

## Executive ViewPoint (EVP)

### A Management Liability Product

Executive ViewPoint (EVP) is a Management Liability policy designed to cover private companies with 201 up to 3,000 employees. We offer the following coverage parts and policy features:

#### Key Policy Features

- Non-rescindable policy
- Duty to defend policy with 100 percent allocation
- No hammer clause
- 12-month application look-back
- Limits of up to \$5,000,000 available for each coverage part
- Timely Notice and Resolution Incentive

#### Directors and Officers Liability

- Lifetime Occurrence Reporting Provision (LORP) for former directors and officers
- Additional Side A Limit of \$1,000,000 automatically included
- \$100,000 sublimit for:
  - ◆ HIPAA fines and penalties
  - ◆ Foreign Corrupt Practices Act (FCPA) fines and penalties
- Carveback in the definition of "loss" for taxes imposed in bankruptcy on directors and officers for Side A Loss
- Broad definition of "claim," including extradition costs
- \$250,000 sublimit for "shareholder derivative demand investigation costs"
- Broad definition of "insured," including:
  - ◆ Advisory board
  - ◆ In-house general counsel
  - ◆ Independent contractors
- Conduct exclusion includes final non-appealable adjudication in the underlying action language
- Severability of the application and conduct exclusions for "insured persons"

#### Coverage available via endorsement:

- ◆ Privacy Breach Expense
- ◆ Workplace Violence Expense
- ◆ Kidnap and Ransom Expense
- ◆ Identity Theft Expense
- ◆ Defense outside limits up to \$1,000,000

#### Employment Practices Liability

- "Loss" includes:
  - ◆ Claimant's attorney fees, as awarded by the court
  - ◆ Front and back pay
- Broad definition of "employee," including:
  - ◆ Interns
  - ◆ Volunteers
  - ◆ Independent contractors
- Broad definition of "wrongful employment act," including:
  - ◆ Gender identity discrimination
  - ◆ Invasion of privacy (includes unauthorized use or disclosure of "confidential employee information")
  - ◆ Acts committed via Internet, email or social media
  - ◆ Harassment including workplace bullying
- Sublimit for \$100,000 (defense and indemnity) for Wage and Hour claims, available by endorsement
- Third-party coverage included for most classes

#### Fiduciary Liability

- \$150,000 sublimit for "voluntary settlement program costs"
- \$25,000 sublimit for 502c fines and penalties
- \$25,000 sublimit for fines and penalties under the Pension Protection Act of 2006
- \$150,000 sublimit for HIPAA fines and penalties
- Investment loss carveback to the Benefits Due exclusion

## Why Purchase an EVP Policy?

- Directors' and officers' personal assets are at risk; they may be personally liable for their business decisions and may be sued as individuals
- A private company is more likely to have an employment practices claim than a general liability or property claim
- By law, fiduciaries of pension and benefit plans are personally liable for their decisions even if they outsource their employee benefit plan to third parties
- Private companies face claims from their employees, customers, suppliers, competitors, creditors and shareholders

## Additional Advantages

- Unsurpassed service with a sense of urgency and care
- Same day or next business morning claims acknowledgement
- Policyholders have access to many free and discounted services through our Business Resource Center that will assist in growing and protecting their business
- Carriers are members of the Berkshire Hathaway Company



Email submissions to [professional@devonparkspecialty.com](mailto:professional@devonparkspecialty.com)

*This document does not amend, extend or alter the coverage afforded by the policy. For a complete understanding of any insurance you purchase, you must first read your policy, declaration page and any endorsements and discuss them with your agent. A sample policy is available from your agent. Your actual policy conditions may be amended by endorsement or affected by state laws.*

## Executive ViewPoint (EVP) for Nonprofits

### A Management Liability Product

Executive ViewPoint (EVP) for nonprofits is a Management Liability policy designed to cover nonprofit organizations with more than \$15 million in revenue or more than 200 employees. We offer the following coverage parts and policy features:

#### Key Policy Features

- Non-rescindable policy
- Duty to defend policy with 100 percent allocation
- No hammer clause
- 12-month application look-back
- Limits of up to \$5,000,000 available for each coverage part
- Timely Notice and Resolution Incentive
- Coverages automatically included with purchase of directors and officers and employment practices liability
  - ◆ Workplace Violence Expense
  - ◆ Kidnap and Ransom Expense
  - ◆ Identity Theft Expense

#### Directors and Officers Liability

- Lifetime Occurrence Reporting Provision (LORP) for former directors and officers
- Additional Side A Limit of \$1,000,000 automatically included
- \$100,000 sublimit for:
  - ◆ HIPAA fines and penalties
  - ◆ Foreign Corrupt Practices Act (FCPA) fines and penalties
  - ◆ Excess Benefit Excise Tax fines and penalties
- Broad definition of “wrongful act,” including “personal injury” and “proprietary injury”
- Carveback in the definition of “loss” for taxes imposed in bankruptcy on directors and officers for Side A Loss
- Broad definition of “claim,” including extradition cost
- Broad definition of “insured,” including:
  - ◆ Advisory board
  - ◆ In-house general counsel
  - ◆ Independent contractors
- Conduct exclusion includes final non-appealable adjudication in the underlying action language
- Severability of the application and conduct exclusion for “insured persons”

#### Employment Practices Liability

- Loss” includes:
  - ◆ Claimant’s attorney fees, as awarded by the court
  - ◆ Front and back pay
- Broad definition of “employee,” including:
  - ◆ Volunteers
  - ◆ Interns
  - ◆ Independent contractors
- Broad definition of “wrongful employment act,” including:
  - ◆ Gender identity discrimination
  - ◆ Invasion of privacy (includes unauthorized use or disclosure of “confidential employee information”)
  - ◆ Acts committed via Internet, email or social media
  - ◆ Harassment, including workplace bullying
- Third-party coverage included for most classes

#### Fiduciary Liability

- \$150,000 sublimit for “voluntary settlement program costs”
- \$25,000 sublimit for 502c fines and penalties
- \$25,000 sublimit for fines and penalties under the Pension Protection Act of 2006
- \$150,000 sublimit for HIPAA fines and penalties
- Investment loss carveback to the Benefits Due exclusion

#### Coverage available via endorsement

- Defense outside the limits up to \$1,000,000
- Sublimit for \$100,000 (defense and indemnity) for Wage and Hour claims
- Privacy Breach Expense

## Why Purchase an EVP Policy?

- Directors' and officers' personal assets are at risk; they may be held personally liable for their decisions and may be sued as individuals by:
  - ◆ Donors
  - ◆ Employees
  - ◆ The general public
  - ◆ Third parties
  - ◆ Clients
  - ◆ Government agencies
- Our EVP policy for nonprofits can help protect an individual insured's home, investments and other personal assets

## Additional Advantages

- Unsurpassed service with a sense of urgency and care
- Same day or next business morning claims acknowledgement
- Policyholders have access to many free and discounted services through our Business Resource Center that will assist in growing and protecting their business
- Carriers are members of the Berkshire Hathaway Company



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## Executive ViewPoint (EVP)

### Lifetime Occurrence Reporting Provision



#### Directors and Officers

Directors and officers of an organization may still be at risk of being named in a lawsuit even years after leaving their positions. Under Devon Park's Executive ViewPoint ("EVP") policy, former directors and officers automatically receive an unlimited extension of protection from claims if the new board elects to cancel or non-renew their coverage with us. The LORP gives former directors and officers peace of mind by combining the advantages of occurrence coverage on a claims made policy.

