

## Trust Fund Protection Plan

### *Fiduciary Liability Insurance for Multi-Employer Pension and Employee Benefit Funds*



**A MATTER OF TRUST DESERVES THE BEST PROTECTION!**

**UNDERWRITTEN BY: LIBERTY INTERNATIONAL UNDERWRITERS**  
(a member of the Liberty Mutual Group, hereinafter  
called "Liberty International Underwriter")

**THROUGH: Totten Insurance Group**  
555 Burnhamthorpe Road, 8<sup>th</sup> Floor, Toronto ON M9C 2Y3  
Telephone: 416-342-1159 Toll Free: 1-888-868-8367  
Facsimile: 1-888-868-2205

### INSTRUCTIONS

**IT IS IMPORTANT THAT:**

1. All questions be answered in full.
2. **Re: Section 7 Claims and Possible Claims:** Previous wrongful acts may be covered by the policy **ONLY** if insureds have no prior knowledge of the claim or possible claim. Inquiry should be made of **EACH** insured (including fiduciaries and administrative employees) to ensure that all such matters are disclosed on this application.
3. The signature of the Chairperson(s), the CEO, the Senior fiduciary or the fiduciary with the longest tenure is required.
4. This Application may be used for more than one fund.
5. If insufficient space is provided to fully answer any question, please attach a separate schedule(s)

## APPLICATION FOR INSURANCE

(Words and expressions, other than in the headings, printed in bold are defined in the policy form. A reference to the insured means each insured.)

Notice: If issued, the policy will be on a claims made basis, will be issued in reliance of the completeness and accuracy of the disclosures and statements in this application. The limits of liability and any deductible will apply to any defence costs payable under the policy.

### 1. Documents Required

IN ORDER TO RECEIVE A QUOTATION YOU MUST ATTACH TO THIS APPLICATION THE MOST RECENT:

- Ø Audited Financial Statements of each plan
- Ø Actuarial Valuation / Report, for each pension plan (if applicable)
- Ø Investment Portfolio including statement of investment polices and procedures
- Ø Copy of Trust Fund Mandate / Agreement
- Ø Copy of Third Party Administration Agreement (if applicable)
- Ø Copy of recent press releases and/or brochures

### 2. General

a) Parent Plan: \_\_\_\_\_

b) Address: \_\_\_\_\_

c) Fax / E-mail: \_\_\_\_\_

d) Contact  
(Name and Position): \_\_\_\_\_

e) Policy Period: From: \_\_\_\_\_ To: \_\_\_\_\_

f) Indicate the following for all plans to be included in this insurance:  
(Attach a separate schedule if required)

Name of Plan	Single-Employer or Multi-Employer	Description of Plan Membership or list of Plan Organizations	Type <i>(Note 1)</i>	Date Established	Conducted Business Continuously Since

**Note 1: Type: Defined Benefit Pension Plan / Defined Contribution Pension Plan/ Health & Welfare / Vacation Pay / Dental / Education / Other (explain)**

g) Are any of the Funds above operated solely or in part for collection and disbursement to other Funds or organizations?  YES  NO If YES, explain: \_\_\_\_\_

**3. Fiduciaries and Administrative Employees**

a) List the persons on the Board of Trustees (fiduciaries) of each plan:  
(Attach a separate schedule if required)

	Name of Fiduciary	Indicate whether EMPLOYER / MANAGEMENT or LABOUR / UNION Representative	How Long a Fiduciary of the Plan
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

b) How often are Trustee meetings held? \_\_\_\_\_

c) Does each fiduciary have a formal job description that clearly defines his/her scope of duties?  
 YES  NO

d) Describe the procedures that are in place to keep fiduciaries informed of new developments, operational results, etc., between meetings. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

e) Does the plan have any employees who perform administrative duties for the plan?  YES  NO  
 If "YES", outline number and employees and functions: \_\_\_\_\_  
 \_\_\_\_\_

f) Is any fiduciary or any other person(s) proposed for this insurance indebted to any plan?  
 YES  NO If "YES", please attach full particulars.

