**ExecutivePerils** Employment Practices Liability Plus WHIP® Policy

New Business Application

## SOME COVERAGES IN THE POLICY FOR WHICH YOU ARE APPLYING ARE CLAIMS-MADE, AND THEREFORE WILL APPLY ONLY TO CLAIMS FIRST MADE AGAINST AN INSURED DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD, AND REPORTED TO THE INSURER IN ACCORDANCE WITH THE POLICY. IN ADDITION, THE LIMITS OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS UNDER THE POLICY FOR WHICH YOU ARE APPLYING WILL BE REDUCED AND MAY BE EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES.

**The Applicant** is applying for coverage which will be offered through American Family Mutual Insurance Company, S.I., affiliates, Homesite Insurance Company or Homesite Insurance Company of Florida (when in Florida; Homesite Assurance Company) (Surplus Line Insurers).

**“Applicant”** means the proposed Named Insured and all Subsidiaries, or other entities for which Coverage is sought.

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| **I. Producer Information** |
| 1. Agency:
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| 1. Agent Name:
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| 1. Agent’s License Number:
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| 1. Agent’s E-mail:
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| 1. Proposed Effective Date:
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| **II. General Information** |
| 1. | Named Insured: |  |
|  | Address: |  |
|  | City/State/Zip: |  |
|  | Website: |  |
| 2. | Years of Operation: |  |
| 3. | Nature of Operation: |  |
| 4. | Company Information: |  |
| In the past twelve (12) months or in the next twelve (12) months, has the **Applicant** undergone or is the **Applicant**anticipating any: |
|  | a. Mergers, acquisitions, or divestitures? | Yes[ ]  No [ ]  |
|  | c. Registration for public debt or equity offering or any private placement of debt or equity securities? | Yes [ ]  No [ ]  |
|  | d. Breach or violation of any debt covenant or loan agreement or any other material contractual obligation? | Yes [ ]  No [ ]  |
|  | e. Change to its outside auditors? | Yes [ ]  No [ ]  |
|  | *If any of the questions above are answered Yes, please attach an explanation.* |  |
| 6. | Is the **Applicant** a subsidiary of a foreign parent? | Yes [ ]  No [ ]  |
| 7. | Is Coverage being requested for any joint venture or entity that is less than 50% owned by the**Applicant**? | Yes [ ]  No [ ]  |
| 8. | **If Yes, please complete Appendix A of the Application and note that Coverage is not granted to any requested entity unless specifically approved by the underwriter and listed by an endorsement.** |  |

**III. Financial Information**

1. Please complete the following table for the requested financial information (in USD $):

|  |  |  |
| --- | --- | --- |
|  | **Fiscal Year End ( )** | **Prior Fiscal Year End ( )** |
| Total Revenue |  |  |
| Net Income (Loss) |  |  |
| Current Assets |  |  |
| Total Assets |  |  |
| Current Liabilities |  |  |
| Total Liabilities |  |  |
| Cashflow from Operations |  |  |
| 2. | Within the past twenty-four (24) months, has the **Applicant’s** outside auditors stated that there are any material weaknesses in the system of internal controls or expressed doubt that they will be able to operate as a going concern? |  |
|  | Yes [ ]  No [ ]  |
|  | *If Yes, please attach an explanation.* |  |

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| --- | --- | --- |
| **IV.** | **Liability Coverage Claims/Litigation Information** |  |
| 1. | With respect to the Liability Coverages requested in this Application, during the past five (5) years, has any person or entity proposed for this insurance been a party to, or the subject of, any litigation, administrative or regulatory proceedings, or civil or criminal proceedings, charges, hearings, demands, or lawsuits, whether or not such matters were covered by any insurance, including but not limited to such matters involving securities, security holders, creditors, antitrust, deceptive trade practices, consumer fraud, copyright or patent law, ERISA, discrimination, harassment, violations of any privacy laws or employment-related matters or practices? | Yes [ ]  | No [ ]  |
|  | *If Yes, please attach an explanation.* |  |  |
| 2. | With respect to the Liability Coverages requested in this Application, during the past five (5) years, has any person or entity proposed for this insurance been a party to, or the subject of, or involved in, any formal or informal administrative, regulatory, or governmental investigation or inquiry, demand letter, order of investigation, Wells Notice, subpoena or target letter? | Yes [ ]  | No [ ]  |
|  | *If Yes, please attach an explanation.*  |  |  |
| 3.  | Is the **Applicant**, or any person proposed for this insurance aware of any actual or alleged act, error, omission, fact, circumstance, or situation that reasonably could give rise to a claim against them underthe Liability Coverage for which the **Applicant** is applying?*If Yes, please attach an explanation.* |  Yes [ ]  |  No [ ]  |

