

# Employment Practices Liability Insurance Application Including Third Party Coverage

## THIS IS AN APPLICATION FOR A CLAIMS MADE AND REPORTED POLICY

### INSTRUCTIONS:

1. Answer all questions (if not applicable, show N/A) and attach all additional information/explanations as required
2. Application must be dated and have two signatures
3. Please use BLOCK CAPITALS
4. PLEASE READ STATEMENT AT END OF APPLICATION CAREFULLY

### I. GENERAL INFORMATION

#### A. Name and address of Applicant:

When you purchase your coverage with THB, you will be provided with toll-free and on-line access to Employment Law Attorneys who will answer your specific questions. You will be given access to a wealth of information on-line as well as receiving monthly updates, which will all help to keep you aware and informed before a potential claim occurs. *This service is provided at no additional cost to you.*

Within a week of purchasing this product, you will be contacted in order to explain how to use this exciting new service.

Please provide the names of the people to contact:

#### Contact 1:

Name:  Title:

Phone No.:  Fax No.:

E-mail address:

#### Contact 2:

Name:  Title:

Phone No.:  Fax No.:

E-mail address:

- B.  Sole Proprietor       Corporation       Partnership  
 Joint Venture       Franchise       Other (please specify)

C. Describe nature of business:

D. Applicant's website address:

E. How long has the company been in business?

Years

F. How long has the company been under current management?

Years

G. Have you acquired any companies in the past two (2) years?  Yes       No

H. With respect to acquired companies, were any employees of offices terminated or do you plan in the next eighteen (18) months to terminate any employees or offices?  Yes       No

If so, how many? \_\_\_\_\_

*(If you have answered YES to either G. or H. above, please provide details on a separate sheet)*

I. Does the applicant anticipate any plant, facility, branch or office closings, consolidations, or layoffs affecting 20% or more of the employees in any 60-day period within the next (18) months?  Yes       No

*(If YES, please provide details on a separate sheet)*

J. Does the applicant warrant that they will consult with and follow the recommendation of legal counsel experienced in employment law prior to any reorganization, restructuring, reduction in force, change in number of Employees, downsizing operations or closure of one or more plants or places of business operations which results in the termination, or other change in employment terms, within any 60 day period of more than 10% of the total number of Employees measured at the inception of the policy, or twenty (20) Employees, whichever is the greater.  Yes       No

K. Has the proposed coverage ever been purchased before, whether specifically or as a subsection or addition to another coverage?  Yes       No

Year	Renewal Date	Carrier	Limit	Deductible	Premium

L. Has any insurer ever cancelled or non-renewed this type of coverage?  Yes       No

*(If YES, please provide details on a separate sheet)*

## II. EMPLOYEES

### A. Locations by State or Country and current number of employees for each (attach schedule if necessary)

State/Country	No. of Locations	Full Time Employees	Part Time Employees	Seasonal/ Temporary	Independent Contractors

If Temps are used please provide annual billable hours \_\_\_\_\_

### B. Salary ranges (including bonuses and commissions)

	Number of Full Time Employees	Number of Part Time Employees
\$20,000 or less:		
\$20,001 to \$50,000		
\$50,001 to \$100,000		
\$100,001 to \$200,000		
\$200,001 and over		

### C. In the last 12 months how many officers have left your employ? \_\_\_\_\_

Of the above: how many left voluntarily? \_\_\_\_\_

how many were terminated? \_\_\_\_\_

### D. In the last 12 months how many other employees have left your employ? \_\_\_\_\_

Of the above: how many left voluntarily? \_\_\_\_\_

how many were terminated? \_\_\_\_\_

## III. FINANCIAL SECTION

### A. Please answer the following questions, including any subsidiaries, for the most recent fiscal year end:

What are the applicant's:

Current assets?	\$	Current liabilities?	\$
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Total assets?	\$	Total liabilities?	\$
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Total Gross Revenues?	\$
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Does the applicant currently have: Net Income  or  
Net Loss

Amount \$ \_\_\_\_\_

Does the applicant currently have: Positive Cash Flow  or  
Negative Cash Flow

Amount \$ \_\_\_\_\_

Does the Applicant currently have, any credit facility / long term financing / overdraft?  Yes  No

If yes, what amount is exercised/borrowed? \$ \_\_\_\_\_  
If yes, what amount is repayable over the next 12 months? \$ \_\_\_\_\_  
If yes, on what date does the credit facility/long term financing/overdraft renew/expire? \_\_\_\_\_

Within the last three years has the Applicant ever been in breach of any debt covenants or loan agreements?  Yes  No

If yes, provide details \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**B. Has an auditor in the previous two (2) fiscal years recommended a “going concern” opinion of the financial information for the Applicant?**  Yes  No