#### Directors and Officers Liability

- Lifetime Occurrence Reporting Provision (LORP) for former directors and officers
- Additional Side A Limit of \$1,000,000 automatically included
- \$100,000 sublimit for:
  - ◆ HIPAA fines and penalties
  - ◆ Foreign Corrupt Practices Act (FCPA) fines and penalties
- Carveback in the definition of "loss" for taxes imposed in bankruptcy on directors and officers for Side A Loss
- Broad definition of "claim," including extradition costs
- \$250,000 sublimit for "shareholder derivative demand investigation costs"
- Broad definition of "insured," including:
  - ◆ Advisory board
  - ◆ In-house general counsel
  - ◆ Independent contractors
- Conduct exclusion includes final non-appealable adjudication in the underlying action language
- Severability of the application and conduct exclusions for "insured persons"

#### Claims Examples

Christina served as president of a trade association. During her tenure, she diligently maintained a Devon Park Specialty EVP Directors and Officers Liability policy. After her term expired, and she was no longer an officer or director of the association, the new president and the board failed to renew the D&O policy. Two years later, Christina was included as a defendant in a lawsuit filed against the new president for mismanagement of funds, which allegedly occurred while the EVP D&O policy was in effect. Without insurance, the new president was forced to pay a substantial amount out of pocket for his own defense. Because Christina was not an officer or director of the association when the decision was made to non-renew the EVP policy, she had coverage for her defense costs under the LORP.

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## Executive ViewPoint (EVP)

This product is designed to cover private companies. We offer directors and officers, employment practices and fiduciary liability with additional coverages offered via endorsement.

### Common classes eligible for the EVP policy include, but are not limited to:

#### *Companies starting at 1 employee\**

- Ambulatory health care services
- Biotechnology firms
- Blood and organ banks
- Dialysis centers
- Endoscopy centers
- Health screenings – blood pressure, employee drug testing, hearing, physical fitness
- Lithotripsy centers
- Medical device manufacturers (invasive)
- Miscellaneous outpatient centers – laser surgery, pain therapy, sleep disorders
- Physical and occupational therapy
- Surgery centers
- Urgent care

\*Available in most states

#### *Companies starting at 201 employees*

- Construction (buildings, heavy and civil, specialty trade)
- Food services
- Hotels
- Information (publishing/data processing)
- Manufacturing
- Miscellaneous professional services (advertising, marketing, consultants)
- Professional services (accountants, architects, engineers, interior design, surveyors)
- Property managers
- Retail/Wholesale trade
- Scientific services (testing labs)
- Services (other – repair and maintenance/personal services)
- Technology services

### Most common ineligible risk characteristics and classes include, but are not limited to:

- Risks located in LA, MS or WV
- Accounts with more than 3,000 employees
- Publicly traded companies
- Hospitals
- Doctor/Dentist offices
- Broadcasting (radio/television)
- Casinos
- Financial institutions
- Franchisors
- Full-service restaurants/bars/taverns
- Governmental entities or municipalities
- Insurance carriers
- Manufacturing of tobacco, small arms, guided missiles, aircrafts
- Motion pictures/Entertainment
- Securities brokers/dealers
- Armed security guards, armored cars
- Transportation (passenger)
- Trusts
- Unions
- Utilities
- Venture capital/Private equity firms

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## Executive ViewPoint (EVP) for Nonprofits

Our EVP product is designed to cover nonprofit organizations with greater than \$15 million in revenue or more than 200 employees. We offer directors and officers, employment practices and fiduciary liability coverages.

### Most common nonprofit classes that are eligible for our EVP product include, but are not limited to:

- Assistance centers (homeless, crises, food banks, etc.)
- Assisted living facilities
- Court Appointed Special Advocates (CASA)
- Chambers of commerce
- Charity groups
- Houses of worship
- Community/Civic centers
- Convention centers
- Country clubs
- Crisis centers
- Facilities for the developmentally disabled
- Economic development corporations
- Environmental groups
- Exhibitions (auto shows, fairs)
- Food banks
- Foundations
- Golf clubs
- Outpatient clinics
- Historical/Preservation societies
- Hospices
- Humane societies
- Libraries
- Low-income housing organizations
- Membership organizations (Jaycees, VFW)
- Mental health centers\*
- Museums
- Nursing homes\*
- Performing arts organizations
- Professional associations
- Public broadcasting organizations
- Regional planning commissions
- Research organizations
- Retirement homes
- Organizations for people with disabilities
- Social service organizations
- Substance abuse centers
- Trade associations
- Visitors/Tourist bureaus
- YMCA/YWCA
- Zoos

*\*Eligible if greater than \$20 million in revenue*

### Most common ineligible risk characteristics and classes include, but are not limited to:

- Risks located in AL, LA, MS or WV
- Organizations with more than 3,000 employees
  - ◆ Activist groups
  - ◆ Adoption agencies
  - ◆ Athletic conferences
  - ◆ Better Business Bureaus
  - ◆ Blood banks
  - ◆ Charter schools
  - ◆ Church/Religious governing bodies
  - ◆ Credit counseling/Reporting services
  - ◆ Colleges/Universities
  - ◆ Foster care organizations
  - ◆ Sororities/Fraternities
  - ◆ Gaming/Gambling commissions
  - ◆ Hospitals
  - ◆ Bar and other associations for attorneys
  - ◆ Municipalities
  - ◆ Public schools
  - ◆ School districts
  - ◆ Third-party administrators
  - ◆ Labor unions
  - ◆ Urban Leagues

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## Executive ViewPoint (EVP)

### A Management Liability Product *Claims Examples*



#### **Directors and Officers**

##### *Supplier Error Causes Breach of Contract Claim from Customer*

ABC Company is a privately held wholesaler that sells to contracted retail businesses. ABC depends on its supplier to provide material necessary to create its product. In preparation to fulfill ABC's customers' contract orders for the upcoming season, ABC places its supply order. Unfortunately, days before the delivery date, a processing error occurs in the supplier's facility, which renders the material unusable. As a result, ABC is unable to fulfill customer orders. ABC and its directors are sued for breach of contract by customers. The individual directors are provided a defense. Defense costs total \$74,858.

##### *Shareholders Sue Board for Breach of Duty After Investment Loss*

After a successful season, Company A accumulates a large surplus of capital. The board recommends that Roger, a director, lead a committee to generate investment income with the goal to eventually use the funds to build a new facility. The committee meets with several investment consultants before finally deciding to purchase shares of Company B. Four months into the purchase, Company B's shares plummet due to an unsuccessful product launch. As a result, the value of Company A's investment is significantly reduced. Shareholders sue Roger and the committee for breach of duty, mismanagement of funds and negligence. Defense costs exceed \$490,000.

##### *Business Expansion Leads to Competitor Lawsuit*

ABC Company is a privately held distributor that is looking to expand its retail customer base in a nearby city. A direct competitor of ABC has already contracted with major retail stores within that city. In an effort to win business, ABC launches an exclusive incentive allowing customers to waive delivery fees for a full year. As a result and unknown to ABC, the customers of the competitor terminate their agreements with the competitor. The competitor sued ABC for tortious interference (wrongful interference with contractual or business relationships). ABC was provided a defense and ultimately won at trial after the judge agreed that ABC's actions did not constitute tortious interference. Defense costs were over \$300,000.

#### **Employment Practices Liability**

##### *Employee Fired After Positive Review and Sues for Wrongful Termination*

Company A hires Joan. Despite a rigorous hiring process, it soon becomes clear that Joan is not meeting expectations; she is repeatedly late, is rude to her co-workers and managers, and often misses deadlines. In an attempt to avoid dealing with Joan, her manager decides to give Joan a positive review and promote her to another position where she reports to another manager. In her new position, Joan continues to exhibit her poor work ethic. The new manager is unsatisfied with her performance and fires Joan. A few weeks later, the company receives a suit from Joan alleging wrongful termination, as her records show her positive performance review. Joan sues for back pay and front pay and emotional distress. Defense and settlement exceed \$85,000.

