



# ACE EXPRESS Private Company Management Indemnity Package

## Crime Coverage Section

In consideration of the payment of premium, in reliance on the **Application** and subject to the Declarations, and terms and conditions of this **Policy**, the **Insurer** and the **Insureds** agree as follows.

### A. INSURING CLAUSES

#### 1. **Employee Theft** Coverage

##### a) **Employee Theft**

The **Insurer** will pay for loss of or damage to **Money**, **Securities** and **Other Property** resulting directly from **Theft** or **Forgery** by any identifiable **Employee** while acting alone or in collusion with others.

##### b) **Employee Benefit Plan**

In the event **Employee Benefit Plan** Coverage is affirmatively designated in Item C of the Declarations relating to this Coverage Section, then the **Insurer** will pay for loss to the **Employee Benefit Plan** of **Money**, **Securities** and **Other Property** resulting directly from **Theft** by an identifiable **Employee** while acting alone or in collusion with others.

#### 2. **Premises** Coverage

##### a) Loss of **Money** and **Securities**

The **Insurer** will pay for loss of **Money** and **Securities** resulting directly from **Robbery**, **Safe Burglary**, disappearance or destruction thereto, or **Theft** while such **Money** or **Securities** is or are upon the **Premises** of the **Insured** or any **Banking Premises**.

##### b) Loss of or damage to **Other Property**

The **Insurer** will pay for loss of or damage to **Other Property** resulting directly from an actual or attempted **Robbery** or **Safe Burglary** within the **Insured's Premises**; provided, that the **Insured** is the owner of the **Premises** or is legally liable to the owner of the **Premises** for such loss or damage.

#### 3. Transit Coverage

The **Insurer** will pay for loss of or damage to **Money**, **Securities** and **Other Property** outside the **Premises** in the care of a **Messenger** or armored motor vehicle company resulting directly from the actual destruction, disappearance, misappropriation, actual or attempted **Robbery** or **Theft**.

#### 4. **Forgery**, **Alteration** and Counterfeit **Money**

The **Insurer** will pay for direct loss resulting from **Forgery**, **Alteration**, or counterfeiting of or in any **Financial Instrument** and from counterfeit **Money**.

For the purposes of this Insuring Clause 4, mechanically reproduced or facsimile signatures shall be treated the same as handwritten signatures.

#### 5. **Computer Theft** and **Funds Transfer Fraud**

The **Insurer** will pay for loss of or damage to **Money** and **Securities** owned by the **Insured** resulting directly from **Computer Theft** or **Funds Transfer Fraud**.

## B. DEFINITIONS

1. **Alteration** means the material modification of a **Financial Instrument** for a fraudulent purpose by a person other than the person who prepared the **Financial Instrument**.
2. **Banking Premises** means the interior of the portion of any building(s) occupied by any **Financial Institution**, or similarly recognized place of safe deposit, including any night depository chute or safe maintained by any **Financial Institution**.
3. **Computer Theft** means the unauthorized and fraudulent taking of **Money** and **Securities** directly through the use of a computer located anywhere.
4. **Employee** means:
  - a) any natural person while in the service of the **Insured**, including sixty (60) days after termination of service; provided the **Insured**:
    - (i) compensates such person directly by salary, wages or commissions; and
    - (ii) has the right to direct and control such person while performing services for the **Insured**;
  - b) any natural person furnished temporarily to or hired by the **Insured**:
    - (i) to substitute for a permanent **Employee** who is on leave or vacation;
    - (ii) as part-time help or to meet seasonal or short-term workload conditions;provided that person is subject to the **Insured's** direction and control and performing services for the **Insured**;
  - c) any student or volunteer who performs services for the **Insured** without compensation; and
  - d) any director or trustee of the **Insured**, but only while performing acts within the scope of the usual duties of an **Employee**.

**Employee** does not mean any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character.
5. **Employee Benefit Plan** means a benefit plan subject to the requirements of the **Employee Retirement Income Act of 1974**, as amended, which is sponsored by the **Company** for its **Employees**.
6. **Financial Institution** means:
  - a) a banking, savings or thrift institution; or
  - b) a stock broker, mutual fund, liquid assets fund or similar institution at which the **Insured** maintains a **Transfer Account**.
7. **Financial Instruments** means checks, drafts or promissory notes, or similar written promises, orders or directions to pay a sum certain in **Money**, that are:
  - a) made or drawn upon by the **Insured**; or
  - b) made or drawn upon by one acting as the **Insured's** agent, or that are purported to have been so made or drawn upon.