*If Yes, please provide details on a separate sheet.*

#### IV. LOSS HISTORY

**A. Furnish loss history (5 years) for all wrongful termination, discrimination and harassment claims – please include any complaints alleging discrimination and/or harassment from a person who is a non-employee:**  None  See attached

Total number of claims in the last 5 years \_\_\_\_\_

**B. Has any Director, Officer, Manager, Supervisory Employee or Partner knowledge of any circumstances, at the date this Application is signed, which could reasonably give rise to a claim or any reasonable way to foresee that a claim may be brought?**  Yes  No

**PLEASE PROVIDE A FULL DESCRIPTION OF EACH CLAIM OR ANY CIRCUMSTANCE ON A SEPARATE SHEET.**

*For example, but not by way of limitation, we consider it reasonable for you to foresee that a claim may be brought against you if a current or former employee or an applicant for employment has expressed dissatisfaction with the employment relationship or the employment application process by:*

- i. Making a formal complaint to a supervisory employee of discrimination, harassment or unfair employment practices;*
- ii. Threatening to hire an attorney;*
- iii. Asking for a severance package in excess of what is being offered;*
- iv. Complaining of discrimination, harassment or unfair treatment and threatening to do something about it; or*
- v. Frequent complaining of discrimination, harassment or unfair treatment.*

**C. Has the applicant been involved in any charges, inquiries, investigations, grievance or other hearings before the Equal Employment Opportunity Commission or any other governmental agency?**  Yes  No

*(If you answer YES, please provide details on a separate sheet)*

**The Applicant acknowledges that any claims or incidents reported in, or that should have been reported in, this Section IV. will be excluded from coverage**

**V. THIRD PARTY SECTION** (Please complete the following section if this coverage is required)

- A. Does the applicant have written procedures for handling complaints of discrimination and/or harassment from a Person who is a non-Employee?**  Yes  No  
If Yes, are all complaints recorded?  Yes  No

*(If No, please provide an explanation on a separate sheet)*

- B. Does the applicant's public facilities have proper access for the disabled in compliance with A.D.A. Law?**  Yes  No

*(If No, please provide an explanation on a separate sheet)*

**VI. HUMAN RESOURCES**

- A. Does the Applicant have written employment agreements with all officers?**  Yes  No

- B. Does the Applicant establish at-will employment relationships with all employees without a written employment agreement?**  Yes  No

- C. Have the Applicant's managers and/or supervisors attended training and education programs/seminars on sexual harassment within the last 12 months?**  Yes  No

If YES, who has attended? \_\_\_\_\_

If YES, who conducts? \_\_\_\_\_

- If NO, is applicant willing to implement such training?  Yes  No

- D. Does the Applicant have its employment policies/procedures reviewed by labor relations counsel annually/bi-annually?**  Yes  No

If NO, is the Applicant willing to do so?  Yes  No

- E. Does the Applicant have a Human Resources or Personnel Department?**  Yes  No  
If NO, who handles this function?  Yes  No

- F. Does the Applicant publish an employment handbook?**  Yes  No  
If NO, is the Applicant willing to do so?  Yes  No  
If YES, does the Applicant distribute it to all employees?  Yes  No  
If YES, do employees sign for receipt/acceptance?  Yes  No

- G. Does the Applicant have written procedures for handling employee complaints of discrimination and/or sexual harassment?**  Yes  No

- H. Has the Applicant implemented anti-sexual harassment policies/procedures?**  Yes  No

- I. Does the Applicant use any tests, including drug tests, to screen applicants for employment or to promote or monitor employees?**  Yes  No

If so, what kind and are they performed in-house or by a third party?  
\_\_\_\_\_

- J. Does the Applicant require all terminations to be reviewed by:**  
It's Human Resources Department?  Yes  No  
Or its Legal Department?  Yes  No  
Or outside counsel?  Yes  No  
If NO, is applicant willing to do so?  Yes  No

- K. Does the Applicant maintain a personnel file for each employee?**  Yes  No

- L. Does the Applicant have any written grievance or complaint procedures?**  Yes  No  
If NO, is applicant willing to implement such procedures?  Yes  No

M. Does the Applicant regularly consult with a labor relations counsel?  Yes  No

If YES, who is your labor relations counsel? \_\_\_\_\_

How is this person/firm utilized? \_\_\_\_\_

**VII. OTHER MATERIAL FACTS – IT IS IMPORTANT THAT THIS QUESTION IS ANSWERED**

Please declare any Material Facts on a separate sheet;  None  See attached

*A Material Fact is one likely to influence assessment of this risk, the premium charged and the terms and conditions imposed by Underwriters. If you are in any doubt as to whether a fact would be considered material you should declare it. All the information requested in this proposal is material.*