## Executive ViewPoint (EVP) for Nonprofits

### A Management Liability Product *Claims Examples*



#### **Directors and Officers**

##### *Donors Sue Nonprofit Over Investment Loss*

A nonprofit organization provides various services to the underprivileged and has recently been gaining positive publicity for their contributions to the community. Widespread news of their mission attracts a group of donors who collectively contribute a large sum of money to help support their cause. The organization decides to use an outside investment firm to invest and manage a large portion of the money. The investment portfolio does not perform as expected and results in a loss. The donors bring a lawsuit against the organization for mismanagement of funds and breach of duty, incurring defense costs exceeding \$90,000.

##### *Charitable Trust Sued for Conflict of Interest*

A charitable trust provides grants to a variety of programs ranging from animal advocacy to medical research. Jane, a member of the grant committee, learns that an organization that employs one of her close colleagues is applying for the grant. Jane removed herself from the selection process to avoid a conflict of interest. Her colleague's organization wins the grant, which provokes suspicion among the unsuccessful candidates. These candidates bring a lawsuit against the trust and Jane, alleging breach of duty and conflict of interest in the selection process. Defense costs exceeded \$100,000.

##### *Watchdog Group Sues Foundation for Excessive Compensation*

A foundation hires Jim as its president. A watchdog group learns of Jim's salary and asserts that it is excessive by industry standards. The group begins an investigation into all of the directors' and officers' compensation and lifestyles. As a result of the investigation, the watchdog group also accuses the foundation of improper use of expense accounts. The watchdog group sues the board of directors as well as the foundation for breach of duty and negligence. Ultimately, the judge rules in favor of the board and the foundation; however, they spent \$200,000 defending the claim.

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##### *EVP's Lifetime Occurrence Reporting Provision (LORP) Protects Former Officer*

Whitney served on the board of directors of a nonprofit. Nearly three years after completing her service, she is named as a defendant in a lawsuit along with current members of the organization. Whitney learns that the current board failed to renew its directors and officers policy. Because the board had maintained directors and officers coverage while Whitney was on the board, she was granted coverage via EVP's Lifetime Occurrence Reporting Provision (LORP). The other defendants were uninsured and left to pay for their defense out of pocket.

#### **Employment Practices Liability**

##### *Former Employee Sues for Wrongful Termination and Discrimination*

After several interviews, a community center hires Beth as its new operations manager. Soon thereafter, Beth's job performance declines. Among other things, several employees report that Beth has made unpopular changes in the operations, she has a poor attitude and she is also rude, which negatively impacts the center's reputation. Senior leadership meets with Beth to coach her on her behavior, but after several more complaints from members about changes in the operations, the community center terminates Beth. Two weeks later, Beth files a lawsuit against the community center and its officers and directors, alleging she was wrongfully terminated based on age and gender. Defense costs and settlement totaled over \$75,000.

#### **Fiduciary Liability**

##### *Administrative Error Results in Lost Investment Income for Plan Participants*

An investment change is not implemented in a foundation's 401k Plan due to an administrative error. A group of plan participants realize this request was never put into effect, and, as a result, they collectively lost \$35,852 in investment income. Defense costs and settlements are greater than \$50,000.

## Executive ViewPoint (EVP) Private Company Management Liability New Business Application

NOTICE: THIS IS AN APPLICATION FOR A CLAIMS MADE POLICY. COVERAGE ONLY APPLIES TO CLAIMS AS DEFINED IN THE POLICY THAT ARE FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD AND ARE REPORTED TO THE "COMPANY" ACCORDING TO THE TERMS AND CONDITIONS OF THE POLICY. READ YOUR POLICY CAREFULLY. THE LIMITS OF LIABILITY WILL BE REDUCED BY, AND MAY BE COMPLETELY EXHAUSTED BY, DEFENSE COSTS. DEFENSE COSTS WILL BE APPLIED AGAINST THE RETENTION.

Whenever used in this Application, the term "**Named Applicant**" refers to the entity named in Section I. line 1. and all subsidiaries of **Named Applicant**, unless otherwise indicated. **Named Applicant** on Section I. line 1. will be the Named Insured on the Policy and must be the parent company of all subsidiaries to be covered. "Company" means the insurance company issuing the policy that provides the coverage(s) requested in this Application.

### INSTRUCTIONS

1. All questions must be answered unless otherwise indicated, and this Application must be signed by the Chairperson, CEO, CFO, or In-House General Counsel.
2. Employee count and financial information should be provided on a consolidated basis for the **Named Applicant** and subsidiaries seeking coverage.
3. Please attach most recent loss runs in the past five (5) years as well as the following for the requested coverage(s):

Directors and Officers Liability

- a. Most recent year-end audited or CPA prepared financial statement of the **Named Applicant**. If more than six (6) months old, attach most recent company prepared interim financial statements.
- b. List all shareholders, indicating percentage owned and which are directors, officers or employees of the **Named Applicant**.
- c. List directors and officers of **Named Applicant** and identify any outside directorships or officerships, if applicable.

Employment Practices Liability

- a. Most recent Employer Information Report (EEO-1), if required by law.

Fiduciary Liability

- a. Most recent independent actuarial valuation if a **Named Applicant** sponsors an ESOP or KSOP.
- b. Most recent audited financial statements of any ESOP, KSOP or Defined Benefit plans sponsored by the **Named Applicant**.
- c. Most recent year-end audited or CPA prepared financial statement of the **Named Applicant**.

### I. APPLICANT INFORMATION

1. **Named Applicant** to be the Named Insured on the Policy Declarations: \_\_\_\_\_  
 Primary Address (No P.O. Box):  
 Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
 Website address: \_\_\_\_\_
2. Business type:     Corporation     LLC     Sole Proprietorship     Partnership     Other \_\_\_\_\_
3. Primary NAICS Code: \_\_\_\_\_
4. Years in operation: \_\_\_\_\_
5. Description of operations: \_\_\_\_\_
6. Does the applicant have any subsidiaries?  Yes     No  
*If "Yes" please attach a list of all subsidiaries including: location, operations, ownership, total revenues and number of employees.*
7. Does the **Named Applicant** want coverage for the subsidiaries?  N/A     Yes     No

## II. COVERAGE REQUESTED

1. Please indicate, by checking the box, which coverages are being requested, and complete the relevant portions of the chart.

Coverage	Limits Requested	Current Policy in Effect?	Current Limits of Liability	Current Retention	Current Insurer	Current Prior and Pending Date
<input type="checkbox"/> D&O	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	\$	\$		
<input type="checkbox"/> EPL	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	\$	\$		
<input type="checkbox"/> Fiduciary	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	\$	\$		

2. Have any of the insurers of the respective coverages listed above indicated an intent to non-renew?  Yes  No  
(QUESTION NOT APPLICABLE IN MISSOURI)

## III. GENERAL INFORMATION

1. Have any of the following occurred in the last twelve (12) months or are planned for the next eighteen (18) months by **Named Applicant**?

- a. Merger, acquisition, formation or divesting of a subsidiary  Yes  No
- b. Senior management changes for reasons other than term expiration, death or retirement  Yes  No
- c. Layoffs, staff reductions or facility closings  Yes  No

If "Yes," indicate percentage of total workforce \_\_\_\_\_ %

d. Bankruptcy filing, work-out arrangements with creditors, reorganization or restructuring  Yes  No

2. Does the **Named Applicant** have any foreign operations and/or foreign subsidiaries?  Yes  No

If "Yes," indicate percentage of total revenues generated by all foreign operations \_\_\_\_\_ %

3. Is the **Named Applicant** a federal or state contractor?  Yes  No

If "Yes" to any of the above questions 1. - 3., please attach details.

## IV. FINANCIAL INFORMATION

1. Please complete the following chart. If all information requested is included in financial statements provided with this Application, skip to Question 2.

