

# Management Liability Policy for Insurance Companies

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The **Management Liability Policy** for Insurance Companies has been specifically designed so the company is able to select coverages they want to protect their business. In these descriptions the term company means the insured entity.

Coverage is written on a pay on behalf of the insureds basis. Employment Practices Liability is written on an insurer duty to defend basis. Each insuring agreement carries its own aggregate limit and retention. There is an overall aggregate limit for the policy which may be written with a higher amount to reduce the erosion of individual insuring agreement limits by other types of covered claims.

## Coverages:

### Insuring Agreement A 1 – Directors and Officers Liability:

Covers loss for which the directors and officers are not indemnified by the company and which the directors and officers become legally obligated to pay as a result of any claim first made against them for a management practices act. A management practices act is any error, misstatement, misleading statement, act, omission, neglect, or breach of duty actually or allegedly committed or attempted by any director or officer in their capacity as such, other than a fiduciary act, employment practices act, third party harassment act, electronic business act, electronic publishing act, or security breach.

Coverage is extended to include claims for management practices acts made against a director or officer in their capacity of serving as a director or officer, volunteer or other equivalent position of a non-profit entity, if such service is with the knowledge or consent of, at the direction or request of, or part of the duties regularly assigned to the director or officer by the company.

### Insuring Agreement A 2 – Excess Directors and Officers Liability:

Covers excess loss for which the directors and officers are not indemnified by the company due to a proper reason. Excess loss is the part of loss which is the result of a claim covered under an insuring agreement for which coverage was purchased under the policy and which exceeds the Policy Year Limit of Liability for such insuring agreement. A proper reason for not indemnifying a director or officer is either the company is not allowed or required by law to indemnify the director or officer; or the company is not able to indemnify the director or officer due to financial impairment.

### Insuring Agreement B – Company Indemnification:

Covers loss for which the company grants indemnification to a director or officer, as permitted or required by law, and for which such director or officer has become legally obligated to pay as a result of any claim for a management practices act.

Coverage is extended to include claims for management practices acts made against a director or officer in their capacity of serving as a director or officer, volunteer or other equivalent position of a non-profit entity, if such service is with the knowledge or consent of, at the direction or request of, or part of the duties regularly assigned to the director or officer by the company.



### Insuring Agreement C – Company Professional Services Liability:

Covers loss which the company or the employees become legally obligated to pay as a result of any claim for a professional services act. A professional services act is any error, misstatement, misleading statement, act, omission, neglect, or breach of duty actually or allegedly committed or attempted by an insured, an independent insurance agent, or an outside service provider in the rendering or failure to render professional services, as defined, on behalf of the company other than a securities act, fiduciary act, employment practices act, third party harassment act, electronic business act, electronic publishing act, or security breach.

Professional services are insurance services performed by employees, the company, an independent insurance agent or an outside service provider in the ordinary course of business on behalf of the company for a policyholder, customer or client of the company, which, alone or in combination with other services, are performed for monetary consideration pursuant to a contract of insurance or other express contract or agreement. Professional services includes professional supervision, the provision of computer and Internet services, administrative services, and publication of any materials prepared or written by any insured, provided that such services are rendered in connection with the company's business operations.



### Insuring Agreement D – Company Securities Liability:

Covers loss which the company or the employees become legally obligated to pay as a result of any claim for a securities act. A securities act is any error, misstatement, misleading statement, act, omission, neglect, or breach of duty actually or allegedly committed or attempted by the company involving the sale or purchase of, or offer to sell or purchase debt or equity securities issued by the company.

Coverage is extended, subject to a sublimit, to include the reasonable costs, charges, fees (including attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries or fees of a director, officer or employee) incurred by the company, in connection with the company's investigation or evaluation of any claim for a securities act.

### Insuring Agreement E – Entity Liability:

Covers loss which the company or the employees become legally obligated to pay as a result of any claim for an entity act. An entity act is any error, misstatement, misleading statement, act, omission, neglect or breach of duty actually or allegedly committed or attempted by the company, other than a professional services act, securities act, fiduciary act, employment practices act, third party harassment act, electronic business act, electronic publishing act, or security breach.

### Insuring Agreement F – Fiduciary Liability:

Covers loss which the directors, officers, employees or the company become legally obligated to pay as a result of any claim for a fiduciary act. A fiduciary act is any actual or alleged breach of the responsibilities, obligations or duties imposed upon any insured in its capacity as a fiduciary of any plan by any common or statutory law of the United States of America or any other jurisdiction anywhere in the world, and any negligent act, error or omission in the administration of a plan.

Coverage is extended, subject a sublimit, to include any fees, penalties or sanctions imposed by law under a voluntary compliance program or a voluntary settlement program administered by the IRS.

Coverage is extended, subject a sublimit, to include civil money penalties imposed upon any one or more insureds for any violation of the privacy provisions of the Health Insurance Portability and Accountability Act of 1996.

Coverage is extended, subject a sublimit, to include civil money penalties imposed upon any one or more insureds for any violation of the Patient Protection and Affordable Care Act of 2010.

Coverage is extended, subject a sublimit, to include Section 502(c) Penalties and Section 4975 Penalties.