**Financial Instruments** shall also mean written instruments required in conjunction with any credit, debit or charge card issued to the **Insured**, or any **Employee** on behalf of the **Insured**; provided, that the **Insurer** shall not pay for loss arising from any credit, debit or charge card if the **Insured** or the **Employee** has not fully complied with the provisions, conditions or other terms under which the card was issued.

8. **Forgery** means the signing of the name of another person or organization with intent to deceive. **Forgery** does not mean a signature which consists in whole or in part of one's own name signed, with or without authority, in any capacity, for any purpose.
9. **Funds Transfer Fraud** means:
- a) electronic, telegraphic, cable, telefacsimile, teletype or telephone instructions fraudulently transmitted to a **Financial Institution** directing such institution to debit a **Transfer Account** and to transfer, pay or deliver **Money** or **Securities** from such **Transfer Account** to any person, entity or account, which instructions purport to have been transmitted by an **Insured** but were in fact fraudulently transmitted by someone other than the **Insured** without the **Insured's** knowledge or consent; or
  - b) fraudulent written instructions, other than those covered under Insuring Clause 4, issued to a **Financial Institution** directing such institution to debit a **Transfer Account** by use of an electronic funds transfer system at specified intervals or under specified conditions, which instructions purport to have been issued by an **Insured** but were in fact fraudulently issued, forged or altered by someone other than the **Insured** without the **Insured's** knowledge or consent.
10. **Insured** means the **Company** and any **Employee Benefit Plan**.
11. **Messenger** means any partner or **Employee** of the **Insured** or other natural person duly authorized by the **Insured** to have custody for the purposes of conveying property, while said person has custody of the property outside the **Premises**.
12. **Money** means:
- a) currency, bullion, coins and bank notes; and
  - b) travelers checks, register checks and money orders held for sale to the public.
13. **Other Property** means any tangible property other than **Money** and **Securities** that has intrinsic value but does not include any property excluded under this Crime Coverage Section.
14. **Premises** means the interior of that portion of any building that is occupied by the **Insured** in conducting its business.
15. **Robbery** means the taking of property of the **Insured** from the care and custody of the **Insured**, an **Employee**, or any person who holds such property under authorization by the **Insured**, by one who has:
- a) caused or threatened to cause such person bodily harm; or
  - b) committed an unlawful act witnessed by such **Insured**, **Employee**, or person.
16. **Safe Burglary** means the taking of the **Insured's Money**, **Securities** or **Other Property** from within a vault or safe located within the **Premises** by a person making entry into such vault or safe, and any vault containing the safe, when all doors thereof are duly closed and locked by at least one combination or time lock, provided that such entry shall be made by actual force and violence upon the exterior of:
- a) a door or doors of such vault or safe, and any vault containing the safe, if entry is made through such doors; or
  - b) the top, bottom or walls of such vault or safe, and any vault containing the safe through which entry is made, if not made through such doors.
17. **Securities** means negotiable and non-negotiable instruments representing **Money** or **Other Property** and includes:
- a) stock certificates, tokens, tickets, revenue and other stamps, whether represented by actual stamps or unused value in a meter, in current use; and

b) evidences of debt issued in connection with credit or charge cards, which cards are not issued by the **Insured**.

**Securities** does not mean **Money**.

18. **Single Loss** means all loss caused by, resulting from or involving an act or event, or a series of related acts or events, whether or not involving one or more specific persons.
19. **Theft** means the unlawful taking of **Money, Securities, or Other Property** from the **Insured** to the deprivation of the **Insured**. For purposes of Insuring Clause 1b) only, **Theft** means the unlawful taking by any **Employee** of **Money, Securities or Other Property** that was intended to be paid as benefits by an **Employee Benefit Plan**.
20. **Transfer Account** means an account maintained by the **Insured** at a **Financial Institution** from which the **Insured** can initiate the transfer, payment or delivery of **Money or Securities**:
- a) by means of electronic, telegraphic, telefacsimile, cable or telephone instructions communicated directly or through an electronic funds transfer system; or
  - b) by means of written instructions, other than those covered under Insuring Clause 4, establishing the conditions under which such transfers are to be initiated by such **Financial Institution** through an electronic funds transfer system.