As of the most recent year end: month \_\_\_\_\_ year \_\_\_\_\_

Current Assets	\$	Shareholders' Equity	\$
Total Assets	\$	Revenues	\$
Current Liabilities	\$	Earnings Before Interest and Taxes (EBIT)	\$
Long Term Debt	\$	Net Income	\$
Total Liabilities	\$	Cash Flow from Operations	\$
Retained Earnings	\$		

2. Has the **Named Applicant** changed auditors in the last twelve (12) months?  Yes  No

3. Is the **Named Applicant** on notice of a violation of any debt covenants?  Yes  No

4. Has the **Named Applicant** ever received an adverse opinion from an auditor including but not limited to an opinion expressing doubt as to an ability to continue as a "going concern"?  Yes  No

If "Yes" to any of the above questions 2. - 4., please attach details.

## V. CLAIM INFORMATION

1. Has any claim or notice of potential claim been given to any insurer for any of the requested coverages listed in Section II, 1., above?  Yes  No

2. Within the last five (5) years, has the **Named Applicant** or any person to be covered under the Policy been the subject of or involved in any claim, demand, subpoena, notice, inquiry, proceeding, litigation, disciplinary action or investigation, alleging or based upon or arising out of any of the following?

a. Antitrust, copyright or patent violation  Yes  No

b. Deceptive or unfair trade practices, or violation of consumer protection laws  Yes  No

- c. Violation of federal or state securities laws  Yes  No
  - d. Criminal proceedings, investigations or actions  Yes  No
  - e. Regulatory or administrative actions  Yes  No
  - f. Employment practices or labor related disputes  Yes  No
  - g. License revocation or suspension  Yes  No
  - h. Other civil, criminal or administrative proceeding  Yes  No
- If "Yes" to any of the above, please attach details.

**VI. DIRECTORS AND OFFICERS LIABILITY INFORMATION**

1. Please complete the following regarding ownership of the **Named Applicant**

Total number of shares/membership units outstanding	
Total number of shareholders/members	
Total number of shares/membership units owned by directors and officers	

2. Have there been any changes to the Board of Directors, Management Committee or Senior Management in the past three (3) years for reasons other than term expiration, death, or retirement?  Yes  No
3. Have any of the following occurred in the last twenty-four (24) months or are planned for the next twelve (12) months by **Named Applicant**:
- a. Public offering of debt or securities?  Yes  No
  - b. Private offering of securities?  Yes  No
  - c. A crowdfunding offer as described in the Jumpstart Our Business Startups Act of 2012?  Yes  No
- If "Yes" to any part of questions 2. or 3., attach details.
4. Do any shareholders/members own directly or beneficially ten (10) percent or more of the outstanding shares?  Yes  No  
If "Yes," answer question 5. below.
5. Are the shareholders/members either a director or officer, or have board representation?  N/A  Yes  No  
If "No" to question 5. above, please complete the chart below.

Shareholder/Member Name	Percentage Owned (%)
	%
	%
	%
	%
	%

6. Does the **Named Applicant** have an in-force policy covering cyber risks, network security and privacy?  Yes  No  
If "Yes," provide name of insurer and current limits of liability: \_\_\_\_\_

**VII. EMPLOYMENT PRACTICES LIABILITY INFORMATION**

1. Total number of employees: Current: \_\_\_\_\_ 1 year ago: \_\_\_\_\_
2. Workforce classification breakdown: Please indicate the total number in each category

Full time (U.S.)	
Part time including leased/loaned, temporary and seasonal (U.S.)	
Interns and volunteers (U.S.)	
Independent Contractors (U.S.)	
Of the above, number located in California	
Located outside the U.S.	

3. If more than 30% of the workforce is located outside of the **Named Applicant's** home state, please attach a list with each state and/or country, including total workforce in each.

4. Employee Salary Ranges	% in Range
Up to \$50,000	%
\$51,000 – \$100,000	%
Over \$100,000	%

5. Percentage of employees involuntarily terminated in last twelve (12) months \_\_\_\_\_%

6. Annual turnover rate of employees over the last two years:

Year: _____	Turnover Rate: _____%	Year: _____	Turnover Rate: _____%
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7. During the past five (5) years, has a **Named Applicant** been involved in any of the following?

- a. An administrative proceeding, investigation or audit by the EEOC or similar state or local agency or by any other federal, state or local government agency concerning any employment-related claims  Yes  No
- b. Employment-related civil suit or claim resulting in a payment including defense costs, over \$10,000  Yes  No
- c. Any claim or other action brought by or on behalf of any non-employee third parties alleging harassment, discrimination or violation of civil rights  Yes  No

*If "Yes" to any of the above, attach full details including date, allegations, current status, amounts incurred, including defense costs and any settlements or judgments as well as any corrective actions taken as a result.*

8. Complete the following table for Guidelines, Policies and Procedures:

Guidelines, Policies, Procedures	Formal Written Policy	Employees Sign and Acknowledge Receipt	Contained in Written Employment Application
a. Equal Employment Opportunity	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A (no written employment application)
b. Unrestricted Employment at-will	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A (no written employment application)
c. Zero tolerance for discrimination	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
d. Zero tolerance for sexual harassment	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
e. Zero tolerance for workplace harassment including bullying	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
f. A safe work environment including security from workplace violence or threats of violence	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
g. Compliance with the Americans with Disabilities Act of 1990 (ADA)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
h. Compliance with Family Medical Leave Act of 1993 (FMLA)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
i. Employee grievance procedure with right of recourse outside of management chain	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
j. Progressive discipline procedures prior to termination/discharge of employment	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
k. Regular performance evaluations	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
l. Use of company email, internet and social media	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
m. Procedures when dealing with third parties	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
n. Hiring, recruiting, interviewing and responding to employment verification requests	<input type="checkbox"/> Yes <input type="checkbox"/> No		
o. Conducting and using background/credit checks	<input type="checkbox"/> Yes <input type="checkbox"/> No		
p. For the classification of employees as exempt/nonexempt and the payment of wages including overtime	<input type="checkbox"/> Yes <input type="checkbox"/> No		

9. Does the **Named Applicant** have a full-time, dedicated human resources manager and/or department?  Yes  No
10. **Named Applicant** review all employment terminations with (check all that apply):  
 Human resources  In-house counsel  Outside counsel  N/A
11. Is outside legal counsel used in writing or modifying the **Named Applicant's** employment policies, employee handbook and employment application?  Yes  No
12. Does the **Named Applicant** use any tests to screen applicants for employment or to screen employees for continued employment or promotion (including health, medical or genetic testing)?  Yes  No  
*If "Yes," attach details.*
13. Are all of the **Named Applicant's** business locations in full compliance with ADA requirements for both employees and third parties?  Yes  No
14. Regular training is conducted on employment policies, including discrimination and harassment for (check all that apply):  
 Employees  Managers and supervisors  Senior Executives  N/A

**VIII. FIDUCIARY LIABILITY INFORMATION**

1. Please provide the following information about the **Named Applicant's** employee benefits Plan(s) ("Plan")  
*Only single employer qualified ERISA Plans are eligible for coverage.*

Plan Name (omit health and welfare Plans)	Type of Plan*	Plan Assets in \$	Number of Participants
		\$	
		\$	
		\$	
		\$	

*\*Defined Contribution(DC), Defined Benefit (DB), Employee Stock Ownership Plan (ESOP), 401K with ESOP feature (KSOP)*