g) Has any fiduciary or plan employee ever been:  
 i) Accused or found guilty of a breach of trust?  YES  NO  
 ii) Accused or found guilty of any criminal act?  YES  NO

iii) Refused coverage under a Fidelity Bond?  YES  NO

If "YES", explain: \_\_\_\_\_

**4. External Service Providers**

Provide the names, addresses and other information in respect of the plan's external service providers (as applicable). Since (year)

a) Consultant: \_\_\_\_\_  
Do they carry and have they provided proof that they have their own Errors and Omissions and Fidelity insurance coverage?  YES  NO

b) Administrator: \_\_\_\_\_  
Do they carry and have they provided proof that they have their own Errors and Omissions and Fidelity insurance coverage?  YES  NO

c) Auditor: \_\_\_\_\_  
Do they carry and have they provided proof that they have their own Errors and Omissions and Fidelity insurance coverage?  YES  NO

d) Lawyer: \_\_\_\_\_  
Do they carry and have they provided proof that they have their own Errors and Omissions and Fidelity insurance coverage?  YES  NO

e) Actuary: \_\_\_\_\_  
Do they carry and have they provided proof that they have their own Errors and Omissions and Fidelity insurance coverage?  YES  NO

f) Custodian: \_\_\_\_\_  
Do they carry and have they provided proof that they have their own Errors and Omissions and Fidelity insurance coverage?  YES  NO

g) Corporate Trustee: \_\_\_\_\_  
Do they carry and have they provided proof that they have their own Errors and Omissions and Fidelity insurance coverage?  YES  NO

h) Investment Manager: \_\_\_\_\_  
Do they carry and have they provided proof that they have their own Errors and Omissions and Fidelity insurance coverage?  YES  NO

i) Has any plan changed any of the above providers in the last 3 years?  YES  NO (Provide details)

j) Are all investment decisions made by the investment manager indicated above?  YES  NO

k) How often is the investment manager's performance reviewed?  Monthly  Quarterly  
 Semi-Annually  Other (if "other", please explain) \_\_\_\_\_

l) If the plan does NOT retain an independent investment manager, who makes the investment decisions and what are their credentials?  
\_\_\_\_\_

m) Is there a written investment agreement with the investment manager?  YES  NO (If "YES", attach with application.)

If "Yes", has the plan given up any rights of subrogation?  YES  NO

n) Is the applicant requesting that this policy be extended to cover the Third Party Administrator?  
 YES  NO If, "YES",

i) Is there a written agreement?  YES  NO (If "Yes" please attach)

ii) Has the plan given up any rights of recovery against the Administrator?  YES  NO

iii) Indicate the Errors and Omissions insurance coverage carried by the Administrator?  
 (Provide details and/or attach copy of insurance certificate if available)

iv) Has the Administrator had in the past 5 years any claims or disputes?  YES  NO  
 (If "Yes" please provide details)

iv) Has the Administrator had E&O coverage declined or cancelled within the past 5 years?  
 YES  NO (If "Yes", please provide details)

**5. Plan Valuation**

a) Please provide a 3 year asset history for each plan. (Attach a separate schedule if required)

Name of Plan: \_\_\_\_\_

YEAR	TOTAL ASSETS OF PLAN	ANNUAL CONTRIBUTIONS	ACTUARIAL SURPLUS* (If Pension Plan)	ACTUARIAL DEFICIT* (If Pension Plan)	# OF PARTICIPANTS (active/retired)

\* If a Pension Plan, indicate whether:  Defined Benefit  Defined Contribution

Name of Plan: \_\_\_\_\_

YEAR	TOTAL ASSETS OF PLAN	ANNUAL CONTRIBUTIONS	ACTUARIAL SURPLUS* (If Pension Plan)	ACTUARIAL DEFICIT* (If Pension Plan)	# OF PARTICIPANTS (active/retired)

\* If a Pension Plan, indicate whether:  Defined Benefit  Defined Contribution

b) If a pension plan, is it adequately funded as attested to by an Actuary?  YES  NO  
If there is an actuarial deficit, please outline measures intended to respond.

c) Is the plan required by law to file an annual report due to a reported funding deficiency unfunded liability exceeds 10% of the total assets of the plan)  YES  NO

- d) Are ALL plan benefits secured by insurance (e.g. annuity, medical policy, etc)  
 YES  NO If "YES", state the name of the Insurance Company \_\_\_\_\_

