



# FIDUCIARY LIABILITY COVERAGE APPLICATION

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### NOTICE

ALL LIABILITY COVERAGE PARTS FOR WHICH APPLICATION IS MADE APPLY, SUBJECT TO THEIR TERMS, ONLY TO CLAIMS FIRST MADE OR DEEMED MADE AGAINST INSUREDS DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD, IF APPLICABLE. THE LIMIT OF LIABILITY AVAILABLE TO PAY LOSSES WILL BE REDUCED BY THE AMOUNTS INCURRED AS DEFENSE EXPENSES, AND DEFENSE EXPENSES WILL BE APPLIED AGAINST THE RETENTION AMOUNT. THE COMPANY HAS NO DUTY TO DEFEND ANY CLAIM UNLESS DUTY-TO-DEFEND COVERAGE IS SPECIFICALLY PROVIDED.

The term **Applicant** means all corporations, organizations or other entities, including subsidiaries, proposed for this insurance.

## I. GENERAL INFORMATION

### 1. Applicant Information:

Name of **Applicant**: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State, ZIP Code: \_\_\_\_\_  
Website Address: \_\_\_\_\_  
Year **Applicant's** business was established: \_\_\_\_\_  
Description of **Applicant's** operation: \_\_\_\_\_

2. **Applicant's** Standard Industrial Classification (SIC) code, if known (4-digit number): \_\_\_\_\_

3. Is the **Applicant** a subsidiary of a foreign parent? Yes  No

4. Does the **Applicant** currently file, or does it anticipate filing in the next 6 months, any documents with the Securities and Exchange Commission, or similar foreign authority regarding any equity or debt securities? Yes  No

## II. ORGANIZATION INFORMATION

1. In the next 12 months (or during the past 24 months) is the **Applicant** contemplating (or has the **Applicant** completed or been in the process of completing) the following:

- a. Any actual or proposed merger, acquisition, or divestiture? Yes  No
- b. Any creation of a new business, subsidiary or division? Yes  No
- c. Any registration for a public offering or a private placement of securities? Yes  No
- d. Any reorganization or arrangement with creditors under federal or state law? Yes  No
- e. Any branch, location, facility, office, or subsidiary closings, consolidations or layoffs? Yes  No

*If any of the questions above were answered Yes, please attach an explanation, including the timing, the essential terms of the event, arrangement, and the surrounding circumstances.*

## III. EMPLOYEE INFORMATION

1. Maximum number of employees at any one point during the previous 12 months for the following classifications (regardless of whether they are full or part time):

Total Employees (Including leased, union, independent contractors and temporary employees)	Leased	Labor Unions	Independent Contractors	Temporary

**IV. FINANCIAL INFORMATION**

1. Is the **Applicant** currently (or has it been in the past 24 months) in violation of, or has it received an amendment to any debt covenant? Yes  No   
 If Yes, please attach an explanation.

Note: Omit Question 2 if the **Applicant** is required to submit a separate financial statement as directed in the Required Attachments section.

2. Complete the following chart providing the requested financial information:

Indicate the following as it relates to the Applicant's fiscal year end (FYE): (Please indicate negative figures with "( )" or "-" as appropriate)	Most Recent FYE (Month/Year)	Prior FYE (Month/Year)
Current Assets	\$	\$
Total Assets	\$	\$
Current Liabilities	\$	\$
Long Term Debt	\$	\$
Retained Earnings (Accumulated Deficit/Fund Deficit)	\$	\$
Net Equity/Net Assets (Deficit Equity)	\$	\$
Revenues	\$	\$
Net Income (Net Loss)	\$	\$

**V. AUDITOR INFORMATION**

1. Has the **Applicant** changed outside auditors in the last 12 months? N/A  Yes  No   
 If Yes, please attach an explanation.
2. Has any auditor issued a "going concern" opinion in any financial statements of the **Applicant** during the past 12 months? N/A  Yes  No   
 If Yes, please attach an explanation.

**VI. PLAN DATA**

1. Premium to be paid by: Employer:  Trust or Plan:
2. Complete the chart for all plans for which coverage is requested:

Full Plan Name	*Plan Type	Current Asset Value	Latest FYE Annual Contributions	Current # of Participants	**Plan Status
		\$	\$		
		\$	\$		
		\$	\$		
		\$	\$		
		\$	\$		
*Plan Types: Defined Benefit (DB) Defined Contributions (DC) ESOP (E) Self-Funded Welfare Benefit Plan (W) Other (O) - Attach Explanation					
**Plan Status: Active (A) Frozen (F) Sold (S) Terminated (T) (If any plan has been terminated, indicate date of transaction)					

List any additional plans on a separate attachment.

