, and currency fraud.
- ▶ **Kidnap & Ransom** – Reimburses loss caused by kidnapping and extortion type incidents, including ransom payments, defense costs for negligent mishandling of incidents, and response costs to incidents (i.e., security consultant, public relations, negotiator, etc.)

Arch Insurance Company is rated A+ (Superior), XV (\$2 billion or more in capital and surplus and conditional reserves) by A.M. Best Co.

Contact us or have your agent call **1.800.432.7465** or email us at **dnocustomerservice@affinitynonprofits.com**

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Insurance coverage is underwritten by one or more member companies of Arch Insurance Group in North America, which consists of (1) Arch Insurance Company (a Missouri corporation, NAIC # 11150) with admitted assets of \$3.74 billion, total liabilities of \$2.87 billion and surplus to policyholders of \$875.38 million, (2) Arch Specialty Insurance Company (a Missouri corporation, NAIC #21199) with admitted assets of \$512.72 million, total liabilities of \$215.26 million and surplus to policyholders of \$297.45 million, (3) Arch Excess & Surplus Insurance Company (a Missouri corporation, NAIC # 10946) with admitted assets of \$66.25 million, total liabilities of \$612,846 and surplus to policyholders of \$65.64 million and (4) Arch Indemnity Insurance Company (a Missouri corporation, NAIC# 30830) with admitted assets of \$76.19 million, total liabilities of \$48.43 million and surplus to policyholders of \$27.76 million. All figures are as shown in each entity's respective Quarterly Statement for the quarter ended September 30, 2016. Executive offices are located at One Liberty Plaza, New York, NY 10006. Not all insurance coverages or products are available in all jurisdictions. Coverage is subject to actual policy language. This information is intended for use by licensed insurance producers. The information contained in this document is for general information only. It is intended to provide a general overview of the services and products offered. Only the relevant policy can provide the actual terms, coverages, amounts, conditions and exclusions. All coverages are not available in all states. This document is not intended to be advertising or solicitation in states where the local regulations prohibit such usage.

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