#### 6. Significant Developments

- a) If any plan(s) to be insured under this policy is of a "Defined Benefit" nature, has there been any discussions by the trustees (or by management), regarding the removal of surplus funds from the pension plan(s)?  YES  NO
- b) Has Revenue Canada withdrawn or threatened to withdraw the tax exempt status of any plan?  
 YES  NO
- c) Has any plan filed for exemption from a prohibited transaction?  YES  NO
- d) Has there been, or is there now under consideration any merger, acquisition, restructuring or consolidation of the plan or any other recent, ongoing or anticipated changes that could impact any plan or its benefits?  YES  NO
- e) Has any plan requested or contemplated filing a request for termination?  YES  NO
- f) Have there been any amendments to any plan(s) that have resulted in or are expected to result in any reduction of benefits?  YES  NO
- g) Is the plan responsible for collecting monies from employers for benefits and pensions?  YES  NO  
If "YES", does the plan have a delinquency officer?  YES  NO
- h) Are there any outstanding delinquent employer contributions for any plan(s)  YES  NO
- i) Does the plan own (other than for purely investment purposes), rent or lease any premises?  
 YES  NO If Yes, indicate the address, indicate the interest in the property and the use of the property: \_\_\_\_\_

If "YES" to any of the above questions, please provide full details

#### 7. Claims and Possible Claims

- a) Has any insured been involved in ANY proceedings involving breach of trust, breach of fiduciary duty, breach of contract, negligence, breach of a statutory duty or fraud?  YES  NO
- b) Has there ever been notice under the provisions of any prior or current Fiduciary Liability, Errors & Omissions or comparable insurance of a claim(s) or specific facts or circumstances which might give rise to a claim being made against any insured?  YES  NO
- c) Has any Fiduciary Liability, Errors & Omissions, Employee Dishonesty of Fidelity or comparable insurance carried by the applicant been declined or cancelled within the past 5 years by any insurer?  
 YES  NO

If Yes to any of the above, please attach full details.

- d) There has not been nor is there now pending any claim(s) against any insured.  
If statement is true please check this box.  None. Otherwise, please provide complete details.
- e) Having inquired of all fiduciaries and administrative employees of the plan, no insured has knowledge or information of any act, error or omission which might give rise to a claim under the policy. If statement is true please check this box.  None. Otherwise, please provide complete details.

It is acknowledged and agreed that any loss arising from a matter disclosed or which should have been disclosed under this section 7 of this application is excluded from coverage under the policy, all without limiting any other remedy available to Liberty International Underwriters for non-disclosure.

**8. Parent Plan as Authorized Representative**

The parent plan is authorized to act on behalf of all insureds in connection with matters respecting the policy including the giving and receiving of notices, the payment and return of premiums and the delivery and acceptance of endorsements.

**9. Acknowledgment**

The undersigned authorized officer on behalf of all insureds:

- declares that the statements and disclosures in this application are complete and accurate;
- declares that there are no known facts material to the risk to be insured that have not been disclosed in this application;
- undertakes to provide to Liberty International Underwriters immediate notice of any
- material changes discovered between the date of this application and the effective date of the policy;
- acknowledges that Liberty International Underwriters, if it issues the policy, will be doing so in reliance of the completeness and accuracy of the statements and disclosures in this application;
- acknowledges that if issued, this application will form part of the policy; and
- authorizes Liberty International Underwriters to make any investigation and inquiry in connection with this application that it deems necessary.
- acknowledges that any personal information provided in connection with the coverage applied for, including but not limited to the information contained in this application, has been collected in accordance with all applicable privacy legislation. The undersigned confirms that all necessary consents have been obtained for the collection, use, and disclosure of such information for the purposes of assessing the application for insurance, and if applicable, investigating and settling claims, detecting and preventing fraud, and acting as required or authorized by law.

For purposes of the Insurance Companies Act (Canada), this document was issued in the course of Liberty Mutual Insurance Company's insurance business in Canada.

Date \_\_\_\_\_ Signed \_\_\_\_\_ Title \_\_\_\_\_  
*Chairperson of the Board of Trustees or  
Longest Serving Trustee*