*Without prejudice to any other rights and remedies of the Insurer, it is understood and agreed that if any such actual or alleged act, error, omission, fact, circumstance, or situation exists, whether or not disclosed to the questions above, any claim, suit, action, proceeding, or inquiry arising from such actual or alleged act, error, omission, fact, circumstance, or situation is excluded from Coverage under the proposed policy, if issued by the Insurer.*

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| **VI. Employment Practices Liability** |
| A.  |  |  |  |
| **Employee Count** | **Current Year**  | **Previous Year** |
| Domestic Full-Time (non-union) |  |  |
| Domestic Part-Time (include leased, seasonal and temporary) (non-union) |  |  |
| Domestic Full-Time (union) |  |  |
| Domestic Part-time (include leased, seasonal and temporary) (union) |  |  |

 B.

|  |  |  |
| --- | --- | --- |
| **Locations** | **Current Year**  | **Previous Year**  |
| Domestic Locations |  |  |
| Foreign Locations |  |  |
| Total Locations |  |  |

C.

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| **Employee Count by Location** |
| **Territory 1** |
| Arkansas: | Kansas: | New Mexico: | Tennessee: | Foreign Employees: |
| Delaware: | Kentucky: | North Carolina: | Texas: | Independent Contractors: |
| Florida (except as listed below): | Maine: | North Dakota: | Tennessee: | Utah: |
| Georgia: | Maryland: | Ohio: | Vermont: |
| Hawaii: | Montana: | Oregon: | Virginia: |
| Idaho: | Nebraska: | Rhode Island: | West Virginia: |
| Indiana: | Nevada: | South Carolina: | Wisconsin: |
| Iowa: | New Hampshire: | South Dakota: | Wyoming: |

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| **Territory 2** |
| Alabama: | Arizona: | Massachusetts: | Missouri: |
| Alaska: | Louisiana: | Mississippi: | New York: |

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| **Territory 3** |
| California (except as listed below): | District of Columbia: | Michigan: | Oklahoma: |
| Colorado: | Florida (Miami-Dade and Palm Beach Counties only): | Minnesota: | Pennsylvania: |
| Connecticut: | Illinois: | New Jersey: | Washington: |

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| **Territory 4 - California** |
| Alameda: | San Francisco: | Santa Cruz: | Sacramento: |
| Contra Costa: | San Mateo: | Santa Barbara: |

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| **Territory 5 - California** |
| Imperial: | Riverside: | Ventura: | Orange:  |
| Los Angeles: | San Bernardino: | San Diego: |

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| D. U.S. Salary Ranges |
| **Employee Annual Salary Ranges** | **% of Employees Current Year** |
| Less than $60,000 |  |
| $60,001- $150,000 |  |
| $150,001- $250,000 |  |
| Over $250,000 |  |

|  |  |
| --- | --- |
| E. | Turnover Rate: |

|  |  |  |  |
| --- | --- | --- | --- |
| **Number of Terminations** | **Year – 20** | **Year- 20** | **Year- 20** |
| Voluntary |  |  |  |
| Involuntary |  |  |  |
| Layoffs/Downsizing |  |  |  |

1. Within the past twenty-four (24) months, have any officers of the **Applicant** been

involuntarily terminated or laid off? Yes [ ]  No [ ]