2. Are all Plans established and operated in compliance with Plan documents and ERISA?  Yes  No  
*If "No," please attach details.*
3. Does the **Named Applicant** solely manage Plan assets?  Yes  No  
*If "No," attach details for any outside third-party service providers who manage assets.*
4. Does any Plan hold or offer investment in the **Named Applicant's** securities?  Yes  No
5. During the past three (3) years or over the next twelve (12) months, has or will any Plan be terminated, merged, transferred, suspended, dissolved or converted to a cash balance?  Yes  No
6. In the past three (3) years, has any Plan been amended to reduce, eliminate or change eligibility for benefits, or is any such amendment planned in the next twelve (12) months?  Yes  No
7. Are there any outstanding or delinquent contributions owed to any Plan?  Yes  No
8. Has any Plan ever been investigated or audited by the U.S. Department of Labor (DOL), Internal Revenue Service (IRS), or other agency, domestic or foreign?  Yes  No
9. Has the **Named Applicant** entered into a voluntary compliance arrangement relating to a Plan under a program administered by the DOL, IRS or other government agency whether or not fees, fines or penalties were paid?  Yes  No
10. Does the **Named Applicant** purchase health care insurance through an exchange as defined in Section 1311 of the Patient Protection and Affordable Care Act, ("Act") or other exchange qualified under Act?  Yes  No
11. Does the **Named Applicant** sponsor any Plans that are organized and administered outside the U.S. or are any Plans subject to any laws outside of the U.S.?  Yes  No  
*If "Yes," to any of the above questions 4. through 11., attach details.*
12. Has the **Named Applicant** or its designated administrator(s) provided all Plan documents, summary Plan descriptions, notices of amendments and other required documentation to all Plan participants as required by law?  Yes  No
13. Are Plan administrators evaluated for performance on, at least, an annual basis?  Yes  No  
*If "No," to questions 12. or 13., please attach details.*

## IX. APPLICANT CERTIFICATION: KNOWLEDGE OF PRIOR FACTS/CIRCUMSTANCES/SITUATIONS/EVENTS

### Complete this Section if:

1. There is no current policy in force providing any of the coverage(s) requested in Section II; or
2. Limits of liability requested are higher than the limits of liability shown for any coverage(s) under any policy currently in force.

If 1. or 2. above do not apply, please do not complete the Certification below.

The below Certification applies only to any coverage(s) for which no policy is currently in force; and/or to any limits of liability that are greater than the limits of liability for any coverage(s) under any policy currently in force.

### Certification

No person or entity proposed for coverage has knowledge of any fact, circumstance, situation, transaction or event, which he or she has reason to believe, could give rise to a claim for which coverage would be requested under a policy issued to **Named Applicant**:

- Certify with no exceptions
- Certify with the following exceptions

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**Named Applicant** understands and agrees that if such Certification is untrue or incomplete, any claim or action based upon, arising out of, related to, or in consequence of such fact, circumstance, situation, transaction or event is not covered under any policy issued to the **Named Applicant**. All other rights and remedies of the Company are hereby reserved.

## X. MATERIAL CHANGES TO APPLICATION

**Named Applicant** must immediately notify the Company of any material change in the information provided in this Application, including but not limited to the Applicant Certification where applicable. If such change(s) occurs before coverage is bound, Company reserves the right to withdraw or modify its quote for coverage based on such change(s).

## FRAUD STATEMENTS

**Alabama, Arkansas, District of Columbia, New Mexico, Rhode Island and West Virginia:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

**Colorado Fraud Statement:** It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.

**Florida Fraud Statement:** Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

**Kansas Fraud Statement:** Any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written statement as part of, or in support of, an **application** for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act.

**Maine Fraud Statement:** It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties may include imprisonment, fines or a denial of insurance benefits

**Maryland Fraud Statement:** Any person who knowingly or willfully presents a false or fraudulent claim for payment of a loss or benefit or who knowingly or willfully presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

**New Jersey Fraud Statement:** Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

**New York Fraud Statement:** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

**Oklahoma Fraud Statement:** WARNING: Any person who knowingly, and with intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

**Oregon Fraud Statement:** Notice to Oregon applicants: Any person who, with intent to defraud or knowing that he is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement may be guilty of insurance fraud.

**Kentucky, Pennsylvania AND Ohio Fraud Statement:** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

**Tennessee, Virginia and Washington Fraud Statement:** It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

**Fraud Statement (All Other States):** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

## STATE NOTICES

**Arizona Notice:** Misrepresentations, omissions, concealment of facts and incorrect statements shall prevent recovery under the policy only if the misrepresentations, omissions, concealment of facts or incorrect statements are; fraudulent or material either to the acceptance of the risk, or to the hazard assumed by the insurer or the insurer in good faith would either not have issued the policy, or would not have issued a policy in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or otherwise.

**Florida Surplus Lines Notice:** (Applies only if policy is non-admitted) You are agreeing to place coverage in the surplus lines market. Superior coverage may be available in the admitted market and at a lesser cost. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer.

**Florida and Illinois Punitive Damage Notice:** I understand that there is no coverage for punitive damages assessed directly against an insured under Florida and Illinois law. However, I also understand that punitive damages that are not assessed directly against an insured, also known as "vicariously assessed punitive damages", are insurable under Florida and Illinois law. Therefore, if any Policy is issued to the applicant as a result of this Application and such Policy provides coverage for punitive damages, I understand and acknowledge that the coverage for Claims brought in the State of Florida and Illinois is limited to "vicariously assessed punitive damages" and that there is no coverage for directly assessed punitive damages.

**Maine Notice:** The insurer is not permitted to withdraw any binder once issued, but a prospective notice of cancellation may be sent and coverage denied for fraud or material misrepresentation in obtaining coverage. A policy may not be unilaterally rescinded or voided.

**Minnesota Notice:** Authorization or agreement to bind the insurance may be withdrawn or modified only based on changes to the information contained in this application prior to the effective date of the insurance applied for that may render inaccurate, untrue or incomplete any statement made with a minimum of 10 days' notice given to the insured prior to the effective date of cancellation when the contract has been in effect for less than 90 days or is being canceled for nonpayment of premium.

**Ohio Representation Statement:** By acceptance of this policy, the Insured agrees the statements in the application (new or renewal) submitted to the company are true and correct. It is understood and agreed that, to the extent permitted by law, the Company reserves the right to rescind this policy, or any coverage provided herein, for material misrepresentations made by the Insured. It is understood and agreed that the statements made in the insurance applications are incorporated into, and shall form part of, this policy. **THE INSURED UNDERSTANDS AND AGREES THAT ANY MATERIAL MISREPRESENTATION OR OMISSION ON THIS APPLICATION WILL ACT TO RENDER ANY CONTRACT OF INSURANCE NULL AND WITHOUT EFFECT OR PROVIDE THE COMPANY THE RIGHT TO RESCIND IT.**

**Utah Punitive Damages Notice:** I understand that Punitive Damages are not insurable in the state of Utah. There will be no coverage afforded for Punitive Damages for any Claim brought in the State of Utah. Any coverage for Punitive Damages will only apply if a Claim is filed in a state which allows punitive or exemplary damages to be insurable. This may apply if a Claim is brought in another state by a subsidiary or additional location(s) of the Named Insured, outside the state of Utah, for which coverage is sought under the same policy.

If your state requires that we have information regarding your Authorized Retail Agent or Broker, please provide below.

Retail agency name: \_\_\_\_\_ License #: \_\_\_\_\_

Agent's signature: \_\_\_\_\_ Main agency phone number: \_\_\_\_\_

(Required in New Hampshire)

Agency mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip \_\_\_\_\_

The signer of this application acknowledges and understands that the information provided in this Application is material to the Insurer's decision to provide the requested insurance and is relied on by the Insurer in providing such insurance. The signer of this application represents that the information provided in this Application is true and correct in all matters. The signer of this Application further represents that any changes in matters inquired about in this Application occurring prior to the effective date of coverage, which render the information provided herein untrue, incorrect or inaccurate in any way will be reported to the Insurer immediately in writing. The Insurer reserves the right to modify or withdraw any quote or binder issued if such changes are material to the insurability or premium charged, based on the Insurer's underwriting guides. The Insurer is hereby authorized, but not required, to make any investigation and inquiry in connection with the information, statements and disclosures provided in this Application. The decision of the Insurer not to make or to limit any investigation or inquiry shall not be deemed a waiver of any rights by the Insurer and shall not estop the Insurer from relying on any statement in this Application in the event the Policy is issued. It is agreed that this Application shall be the basis of the contract should a policy be issued and it will be attached and become a part of the Policy.

