

SEEDSMEN'S PROFESSIONAL LIABILITY INSURANCE

ALSO KNOWN AS:

“SEEDSMEN'S ERRORS AND OMISSIONS INSURANCE” (E&O)

THE INSURANCE PROGRAMME FOR MEMBERS OF THE I S F

In recognition of the need for a global approach to risk management the ISF in conjunction with Iris Insurance Brokers Ltd and Certain Underwriters at Lloyd's have developed a tailored Professional Liability insurance product for those involved in the seed industry.

Whilst insurance is not the whole answer it is ever more important in our increasingly litigious world.

WHO NEEDS SEEDSMEN'S PROFESSIONAL LIABILITY INSURANCE ?

Everyone who is involved in growing, conditioning, or distributing seeds. At any stage of the seed business mistakes (or alleged mistakes) can occur in the selection, conditioning, packaging or testing of the seed which can cause or contribute to the loss in whole, or in part, of the customer's crop. Even the most professional of organisations may suffer from a lapse in standards by a distracted employee, which can seriously impact a company's balance sheet if there is no applicable insurance.

SURELY PRODUCTS LIABILITY and/or MISCELLANEOUS E&O INSURANCE ARE ADEQUATE?

No! Seedsmen's Professional Liability Insurance should be carried *in addition to* Products Liability Insurance as they are entirely different coverages and complement each other.

Seedsmen's Professional Liability Insurance covers claims against the Seedsman which may result from failure of the seed sold to conform to the variety or other specified qualities, or to be suitable for the purpose specified, resulting from any error, negligent act or omission by the company or its employees. Miscellaneous E&O covers the professional services of the Seedsman performed for others for a fee. The Seedsman does not normally perform professional services for others for a fee.

Products Liability covers Bodily Injury and Property Damage, both of which are excluded by the Seedsmen's Professional Liability Insurance.

Sometimes a Products Liability Policy is enhanced to cover misdelivery but that is not an adequate substitute for Seedsmen's Professional Liability Insurance.

WHAT SORT OF CLAIMS DO SEEDSMEN ATTRACT?

There are six main categories of claims as outlined below. In most cases the key factors are the adequacy of the seedsman's quality control and seed testing procedures, including the sampling procedures, and the depth of the plaintiff's distress at having lost all or part of his harvest and subsequent profit, (sometimes blaming the seedsman instead of his own farming techniques).

- 1) **Mechanical Error:** Such as errors in labelling, mixture of the wrong kinds or varieties of seed, inadequate labelling or inadequate laboratory testing for germination.
- 2) **Overzealous Distribution:** Including verbal warranties as a result of a salesman over-representing the seed product, and catalogue warranties, again by overzealous parties perhaps beyond the control of the seed producer. The FIS recommends the use of a Standard Disclaimer of Warranty and Limitation of Liability, which is a protection against some of these claims.
- 3) **Germination Deficiencies:** This type of loss can be controlled by careful grow-out testing and strenuous policing by official state and federal seed testing laboratories. Although claims may be less frequent, they tend to be particularly severe when they do occur.
- 4) **Misapplication:** Claims resulting from seed failing to perform in a given area.
- 5) **Disease Control Problems:** Susceptibility to disease varies on the susceptibility or genetic resistance of the type of seed planted. Seedlings or plants may become infected with disease due to seed borne organisms, or be infected by disease organisms in the soil or on plant residue. Damage can be reduced by disease control treatments and by not planting in areas known to be infected with disease.
- 6) **Miscellaneous Problems:** Improper and inadequate pollination can produce substandard seed and consequential losses. Claims also arise from failure to carefully rogue undesired types, kinds or varieties from the seed field and, in particular, apparent carelessness in harvesting the seed production fields.

WHAT ARE THE KEY FEATURES OF THIS INSURANCE PROGRAMME?

The policy wording covers **Claims Made** during the policy period, excluding claims/circumstances which are known about at the inception of the policy. It defines “**Seed(s)**” as including “seeds, bulbs, plants roots, tubers or other similar means of plant propagation”. The policy covers **World-Wide Sales** of all crops including **Genetically Modified Organisms**.

The **Limits and Deductible** are both inclusive of defence costs and expenses. This means that the Insured must contribute to the defence of any claim, and the sum insured should be adequate to include these expenses. The **Deductible** would be geared to an Insured's turnover, and to the Insured's own claims record. Vegetable Seeds would have a larger Deductible than Agricultural Seeds.

Underwriters are willing to offer a **Catastrophe Protection** for those large risks which only require insurance to protect them against the unusually large claims. Capacity is available to provide limits up to GBP 10,000,000 or more.

It is intended that **Premiums** are kept to a minimum, but most important of all is that Underwriters approach is **flexible**. Underwriters are fully aware that **each risk should be considered on its own merits**, whilst aiming to provide the most attractive terms to benefit the industry as a whole.

THE ISF AND THIS PROGRAMME FOR SEEDSMEN'S PROFESSIONAL LIABILITY

The ISF have a key role in this programme in promoting it amongst the membership, and acting as technical consultant to Underwriters. This consulting role serves to keep Underwriters informed about the seed trade so that they understand the risks involved and the concerns of the ISF membership.

IRIS INSURANCE BROKERS LIMITED

Iris was established as a Lloyd's Broker ten years ago and employs personnel who have been placing Seedsmen's Professional Liability Insurance for well over 20 years. Other London brokers use Iris to access this particular insurance market on their behalf. Please note that this programme is set up in such a way that members of the ISF may use their own local broker/London broker to access the market that has been pre-arranged by Iris.

LLOYD'S OF LONDON

Coverage is world-wide and is offered by certain syndicates at Lloyd's who have underwritten Seedsmen's E&O for over 40 years. Lloyd's of London is rated 'A' (Excellent) and financial size category of XV by AM Best, and A+ (Strong) by Standard & Poor's.

For information please contact the ISF or via your insurance agent:

Richard Symes or John Grant

Iris Insurance Brokers Ltd.

10 Fenchurch Avenue

London EC3M 5BN

UK

Tel +44 (0) 20 3178 7872 Fax +44 (0) 1702 618 901

E-mail: rsymes@irisib.com or jgrant@irisib.com