### C. EXCLUSIONS

The **Insurer** will not pay for:

1. loss resulting from the acts, or based on the authority, of any government, or any agency, department or division thereof;
2. loss that is an indirect or consequential result of any act or **Single Loss** covered by this Crime Coverage Section;
3. loss of potential income, including but not limited to, interest and dividends, not realized by the **Insured** because of a loss covered under this Crime Coverage Section;
4. loss of trade secrets, confidential processing methods, or other confidential or proprietary information of any kind;
5. loss resulting from pollution, nuclear reaction, nuclear radiation or radioactive contamination, or any related act or incident;
6. loss resulting from war, whether or not declared, warlike action, insurrection, rebellion or revolution or any related act or incident;
7. loss resulting from any dishonest or criminal act committed by any of the **Insured's Employees**, directors or trustees whether acting alone or in collusion with others and whether committed while performing services for the **Insured** or otherwise, except to the extent coverage is afforded under Insuring Clause 1;
8. loss resulting from any dishonest or fraudulent act committed by the **Insured** whether acting alone or in collusion with others;
9. loss, or that part of any loss, the proof of which involves in any manner a profit and loss computation or comparison, or a comparison of inventory records with an actual physical count; provided, however, that where the **Insured** establishes wholly apart from such comparison that it has sustained a loss covered under Insuring Clause 1 and it has identified the **Employee** involved, then it may offer its inventory records and actual physical count of inventory in support of the amount claimed;
10. loss resulting directly or indirectly from trading, whether or not in the name of the **Insured** and whether or not in a genuine or fictitious account, except to the extent coverage is afforded under Insuring Clause 1 as a consequence of **Employee Theft**;
11. loss of any intangible property;

12. expenses and costs incurred in the defense of any legal proceedings brought against the **Insured**, or to fees, costs or expenses incurred or paid by the **Insured** in prosecuting or defending any legal proceeding;
13. expenses and costs incurred by the **Insured** in investigating or establishing the existence of or the amount of any loss covered under this Crime Coverage Section;
14. damages of any type for which the **Insured** is legally liable, except direct compensatory damages arising from a loss covered under this Crime Coverage Section;
15. loss of **Money, Securities or Other Property** while in the custody or control of the United States Postal Service or other parcel delivery service;
16. loss for which the **Insured** could recover under a contract with an armored motor vehicle company or under any insurance or indemnity carried by or for the benefit of customers of an armored motor vehicle company;
17. loss due to fire however caused;
18. loss resulting directly or indirectly from **Computer Theft or Funds Transfer Fraud**, except and to the extent coverage is afforded under Insuring Clause 1 or 5;
19. loss resulting directly or indirectly from **Forgery, Alteration** or counterfeiting except and to the extent coverage is afforded under Insuring Clause 1 or 4;
20. loss of or damage to **Money, Securities or Other Property** as a result of kidnap, ransom or other extortion payments surrendered to any person because of a threat to do:
  - a) bodily harm; or
  - b) damage to the **Premises or Other Property** owned by the **Insured**;  
except and to the extent coverage is afforded under Insuring Clause 2;
21. loss resulting from any civil, criminal or other legal proceeding in which the **Insured** is adjudicated to have engaged in "racketeering activity" as that term is defined in 18 United States Code 1961, et seq., as amended; or
22. loss resulting from damage to any property, safe, vault, or to the **Premises** or its exterior, by vandalism or malicious mischief.

#### D. OTHER CONDITIONS

##### 1. Joint **Insured**

- a) If there is more than one **Insured**, the **Parent Company** that is named first in the Declarations will act for itself and for every other **Insured** for all purposes of this Crime Coverage Section. If the first **Parent Company** ceases to be covered, then the next **Parent Company** will become the first **Parent Company** for the purposes of this subsection 1.
- b) If any **Insured**, or any partner, officer or director of that **Insured**, has knowledge of any information relevant to this Crime Coverage Section, that knowledge is considered knowledge of every **Insured**.
- c) An **Employee** of any **Insured** is considered to be an **Employee** of every **Insured**.
- d) If a loss is sustained by more than one **Insured**, the **Insurer** will not pay more for loss sustained by more than one **Insured** than the amount the **Insurer** would have paid if all loss had been sustained by one **Insured**.

##### 2. Discovery

The **Insurer** will pay for loss sustained by the **Insured** through acts committed or events occurring at any time and discovered by the **Insured** during the **Policy Period**. Discovery of loss occurs when an officer, director,

Insurance Manager or Risk Manager first becomes aware of facts which would cause a reasonable person to assume that a loss covered by this Crime Coverage Section has been or will be incurred, even though the exact amount or details of such loss may not then be known. Discovery also occurs when the **Insured** receives notice of an actual or a potential claim against it alleging facts that, if true, would constitute a covered loss under this Crime Coverage Section.