*If Yes, please complete the following table.*

|  |  |  |  |
| --- | --- | --- | --- |
| **Date** | **Individual** | **Reason for Termination** | **Signed Release Waiver** |
|  |  |  | Yes [ ]  No [ ]  |
|  |  |  | Yes [ ]  No [ ]  |

|  |  |
| --- | --- |
| 2. Does the **Applicant** provide severance packages with a release not to sue to allterminated and laid off employees? | Yes [ ]  No [ ]  |
| *If No, please attach an explanation.* |
| 3. Does the **Applicant** consult with in-house or outside counsel for all terminations and layoffs? | Yes [ ]  No [ ]  |

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| --- | --- |
| F. | Human Resources Policies and Procedures: |
| Please complete the following table for policies and procedures related to the following: |

|  |  |  |  |
| --- | --- | --- | --- |
| **Policies and Procedures** | **Formal Written Policy** | **Employees Sign and Acknowledge Receipt?** | **Formal Training** |
| Discrimination | Yes [ ]  No [ ]  | Yes [ ]  No [ ]  | Yes [ ]  No [ ]  |
| Sexual and Other Workplace Harassment | Yes [ ]  No [ ]  | Yes [ ]  No [ ]  | Yes [ ]  No [ ]  |
| Retaliation | Yes [ ]  No [ ]  | Yes [ ]  No [ ]  | Yes [ ]  No [ ]  |
| Diversity and Inclusion | Yes [ ]  No [ ]  | Yes [ ]  No [ ]  | Yes [ ]  No [ ]  |
| Progressive Discipline | Yes [ ]  No [ ]  | Yes [ ]  No [ ]  |  |
| Hiring/Termination | Yes [ ]  No [ ]  | Yes [ ]  No [ ]  |
| Equal Employment Opportunity | Yes [ ]  No [ ]  | Yes [ ]  No [ ]  |
| Employee conduct with customers, clients, vendors, and other third parties | Yes [ ]  No [ ]  | Yes [ ]  No [ ]  |
| At work Social Media Policy | Yes [ ]  No [ ]  | Yes [ ]  No [ ]  |
| Annual Performance reviews | Yes [ ]  No [ ]  | Yes [ ]  No [ ]  |
| Employment At-Will | Yes [ ]  No [ ]  | Yes [ ]  No [ ]  |

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| 1. Has legal counsel reviewed the guidelines in the past two (2) years?
 | Yes [ ]  | No [ ]  |
| 1. Is the **Applicant** ADA compliant?
 | Yes [ ]  | No [ ]  |
| 1. Is there a full-time HR manager?
 | Yes [ ]  | No [ ]  |
| 1. Is there a formalized process in place for reporting complaints by employees?
 | Yes [ ]  | No [ ]  |
| * 1. If Yes, are employees advised that this action will not result in a retaliatory action?
 | Yes [ ]  | No [ ]  |
| * 1. Does the **Applicant** utilize a third party or hotline for confidential reporting of complaints?
 | Yes [ ]  | No [ ]  |
| 1. Does the **Applicant** utilize arbitration agreements for resolution disputes?
 | Yes [ ]  | No [ ]  |
| 1. Does Name Insured provide any professional services for others for a fee?
 | Yes [ ]  | No [ ]  |
| 1. Do all salaried employees:
	1. Receive at least 2x your state’s prevailing minimum wage per week?
	2. As part of their primary duties, exercise some discretion and independent judgement, including providing weighted input into hiring, promotion and firing decisions?
2. Do all non salaried employees receive at least the prevailing minimum wage as well as meal and rest breaks (where employee is relieved of all duties during such breaks)?
	1. Do you utilize a time- keeping system that tracks in time, out time, meal and rest breaks?
3. Do you utilize independent contractors? If yes, is there a written indemnity agreement holding applicant harmless for all wage and hour violations?
4. Do you provide itemized wage statements to all your employees, including wage paid, deductions, tips, commissions where applicable, and for hourly employees, regular and over time hours?
5. Do you maintain payroll records, including time keeping records and wage statements for a period of at least 4 years?
6. Are all of your employees allowed to take meal period of at least 30 minutes during which they are relieve of all duties?
7. What percentage of your employees are categorized as exempt or non-exempt for overtime wages?
 | Yes [x] Yes [ ] Yes [ ] Yes [ ] Yes [ ] Yes [ ] Yes [ ] Yes [ ] \_\_\_\_% Exempt | No [ ] No [ ] No [ ] No [ ] No [ ] No [ ] No [ ] No [ ] \_\_\_\_%Non-exempt |
|  |  |  |