Applicant's signature: \_\_\_\_\_ Title: \_\_\_\_\_

Chairperson, CEO, CFO, or In-House General Counsel

Date: \_\_\_\_\_

## Executive ViewPoint (EVP) Nonprofit Management Liability New Business Application

NOTICE: THIS IS AN APPLICATION FOR A CLAIMS MADE POLICY. COVERAGE ONLY APPLIES TO CLAIMS AS DEFINED IN THE POLICY THAT ARE FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD AND ARE REPORTED TO THE "COMPANY" ACCORDING TO THE TERMS AND CONDITIONS OF THE POLICY. READ YOUR POLICY CAREFULLY. THE LIMITS OF LIABILITY WILL BE REDUCED BY, AND MAY BE COMPLETELY EXHAUSTED BY, DEFENSE COSTS. DEFENSE COSTS WILL BE APPLIED AGAINST THE RETENTION.

Whenever used in this Application, the term "**Named Applicant**" refers to the entity named in Section I. line 1. and all subsidiaries of **Named Applicant**, unless otherwise indicated. **Named Applicant** on Section I. line 1. will be the Named Insured on the Policy and must be the parent company of all subsidiaries to be covered. "Company" means the insurance company issuing the policy that provides the coverage(s) requested in this Application.

### INSTRUCTIONS

1. All questions must be answered unless otherwise indicated, and this Application must be signed by the Chairperson, Executive Director, CEO, CFO or In-House General Counsel.
2. Employee count and financial information should be provided on a consolidated basis for the **Named Applicant** and subsidiaries seeking coverage.
3. Please attach most recent loss runs in the past five (5) years as well as the following for the requested coverages:
  - Directors and Officers Liability
    - a. Most recent year-end audited or CPA prepared financial statement of the **Named Applicant**. If more than six (6) months old, please attach most recent company prepared interim financial statements as well.
    - b. List directors and officers of **Named Applicant** and identify any outside directorships or officerships, if applicable.
  - Employment Practices Liability
    - a. Most recent Employer Information Report (EEO-1), if required by law.
  - Fiduciary Liability
    - a. Most recent audited financial statements of any Defined Benefit Plan.
    - b. Most recent year-end audited or CPA prepared financial statement of the **Named Applicant**.

### I. APPLICANT INFORMATION

1. **Named Applicant** to be the Named Insured on the Policy Declarations:

Primary Address (No P.O. Box):

Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Website address: \_\_\_\_\_

2. Does the **Named Applicant** have a tax-exempt status under the U.S. Internal Revenue Code?  Yes  No  
 If "Yes," please indicate which tax code:  
 501(c)(3)  501(c)(4)  501(c)(6)  501(c)(7)  501(c)(10)  Other \_\_\_\_\_
3. Primary NAICS Code: \_\_\_\_\_
4. Years in operation: \_\_\_\_\_
5. Description of operations: \_\_\_\_\_
6. Is the **Named Applicant** owned by or controlled by another entity?  Yes  No  
 If "Yes," please attach details.
7. Does the **Named Applicant** have any subsidiaries?  Yes  No  
 If "Yes" please attach a list of all subsidiaries including: location, operations, ownership, total revenues and number of employees.
8. Does the **Named Applicant** want coverage for the subsidiaries?  N/A  Yes  No

## II. COVERAGE REQUESTED

1. Please indicate, by checking the box, which coverages are being requested, and complete the relevant portions of the chart.

Coverage	Limits Requested	Current Policy in Effect?	Current Limits of Liability	Current Retention	Current Insurer	Current Prior and Pending Date
<input type="checkbox"/> Directors and Officers Liability	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	\$	\$		
<input type="checkbox"/> Employment Practices Liability	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	\$	\$		
<input type="checkbox"/> Fiduciary Liability	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	\$	\$		

2. Have any of the insurers of the respective coverages listed above indicated an intent to non-renew?  Yes  No  
(QUESTION NOT APPLICABLE IN MISSOURI) *If "Yes" please attach details.*

## III. GENERAL INFORMATION

1. Have any of the following occurred in the last twelve (12) months or are planned for the next eighteen (18) months by **Named Applicant**?
- Merger, acquisition, formation or divesting of a subsidiary  Yes  No
  - Senior management changes for reasons other than term expiration, death or retirement  Yes  No
  - Layoffs, staff reductions or facility closings  Yes  No  
If "Yes," please indicate percentage of total workforce affected \_\_\_\_\_ %
  - Bankruptcy filing, work-out arrangements with creditors, reorganization or restructuring  Yes  No
2. Does the **Named Applicant** have any foreign operations and/or foreign subsidiaries?  Yes  No  
If "Yes," please indicate percentage of total revenues generated by all foreign operations \_\_\_\_\_ %
3. Has the **Named Applicant's** tax-exempt status been under dispute, suspended or revoked?  Yes  No  
*If "Yes" to any of the above questions 1. - 3., please attach details.*

## IV. FINANCIAL INFORMATION

1. Please complete the following chart. If all information requested is included in financial statements provided with this Application, skip to question 2. As of the most recent year end: month \_\_\_\_\_ year \_\_\_\_\_

Current Assets	\$	Net Assets	\$
Total Assets	\$	Revenues	\$
Current Liabilities	\$	Operating Income	\$
Long-Term Debt	\$	Increase/Decrease in Net Assets	\$
Total Liabilities	\$	Cash Flow from Operations	\$

2. Has the **Named Applicant** changed auditors in the last twelve (12) months?  Yes  No
3. Is the **Named Applicant** on notice of a violation of any debt covenants?  Yes  No
4. Has the **Named Applicant** ever received an adverse opinion from an auditor including but not limited to an opinion expressing doubt as to an ability to continue as a "going concern"?  Yes  No  
*If "Yes" to any of the above questions 2. - 4., please attach details.*

## V. CLAIM INFORMATION

1. Has any claim or notice of potential claim been given to any insurer for any of the requested coverages listed in Section II, 1., above?  Yes  No
2. Within the last five (5) years, has the **Named Applicant** or any person to be covered under the Policy been the subject of or involved in any claim, demand, subpoena, notice, inquiry, proceeding, litigation, disciplinary action or investigation, alleging or based upon or arising out of any of the following?
- Antitrust, copyright or patent violation  Yes  No
  - Deceptive or unfair trade practices, or violation of consumer protection laws  Yes  No
  - Violation of federal or state securities laws  Yes  No
  - Criminal proceedings, investigations or actions  Yes  No

- e. Regulatory or administrative actions  Yes  No
  - f. Employment practices or labor-related disputes  Yes  No
  - g. License revocation or suspension  Yes  No
  - h. Other civil, criminal or administrative proceeding  Yes  No
- If "Yes" to any of the above questions 1. or 2., please attach details.*

**VI. DIRECTORS AND OFFICERS LIABILITY INFORMATION**

1. Does the **Named Applicant** engage in any of the following?
    - a. Publish any magazines, periodicals, white papers or trade journals  Yes  No
    - b. Any form of research, development or testing  Yes  No
    - c. Administration or sponsorship of any insurance program  Yes  No
    - d. Certification, accreditation or standard setting  Yes  No
    - e. Peer review, credentialing or licensing  Yes  No
    - If "Yes," does the **Named Applicant** recommend disciplinary action as a result of any of the above activities?  Yes  No
    - f. Labor/Union negotiations or collective bargaining  Yes  No
    - g. Render any other professional services whether for a fee or pro bono  Yes  No

*If "Yes" to any of the above, please attach details.*
  2. Does the **Named Applicant** have an in-force policy covering cyber risks, network security and privacy?  Yes  No
- If "Yes," please provide name of insurer and current limits of liability: \_\_\_\_\_*

**VII. EMPLOYMENT PRACTICES LIABILITY INFORMATION**

1. Total number of employees: Current: \_\_\_\_\_ One year ago: \_\_\_\_\_
2. Workforce classification breakdown: *Please indicate the total number in each category.*

Full time (U.S.)	
Part time including leased/loaned, temporary and seasonal (U.S.)	
Interns and volunteers (U.S.)	
Independent contractors (U.S.)	
Of the above, number located in California	
Located outside the U.S.	