3. Other Insurance

This insurance does not apply to loss recoverable or recovered under any other insurance or indemnity. However, if the limit of the other insurance or indemnity is insufficient to cover the entire amount of the loss, this Crime Coverage Section will apply to that part of the loss, other than that falling within any deductible amount, not recoverable or recovered under the other insurance or indemnity. This Crime Coverage Section will not apply to the amount of loss that is more than the applicable Limit of Liability as stated in the Declarations.

4. Interests Covered; Ownership of Property

This Crime Coverage Section is for the exclusive benefit of the **Insured**. It provides no rights or benefits to any other person or organization. The property covered under this Crime Coverage Section is limited to **Money, Securities or Other Property** that the **Insured** owns.

5. Termination as to any **Employee**

This Crime Coverage Section shall terminate as to any **Employee** from and after the time that the **Insured** or any officer or director thereof not in collusion with such **Employee** shall have knowledge or information that such **Employee** has committed any fraudulent or dishonest act in the service of the **Insured** or otherwise, whether such act be committed before or after the date of employment by the **Insured**.

If, prior to the issuance of this Crime Coverage Section, any fidelity insurance in favor of the **Insured** or any predecessor in interest of the **Insured** and covering one or more of the **Insured's Employees** shall have been cancelled as to any of such **Employees** by reason of the giving of written notice of cancellation by the **Insurer** issuing such fidelity insurance, whether the **Insurer** or not, and if such **Employees** shall not have been reinstated under the coverage of such fidelity insurance or superseding fidelity insurance, **Insurer** shall not be liable on account of such **Employees** unless the **Insurer** shall agree in writing to include such **Employees** within the coverage of this Crime Coverage Section.

6. Termination of this Coverage Section

This Coverage Section shall terminate in its entirety:

- a) thirty days after the receipt by the **Parent Company** of a written notice of termination from the **Insurer**;
  - b) upon receipt by the **Insurer** of a written notice of termination from the **Parent Company**;
  - c) at such other time as may be agreed upon by the **Insurer** and the **Parent Company**;
  - d) upon the voluntary liquidation or dissolution of the **Company**;
  - e) upon the appointment of:
    - (i) a receiver, trustee, or other fiduciary of the property of the **Company**;
    - (ii) a committee for the dissolution thereof; or
  - f) as to any of the **Insureds**, other than the **Company**, upon the appointment of:
    - (i) a receiver, trustee or other fiduciary of the property of any such **Insureds**, or
    - (ii) a committee for the dissolution thereof;
- whichever occurs first.

## E. PROVISIONS AFFECTING LOSS SETTLEMENT

### 1. Limit of Liability

The amount shown in Item C of the Declarations relating to this Coverage Section shall be the maximum aggregate Limit of Liability of the **Insurer** under all Insuring Clauses for this Coverage Section.

### 2. Deductible

The **Insurer** will not pay for loss resulting from a **Single Loss** unless the amount of such loss exceeds the applicable **Single Loss** deductible shown in the Declarations. The **Insurer** will then pay the amount in excess of such deductible, subject to the applicable Limit of Liability of this Crime Coverage Section.

### 3. Duties in the Event of Loss

After the **Insured** discovers a loss or a situation that may result in a loss of **Money**, **Securities** or **Other Property** that may be covered under this Crime Coverage Section, the **Insured** must:

- a) provide to the **Insurer**, at the address set forth in Item G of the Declarations, written notice of such loss as soon as practicable, but in no event later than sixty (60) after such discovery;
- b) submit to an examination under oath at the **Insurer's** request and give the **Insurer** a sworn statement of the answers of the **Insured**;
- c) provide the **Insurer** with a sworn proof of loss within one hundred eighty (180) days after discovery which shall provide, at a minimum:
  - (i) the date and circumstances surrounding discovery, including the name(s) of the person(s) making the discovery;
  - (ii) details of how the subject loss occurred or will occur;
  - (iii) the amount of actual loss known and an estimate of the total loss expected to result; and
  - (iv) a description of all known sources of recovery to reduce the loss;
- d) provide the **Insurer** with all information, assistance and cooperation as the **Insurer** may reasonably request in the investigation and settlement of any claim;
- e) notify the police or other appropriate law enforcement authority(ies) if the **Insured** has reason to believe that loss covered by any Insuring Clause(s) involves a violation of law; and
- f) keep accurate records of all covered property so that the **Insurer** can verify the amount of any claimed loss.