Insurance Fraud Notices

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. Please see state specific fraud language below:

**Applicable in AL, AR, DC, LA, MD, NM, RI, and WV:** Any person who knowingly (or willfully)\* presents a false or fraudulent claim for payment of a loss or benefit or 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. \*Applies in MD Only.

**Applicable in CO:** 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.

**Applicable in FL and OK:** 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)\*. \*Applies in FL Only.

**Applicable in KS:** 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.

**Applicable in KY, NY, OH, and PA:** 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 (not to exceed five thousand dollars and the stated value of the claim for each such violation)\*.

\*Applies in NY Only.

**Applicable in ME, TN, VA, and WA:** 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 and denial of insurance benefits.

\*Applies in ME Only.

**Applicable in NJ:** Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

**Applicable in OR:** Any person who knowingly and with intent to defraud or solicit another to defraud the insurer by submitting an application containing a false statement as to any material fact may be violating state law.

**Applicable in PR:** Any person who knowingly and with the intention of defrauding presents false information in an insurance application, or presents, helps, or causes the presentation of a fraudulent claim for the payment of a loss or any other benefit, or presents more than one claim for the same damage or loss, shall incur a felony and, upon conviction, shall be sanctioned for each violation by a fine of not less than five thousand dollars ($5,000) and not more than ten thousand dollars ($10,000), or a fixed term of imprisonment for three (3) years, or both penalties. Should aggravating circumstances [be] present, the penalty thus established may be increased to a maximum of five (5) years, if extenuating circumstances are present, it may be reduced to a minimum of two

(2) years.

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| **Representations and Signature** |
| By signing this Application, the **Applicant** represents the following: |
| 1. | The statements in the Application furnished to the Insurer are true, accurate and complete; |
| 2. | Those statements furnished to the Insurer are representations the **Applicant** makes on behalf of all proposed Insureds; |
| 3. | Those representations are a material inducement to the Insurer to provide a Quotation; |
| 4. | If a policy is issued, the Insurer will have issued this Policy in reliance upon those representations; |
| 5. | The **Applicant** agrees to notify the Insurer of any material change in the **Applicant’s** condition or in the **Applicant’s** activities, services, or answers provided in this Application that may be discovered between the date this Application is signed and the Effective Date of any policy, if issued; and |
| 6. | The Insurer reserves the right, upon receipt of such notice, to change or rescind any Quotation previously offered by the Insurer. |
| **THIS APPLICATION MUST BE SIGNED BY THE PRESIDENT, CHIEF EXECUTIVE OFFICER OR CHIEF FINANCIAL OFFICER OF THE NAMED INSURED SHOWN IN QUESTION 1. OF THIS APPLICATION, AS THE AUTHORIZED REPRESENTIVE OF ALL INDIVIDUALS AND ENTITIES FOR WHICH COVERAGE IS SOUGHT UNDER THE INSURANCE POLICY APPLIED FOR.** |
| Name of **Applicant’s** Authorized Representative: |
| Title: |
| Signature: |
| Date: |
|  |
| Consent of Electronic SignatureBy signing above, you consent to and are signing this Application of Insurance “Application” electronically using any device means or action. You agree your electronic signature is the legal equivalent of your manual/handwritten signature on this Application and that no certification authority or other third-party verification is necessary to validate your electronic signature. |

Please have your insurance advisor submit the Proposal, copy of current EPL policy with endorsements, most recent YE financials and 5 year loss runs including the submission requirements listed below to:

National Exclusive

ExecutivePerils

WHIP@eperils.com

Eperils.com/eplwhip

**CA Individual Lic #0724999 | CA Agency License #0M05882**

ExecutivePerils is the national exclusive agent for EPL + WHIP® and acts in an agent capacity.