### Insuring Agreement G – Employment Practices Liability:

Covers loss which the directors, officers, employees or the company become legally obligated to pay as a result of any claim for an employment practices act. An employment practices act is any actual or alleged:

- a) violation of any federal, state, provincial or local statutory law, common law or civil law prohibiting discrimination of any kind;
- b) harassment, including any type of sexual, workplace, religious, racial, sexual orientation, pregnancy, disability, age, or national origin-based harassment;
- c) an act that creates an abusive or hostile work environment, whether based on gender, religion, age, disability, race, national origin, pregnancy, marital status, sexual orientation or other legally protected status;

- d) wrongful discharge or termination, whether actual or constructive;
- e) wrongful failure or refusal to hire;
- f) failure or refusal to provide equal treatment or opportunities;
- g) defamation, libel, slander, disparagement or invasion of privacy;
- h) wrongful failure or refusal to promote, including wrongful failure to train, advance or grant bonuses or perquisites;
- i) wrongful demotion;
- j) negligent hiring or negligent supervision of others;
- k) failure or refusal to adopt or enforce adequate workplace or employment practices, policies or procedures;
- l) wrongful excessive or unfair discipline;
- m) wrongful infliction of emotional distress;
- n) retaliation, including retaliation for exercising protected rights, supporting in any way another's exercise of protected rights, participating in strikes or lockouts, threatening or actually reporting wrongful activity of an insured, including violation of any federal, state provincial, or local "whistle blower" or similar law;
- o) bullying in the workplace; or
- p) any other wrongful employment related practice related to the actual or prospective employment of any person by the company.

Coverage is extended, subject to a sublimit, to include defense expenses incurred in connection with any claim based upon, arising out of, or attributable to any obligation under any actual or alleged violations of any federal, state, local or foreign wage and hour laws, including the Fair Labor Standards Act (except the Equal Pay Act provisions).

#### Insuring Agreement H – Third Party Harassment Liability:

Covers loss which the directors, officers, employees or the company become legally obligated to pay as a result of any claim for a third party harassment act. A third party harassment act is any actual or alleged:

- a) violation of any federal, state, provincial or local statutory law, common law or civil law prohibiting discrimination of any kind;
- b) harassment, including any type of sexual, religious, racial, sexual orientation, pregnancy, disability, age, or national origin-based harassment;
- c) defamation, libel, slander, disparagement or invasion of privacy;
- d) false arrest, false imprisonment or malicious prosecution; or
- e) bullying of a natural person other than an employee, officer or director and other than as a part of an electronic business act, electronic publishing act or a security breach.

#### Insuring Agreement I – Electronic Business Liability:

Covers loss which the directors, officers, employees or the company become legally obligated to pay as a result of any claim for an electronic business act. An electronic business act is any actual or alleged error, misstatement, misleading statement, act, omission, neglect, or breach of duty which results in any:

- a) unauthorized use of, or unauthorized access to, electronic data or software within any covered electronic system;
- b) malicious, subversive or unauthorized introduction or implantation of any computer code, program or other data into, or attack upon, any covered electronic system causing the alteration, distortion, deletion, destruction, degradation, corruption, malfunction, compromise or loss of access to a covered electronic system;
- c) unintentional transmission of malicious computer code to another party from a covered electronic system; or
- d) intentional act, error or omission made by the company's authorized personnel in the course of their duties, in connection with the creation, development, modification or implementation of any set of instructions to direct the operations and function of the company's covered electronic systems.

#### Insuring Agreement J – Electronic Publishing Liability:

Covers loss which the directors, officers, employees or the company become legally obligated to pay as a result of any claim for an electronic publishing act. An electronic publishing act is any actual or alleged:

- a) libel or slander resulting from the electronic publishing of material that defames a person or organization or disparages the goods, products or services of a person or organization;
- b) plagiarism, false light or false advertising, resulting from electronic publishing activities;
- c) violation of the right of privacy or right of publicity of any person or organization by the electronic publishing of material that publicly discloses private facts or commercially appropriates the name or likeness of such person or organization;
- d) infringement of a copyright, title, trademark, trade dress, trade name, service mark, service name or slogan via electronic publishing activities; or
- e) unauthorized use of titles, formats, performances, style, characters, plots or other protected material via electronic publishing activities.

#### Insuring Agreement K – Security Breach -Privacy Liability:

Covers loss which the directors, officers, employees or the company become legally obligated to pay as a result of any claim for a security breach. A security breach is any actual or alleged unauthorized access to private or confidential information while such information is in the company's care, custody, or control other than through an electronic business act.

#### Insuring Agreement L – Electronic and Security Breach Penalties and Regulatory Defense:

Covers defense expenses and electronic and security breach penalties which the directors, officers, employees or the company become legally obligated to pay as a result of any claim for an electronic or security breach regulatory proceeding alleging a violation of law or regulation involving an electronic business act, an electronic publishing act or a security breach.

#### Insuring Agreement M – PCI Fines and Costs:

Covers defense expenses and PCI fines and costs which the company becomes legally obligated to pay as a result of any claim alleging a violation of PCI Data Security Standards involving an electronic business act, an electronic publishing act or a security breach.

#### Insuring Agreement N – Security Breach Expenses:

Covers security breach expenses which the company incurs during the policy period, the automatic reporting period, or, if exercised, the extended reporting period, as the result of a security breach or an electronic business act discovered during the policy period. Security breach expenses are reasonable expenses incurred by the company as the result of a security breach or an electronic business act. Security breach expenses include but are not limited to the cost to notify affected customers, directors, officers, or employees, change account numbers, reissue debit or credit cards, and provide one year of basic credit monitoring to affected persons

#### Insuring Agreement O – Public Relations Expenses:

Covers public relation expenses which the company incurs during the policy period as the result of negative publicity caused by a wrongful act covered under the policy.

#### Insuring Agreement P – Rewards:

Covers rewards which the company pays during the policy period for information that leads to the arrest and conviction of any individual committing or trying to commit an illegal act related to an electronic business act or security breach that occurs during the policy period.

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