### 4. Valuation

- a) Subject to the Limit of Liability, the **Insurer** will pay for:
  - (i) loss of **Money**, but only up to and including its face value. In the event of loss of **Money** in any currency other than United States dollars, the **Insurer** may, at its option, pay for loss of such **Money**:
    - (a) at face value in the **Money** issued by that country; or
    - (b) in the United States dollar equivalent of the currency in which the loss occurred determined by the rate of exchange as of 12:01 a.m. on the day the loss was discovered;
  - (ii) loss of **Securities**, but only up to and including their value at the close of business on the day the loss was discovered. The **Insurer** may, at its option:
    - (a) pay the value of such **Securities** or replace them in kind, in which event the **Insured** must assign to the **Insurer** all its rights, title and interest in and to such **Securities**; or

(b) pay the cost of any Lost Instrument Bond, subject to the applicable deductible, required in connection with issuing duplicates of the **Securities**. However, the **Insurer** will be liable only for payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of:

- i. the value of the **Securities** at the close of business on the day the loss was discovered; or
- ii. the Limit of Liability of this Crime Coverage Section;

(iii) loss of, or loss from damage to, **Other Property** including damage to the **Premises** for not more than:

- (a) the actual cash value of the property on the day the loss was discovered;
- (b) the cost of repairing the property or **Premises**; or
- (c) the cost of replacing the property with property of like kind and quality.

The **Insurer** may, at its option, pay the actual cash value of the property or repair or replace it. If the **Insurer** cannot agree with the **Insured** upon the actual cash value or the cost of repair or replacement, the value or cost of repair or replacement will be determined by arbitration in accordance with the rules of the American Arbitration Association.

With respect to loss of or damage to electronic data, books of account or other records, tapes, disks or similar electronic media, the **Insurer** will only pay for the cost of blank books, blank pages, blank tapes, or blank disks, plus the cost of labor and computer time for the actual transcription or copying of data furnished by the **Insured** in order to reproduce such data, books, records, tapes, disks or similar electronic media.

b) The **Insurer** may, at its option, pay for loss of, or loss from damage to, property other than **Money**:

- (i) in the original currency in which the loss occurred; or
- (ii) in the United States dollar equivalent of the currency in which the loss occurred determined by the rate of exchange as of 12:01 a.m. on the day the loss was discovered.

c) Any property that the **Insurer** pays for or replaces shall become the **Insurer's** property.

#### 5. Recoveries

a) Any recoveries, less the reasonable cost of obtaining them, made after settlement of loss covered by this Crime Coverage Section will be distributed in the following order:

- (i) to the **Insured**, until the **Insured** is reimbursed for any covered loss that it sustained in excess of the Limit of Liability and the deductible amount, if any;
- (ii) to the **Insurer**, until it is reimbursed for all amounts paid under this Crime Coverage Section; and
- (iii) to the **Insured**, until it is reimbursed for that part of the loss equal to the deductible amount, if any.

b) Recoveries do not include any recovery:

- (i) from insurance, suretyship, reinsurance, security or indemnity taken for the **Insurer's** benefit; or
- (ii) of original **Securities** after duplicates of them have been issued.

#### 6. Legal Action against the **Insurer**

The **Insured** may not bring any legal action against the **Insurer** involving a claimed loss:

a) until ninety (90) days after the **Insured** has filed a sufficient proof of loss with the **Insurer**;



- b) unless the **Insured** has complied with all of the terms of the **Policy**; and
- c) unless brought within two (2) years from the date the **Insured** discovered the loss.

#### F. GENERAL TERMS AND CONDITIONS SECTION

Subsection H. and I. of the General Terms and Conditions section of the **Policy** shall not apply to this Crime Coverage Section.

#### G. EMPLOYEE BENEFIT PLAN

In compliance with certain provisions of the Employee Retirement Income Security Act of 1974, as amended (ERISA):

1. If the **Insured** first named in Item A. of the Declarations is an entity other than the **Employee Benefit Plan**, any payment the **Insurer** makes for loss sustained by any **Employee Benefit Plan** will be held by that **Insured** for the use and benefit of the **Employee Benefit Plan** sustaining the loss.
2. If two or more **Employee Benefit Plans** are **Insured** under this insurance, any payment the **Insurer** makes for loss:
  - a) sustained by two or more **Employee Benefit Plans**; or
  - b) of commingled funds or other property of two or more **Employee Benefit Plans**is to be shared by each **Employee Benefit Plan** sustaining loss in the proportion that the amount of insurance required for each such **Employee Benefit Plan** under ERISA bears to the total of those amounts.
3. The deductible applicable to any Insuring Clause does not apply to loss sustained by any **Employee Benefit Plan** covered under this Crime Coverage Section that is subject to ERISA.

SPECIMEN