**The Applicant warrants after full investigation and inquiry that the statements set forth herein are true and include all material information.**

**The Applicant on behalf of the Proposed Insured’s further warrants that if the information supplied on this application changes between the date of this application and the inception date of the Policy, it will immediately notify us of such change. Signing of this application does not bind Underwriters to offer nor the Applicant to accept insurance, but it is agreed that this application shall be the basis of the insurance and will be attached and made a part of the Policy should a policy be issued.**

Date	Applicant's Authorized Signature of a Principal, Partner or Officer	Title
<input type="text"/>	<input type="text"/>	<input type="text"/>

Date	Applicant's Authorized Signature of Individual In Charge of Human Resources or Personnel Department or Signature of 2 <sup>nd</sup> Authorized Person	Title
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Please ensure that additional information is attached where applicable.**

**Duty to Disclose Material Facts**

Since any insurance/reinsurance contract is based upon the duty of utmost good faith, it is important that those seeking insurance/reinsurance should provide full disclosure of all material facts to underwriters and that this information should be kept updated. The Courts will find a fact to be “material” where it would affect the judgement of a prudent underwriter as to whether or not to accept the risk at the particular terms offered. The practical advice, which we give to clients or producers, is this: if you are in doubt we recommend that you advise the information to insurers.

Please note also that a renewal will be based on the information which has already been provided to insurers. Therefore if there is any change in such information which has not yet been advised, this must now be advised to insurers.

**SUPPLEMENTAL CLAIM INFORMATION**

Please complete a claim supplemental form for each claim for the past five years

Claimant(s): \_\_\_\_\_

Title(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

Title(s): \_\_\_\_\_

Claim status:         Incident   Claim   Suit

Venue:  
(Court or Agency) \_\_\_\_\_

Date of act(s) causing claim / incident: \_\_\_\_\_

Date claim / incident reported to the applicant: \_\_\_\_\_

Right to sue issued? \_\_\_\_\_   Expiry date? \_\_\_\_\_

Nature of Claim and allegations:

Name of defense attorney and law firm: \_\_\_\_\_

Name of plaintiff attorney and law firm: \_\_\_\_\_

If Closed, total paid (defense and loss): \_\_\_\_\_

If Open:

1. Claimant's demand: \_\_\_\_\_

2. Insurer's defense and/or loss reserves: \_\_\_\_\_

3. Defense costs incurred to date: \_\_\_\_\_

4. Applicant's settlement offer: \_\_\_\_\_

5. Applicant's estimate of settlement: \_\_\_\_\_

Remedial action taken to prevent a similar claim:

\_\_\_\_\_

**DOWNSIZING QUESTIONNAIRE**

Please complete this questionnaire, if applicable

Applicant Name: \_\_\_\_\_

1. How many employees are impacted by the downsizing event? \_\_\_\_\_
2. Please describe the business reasons necessitating the downsizing event?  
\_\_\_\_\_  
\_\_\_\_\_
3. Does the Applicant have written criteria for the selection of employees to be laid off?  Yes  No
4. Have those criteria been reviewed by counsel?  Yes  No  
When? \_\_\_\_\_
5. Was or will a study be conducted to determine whether the downsizing event will result in a disparate impact on members of any protected class?  Yes  No
6. Did or will all employees losing their jobs in this downsizing event receive severance packages?  Yes  No
7. Were or will all employees losing their jobs in this downsizing event be asked to sign waivers or releases?  Yes  No  
If yes, have those waivers or releases been reviewed by counsel?  Yes  No  
When? \_\_\_\_\_
8. Did any employees indicate that they were considering bringing a suit, complaint or claim?  Yes  No
9. Did Applicant consult with and follow the recommendations of a lawyer who specializes in labor and employment law with respect to the implementation of the downsizing event?  Yes  No

The undersigned declares that the statements set forth herein are true. Signing of this Application does not bind the Applicant or the Underwriters to complete the insurance, but it is represented that the statements contained in this Application and the materials submitted herewith are the basis of the contract should a policy be issued and have been relied upon by the Underwriters in issuing any policy. The Underwriters are authorized to make any investigation and inquiry in connection with this application as it deems necessary.

All written statements and materials furnished to the Underwriters in conjunction with this Application are hereby incorporated by reference into this Application and made a part hereof. This Application and materials submitted with it shall be retained on file with the Underwriters and shall be deemed attached to and become part of the policy if issued.

Date

Must be signed by Chief Executive Officer, Managing Partner,  
President or other authorized Executive of Applicant

Title