3. If more than 30 percent of the workforce is located outside of the **Named Applicant's** home state, please attach a list with each state and/or country, including total workforce in each.

4.
 

Employee Salary Ranges	% in Range
Up to \$50,000	%
\$50,001 – \$100,000	%
Over \$100,000	%

5. Percentage of employees involuntarily terminated in last twelve (12) months \_\_\_\_\_ %
6. Annual turnover rate of employees over the last two years:

Year: _____	Turnover Rate: _____ %	Year: _____	Turnover Rate: _____ %
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7. During the past five (5) years, has the **Named Applicant** been involved in any of the following?
  - a. An administrative proceeding, investigation or audit by the EEOC or similar state or local agency or by any other federal, state or local government agency concerning any employment-related claims  Yes  No
  - b. Employment-related civil suit or claim resulting in a payment, including defense costs, over \$10,000  Yes  No
  - c. Any claim or other action brought by or on behalf of any non-employee third parties alleging harassment, discrimination or violation of civil rights  Yes  No

*If "Yes" to any of the above, please attach full details including date, allegations, current status, amounts incurred, including defense costs and any settlements or judgments as well as any corrective actions taken as a result.*

8. Complete the following table for Guidelines, Policies and Procedures:

Guidelines, Policies, Procedures	Formal Written Policy	Employees Sign and Acknowledge Receipt	Contained in Written Employment Application
a. Equal employment opportunity	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A (no written employment application)
b. Unrestricted employment at-will	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A (no written employment application)
c. Zero tolerance for discrimination	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
d. Zero tolerance for sexual harassment	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
e. Zero tolerance for workplace harassment including bullying	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
f. A safe work environment including security from workplace violence or threats of violence	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
g. Compliance with the Americans with Disabilities Act of 1990 (ADA)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
h. Compliance with the Family Medical Leave Act of 1993 (FMLA)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
i. Employee grievance procedure with right of recourse outside of management chain	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
j. Progressive discipline procedures prior to termination/discharge of employment	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
k. Regular performance evaluations	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
l. Use of company email, Internet and social media	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
m. Procedures when dealing with third parties	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
n. Hiring, recruiting, interviewing and responding to employment verification requests	<input type="checkbox"/> Yes <input type="checkbox"/> No		
o. Conducting and using background/credit checks	<input type="checkbox"/> Yes <input type="checkbox"/> No		
p. For the classification of employees as exempt/nonexempt and the payment of wages including overtime	<input type="checkbox"/> Yes <input type="checkbox"/> No		

9. Does the **Named Applicant** have a full-time, dedicated human resources manager and/or department?  Yes  No

10. **Named Applicant** reviews all employment terminations with (check all that apply):

Human resources  In-house counsel  Outside counsel  N/A

11. Is outside legal counsel used in writing or modifying the **Named Applicant's** employment policies, employee handbook and employment application?  Yes  No

12. Does the **Named Applicant** use any tests to screen applicants for employment or to screen employees for continued employment or promotion (including health, medical or genetic testing)?  Yes  No

*If "Yes," please attach details.*

13. Are all of the **Named Applicant's** locations in full compliance with ADA requirements for both employees and third parties?  Yes  No

14. Regular training is conducted on employment policies, including discrimination and harassment for (check all that apply):

Employees  Managers and supervisors  Senior Executives  N/A

### VIII. FIDUCIARY LIABILITY INFORMATION

1. Please provide the following information about the **Named Applicant's** employee benefits plan(s) ("Plan")

*Only single employer qualified ERISA Plans are eligible for coverage.*

Plan Name (omit health and welfare Plans)	Type of Plan*	Plan Assets in \$	Number of Participants
		\$	
		\$	
		\$	
		\$	

\*Defined Contribution (DC), Defined Benefit (DB), or other (O)

2. Are all Plans established and operated in compliance with Plan documents and ERISA?  Yes  No  
*If "No," please attach details.*
3. Does the **Named Applicant** solely manage Plan assets?  Yes  No  
*If "No," please attach details for any outside third-party service providers who manage assets.*
4. During the past three (3) years or over the next twelve (12) months, has or will any Plan be terminated, merged, transferred, suspended, dissolved or converted to a cash balance?  Yes  No
5. In the past three (3) years, has any Plan been amended to reduce, eliminate or change eligibility for benefits, or is any such amendment planned in the next twelve (12) months?  Yes  No
6. Are there any outstanding or delinquent contributions owed to any Plan?  Yes  No
7. Has any Plan ever been investigated or audited by the U.S. Department of Labor (DOL), Internal Revenue Service (IRS) or other agency, domestic or foreign?  Yes  No
8. Has the **Named Applicant** entered into a voluntary compliance arrangement relating to a Plan under a program administered by the DOL, IRS or other government agency whether or not fees, fines or penalties were paid?  Yes  No
9. Does the **Named Applicant** purchase health care insurance through an exchange as defined in Section 1311 of the Patient Protection and Affordable Care Act, ("Act") or other exchange qualified under the Act?  Yes  No
10. Does the **Named Applicant** sponsor any Plans that are organized and administered outside the U.S., or are any Plans subject to any laws outside of the U.S.?  Yes  No  
*If "Yes" to any of the above questions 4. - 10., please attach details.*
11. Are Plan administrators evaluated for performance on, at least, an annual basis?  Yes  No
12. Has the **Named Applicant** or its designated administrator(s) provided all Plan documents, summary Plan descriptions, notices of amendments and other required documentation to all Plan participants as required by law?  Yes  No  
*If "No," to questions 11. or 12., please attach details.*

#### IX. APPLICANT CERTIFICATION: KNOWLEDGE OF PRIOR FACTS/CIRCUMSTANCES/SITUATIONS/EVENTS

##### Complete this Section if:

1. There is no current policy in force providing any of the coverage(s) requested in Section II; or
2. Limits of liability requested are higher than the limits of liability shown for any coverage(s) under any policy currently in force.

If 1. or 2. above do not apply, please do not complete the Certification below.

The below Certification applies only to any coverage(s) for which no policy is currently in force; and/or to any limits of liability that are greater than the limits of liability for any coverage(s) under any policy currently in force.

##### Certification

No person or entity proposed for coverage has knowledge of any fact, circumstance, situation, transaction or event, which he or she has reason to believe, could give rise to a claim for which coverage would be requested under a policy issued to **Named Applicant**:

- Certify with no exceptions
- Certify with the following exceptions

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**Named Applicant** understands and agrees that if such Certification is untrue or incomplete, any claim or action based upon, arising out of, related to, or in consequence of such fact, circumstance, situation, transaction or event is not covered under any policy issued to the **Named Applicant**. All other rights and remedies of the Company are hereby reserved.

## X. MATERIAL CHANGES TO APPLICATION

**Named Applicant** must immediately notify the Company of any material change in the information provided in this Application, including but not limited to the Applicant Certification where applicable. If such change(s) occurs before coverage is bound, Company reserves the right to withdraw or modify its quote for coverage based on such change(s).

## FRAUD STATEMENTS

**Alabama, Arkansas, District of Columbia, New Mexico, Rhode Island and West Virginia:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

**Colorado Fraud Statement:** It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.

**Florida Fraud Statement:** Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

**Kansas Fraud Statement:** Any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written, electronic, electronic impulse, facsimile, magnetic, oral, or telephonic communication or statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act.

**Maine Fraud Statement:** It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties may include imprisonment, fines or a denial of insurance benefits

**Maryland Fraud Statement:** Any person who knowingly or willfully presents a false or fraudulent claim for payment of a loss or benefit or who knowingly or willfully presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

**New Jersey Fraud Statement:** Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

**New York Fraud Statement:** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

**Oklahoma Fraud Statement:** WARNING: Any person who knowingly, and with intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

**Oregon Fraud Statement:** Notice to Oregon applicants: Any person who, with intent to defraud or knowing that he is facilitation a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement may be guilty of insurance fraud.

**Kentucky, Pennsylvania AND Ohio Fraud Statement:** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

**Tennessee, Virginia and Washington Fraud Statement:** It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

**Fraud Statement (All Other States):** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

## STATE NOTICES

**Arizona Notice:** Misrepresentations, omissions, concealment of facts and incorrect statements shall prevent recovery under the policy only if the misrepresentations, omissions, concealment of facts or incorrect statements are; fraudulent or material either to the acceptance of the risk, or to the hazard assumed by the insurer or the insurer in good faith would either not have issued the policy, or would not have issued a policy in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or otherwise.

**Florida Surplus Lines Notice:** (Applies only if policy is non-admitted) You are agreeing to place coverage in the surplus lines market. Superior coverage may be available in the admitted market and at a lesser cost. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer.

**Florida and Illinois Punitive Damage Notice:** I understand that there is no coverage for punitive damages assessed directly against an insured under Florida and Illinois law. However, I also understand that punitive damages that are not assessed directly against an insured, also known as "vicariously assessed punitive damages", are insurable under Florida and Illinois law. Therefore, if any Policy is issued to the applicant as a result of this Application and such Policy provides coverage for punitive damages, I understand and acknowledge that the coverage for Claims brought in the State of Florida and Illinois is limited to "vicariously assessed punitive damages" and that there is no coverage for directly assessed punitive damages.

**Maine Notice:** The insurer is not permitted to withdraw any binder once issued, but a prospective notice of cancellation may be sent and coverage denied for fraud or material misrepresentation in obtaining coverage. A policy may not be unilaterally rescinded or voided.

**Minnesota Notice:** Authorization or agreement to bind the insurance may be withdrawn or modified only based on changes to the information contained in this application prior to the effective date of the insurance applied for that may render inaccurate, untrue or incomplete any statement made with a minimum of 10 days' notice given to the insured prior to the effective date of cancellation when the contract has been in effect for less than 90 days or is being canceled for nonpayment of premium.

**Ohio Representation Statement:** By acceptance of this policy, the Insured agrees the statements in the application (new or renewal) submitted to the company are true and correct. It is understood and agreed that, to the extent permitted by law, the Company reserves the right to rescind this policy, or any coverage provided herein, for material misrepresentations made by the Insured. It is understood and agreed that the statements made in the insurance applications are incorporated into, and shall form part of, this policy. **THE INSURED UNDERSTANDS AND AGREES THAT ANY MATERIAL MISREPRESENTATION OR OMISSION ON THIS APPLICATION WILL ACT TO RENDER ANY CONTRACT OF INSURANCE NULL AND WITHOUT EFFECT OR PROVIDE THE COMPANY THE RIGHT TO RESCIND IT.**

**Utah Punitive Damages Notice:** I understand that Punitive Damages are not insurable in the state of Utah. There will be no coverage afforded for Punitive Damages for any Claim brought in the State of Utah. Any coverage for Punitive Damages will only apply if a Claim is filed in a state which allows punitive or exemplary damages to be insurable. This may apply if a Claim is brought in another state by a subsidiary or additional location(s) of the Named Insured, outside the state of Utah, for which coverage is sought under the same policy.

If your state requires that we have information regarding your Authorized Retail Agent or Broker, please provide below.

Retail agency name: \_\_\_\_\_ License #: \_\_\_\_\_

Agent's signature: \_\_\_\_\_ Main agency phone number: \_\_\_\_\_

(Required in New Hampshire)

Agency mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip \_\_\_\_\_

The signer of this application acknowledges and understands that the information provided in this Application is material to the Insurer's decision to provide the requested insurance and is relied on by the Insurer in providing such insurance. The signer of this application represents that the information provided in this Application is true and correct in all matters. The signer of this Application further represents that any changes in matters inquired about in this Application occurring prior to the effective date of coverage, which render the information provided herein untrue, incorrect or inaccurate in any way will be reported to the Insurer immediately in writing. The Insurer reserves the right to modify or withdraw any quote or binder issued if such changes are material to the insurability or premium charged, based on the Insurer's underwriting guides. The Insurer is hereby authorized, but not required, to make any investigation and inquiry in connection with the information, statements and disclosures provided in this Application. The decision of the Insurer not to make or to limit any investigation or inquiry shall not be deemed a waiver of any rights by the Insurer and shall not estop the Insurer from relying on any statement in this Application in the event the Policy is issued. It is agreed that this Application shall be the basis of the contract should a policy be issued and it will be attached and become a part of the Policy.

Applicant's signature: \_\_\_\_\_ Title: \_\_\_\_\_

Chairperson, Executive Director, CEO, CFO, or In-House General Counsel

Date: \_\_\_\_\_

## Employment Practices Liability (Cont.)

### *Employee Sues for Workplace Bullying Despite Accommodations*

Chrissie works for Company A. She claims to be harassed and bullied by her co-workers. Chrissie goes to her manager and complains. Her manager explains that this is the culture of the department; they like to joke around and enjoy a lively, fun pace. After complaining one more time, the manager decides it would be best to move Chrissie to another department without change in pay. Chrissie is again unhappy and resigns despite accommodations. A few weeks later, Chrissie sues, alleging workplace bullying, sexual harassment and hostile work environment. She claims the new department was a demotion; it limited her opportunity for growth and caused a loss in seniority status. Settlement and defense costs total \$318,750.

### *Termination of Under-Performing Employee Leads to Age Discrimination Allegation*

Company A has employed Ted, age 59, for the last fifteen years. The company invests in new project management software. They offer extensive training sessions to allow all employees to feel comfortable with the software, but Ted does not attend any of them. Ted's productivity is consistently below standard, and the company receives several customer complaints. Ted's supervisor reviews Ted's performance and encourages him to attend the trainings, saying he will be more efficient when he learns to correctly utilize the new software. When Ted's performance does not improve, Ted is fired. Ted files a lawsuit against the company alleging age discrimination, seeking two years' worth of front pay and a large sum for emotional distress. Defense costs and settlement exceed \$120,000.

## Fiduciary

### *Administrative Error Results in Lost Investment Income for Plan Participants*

An administrative error causes a stock investment change to not be implemented in Company A's 401k Plan. A group of plan participants realizes this request was never put into effect, and, as a result, they collectively lost \$86,971 in investment income they would have gained. Defense costs and settlements are greater than \$90,000.

### *Plan Participants Sue Fiduciaries for Failing to Review Work of Third Party Plan Administrator*

To ensure the best employee benefit plan investment management, Company AB decides to utilize an outside service provider, XY Benefits, to administer their employee benefit plan. XY Benefits fails to properly diversify plan participants' assets, causing a significant loss in value. Company AB is sued for breach of duty for failing to review the work of XY Benefits. Defense and settlement exceed \$150,000.



**Email submissions to [professional@devonparkspecialty.com](mailto:professional@devonparkspecialty.com)**

*This document does not amend, extend or alter the coverage afforded by the policy. For a complete understanding of any insurance you purchase, you must first read your policy, declaration page and any endorsements and discuss them with your agent. A sample policy is available from your agent. Your actual policy conditions may be amended by endorsement or affected by state laws.*