**VII. PLAN UNDERWRITING QUESTIONS**

1. Is each plan reviewed periodically to assure there are no violations of ERISA (e.g., prohibited transactions or party-in-interest rules)? Yes  No   
 If No, please attach an explanation.

2. Does any plan (a) not conform to the standards of eligibility, participation, vesting, blackout notification requirements and other provisions of ERISA or similar foreign law, or (b) hold employer securities or employer real property in violation of ERISA or in excess of ERISA limits? Yes  No   
*If Yes, please attach an explanation.*
3. Has any plan (a) been the subject of an investigation by the DOL, IRS, or any similar foreign agency; (b) had its tax exempt status withdrawn or threatened to be withdrawn by the IRS; (c) filed for an exemption from a prohibited transaction; or (d) received an adverse opinion as to its financial condition by an independent public accountant? Yes  No   
*If Yes, please attach an explanation.*
4. If any plan is a defined benefit plan, has such plan (a) experienced an event reportable to the PBGC; (b) not been certified by an actuary to be adequately funded in accordance with ERISA's minimum funding standard; or (c) been converted into a cash balance plan or is any such conversion expected in the next 12 months? If there are no defined benefit plans, please check "N/A". N/A  Yes  No   
*If Yes, please attach an explanation.*
5. Has any plan (a) been amended within the last 12 months in a way that will result in the reduction of benefits or are any such amendments anticipated within the next 12 months; or (b) been merged with another plan, terminated or sold within the past 2 years or is any such merger, termination or sale anticipated in the next 12 months? Yes  No   
*If Yes, please attach an explanation detailing the implementation, disclosure and any relevant blackout periods.*
6. Are there any outstanding or delinquent plan contributions or plan loans, leases or debt obligations that are in default or classified as uncollectible? Yes  No   
*If Yes, please attach an explanation.*
7. Does the employer, committee or employer representatives, or union board of trustees have final say over the determination of whether benefits will be paid under any healthcare plan sponsored by the **Applicant**? Yes  No   
*If Yes, please identify the names of such plans in a separate attachment.*
8. Does any plan invest in a mutual fund, collective trust or similar investment pool that receives investment management services from the **Applicant** for a fee? Yes  No   
*If Yes, please attach an explanation.*

9. Please provide name of firm(s) providing the following services:

CPA	Attorney	Actuary	Investment Advisor

**VIII. CURRENT INSURANCE INFORMATION/REQUESTED INSURANCE TERMS**

Requested Limit (A)	Requested Retention (B)	Requested Effective Date (C)	Coverage Currently Purchased (D)
\$	\$		Yes <input type="checkbox"/> No <input type="checkbox"/>

Expiring Limit (E)	Expiring Retention (F)	Expiring Premium (G)	Current Insurer (H)	Date Coverage First Purchased (I)
\$	\$	\$		

1. What is the **Applicant's** preference for defense coverage? Duty to Defend  Reimbursement

2. If Liability Coverage is currently purchased as indicated in Column (D) above, but has been in place for less than 3 years, please answer the following question:  
 As of the date the **Applicant** first purchased the Liability Coverage, is the **Applicant** or any person proposed for this insurance aware of any fact, circumstance, situation, event or act that reasonably could give rise to a claim being made against them under the Liability Coverage for which the **Applicant** is applying? Yes  No   
*If Yes, please attach an explanation.*

3. If Liability Coverage is not currently purchased as indicated in Column (D) above, please answer the following question:  
 Is the **Applicant**, or any person proposed for this insurance aware of any fact, circumstance, situation, event or act that reasonably could give rise to a claim against them under the Liability Coverage for which the **Applicant** is applying? Yes  No   
*If Yes, please attach an explanation.*

4. If the Requested Limit in Column (A) exceeds the Expiring Limit in Column (E), please answer the following question:  
 Solely with respect to any higher limits requested or that may ultimately be issued for the proposed insurance, is the **Applicant** or any person proposed for this insurance aware of any fact, circumstance, situation, event or act that reasonably could give rise to a claim against them under the Liability Coverage for which the **Applicant** is applying? Yes  No   
*If Yes, please attach an explanation.*

*With respect to the information required to be disclosed in response to the questions above, the proposed insurance will not afford coverage for any claim arising from any fact, circumstance, situation, event or act about which any executive officer of the **Applicant** had knowledge prior to the issuance of the proposed policy, nor for any person or entity who knew of such fact, circumstance, situation, event or act prior to the issuance of the proposed policy.*

**IX. LOSS INFORMATION**

1. In the past 3 years, whether or not insured, has any plan, **Applicant**, or person proposed for this insurance been accused or found guilty of any criminal act or been accused of, found guilty of or held liable for a breach of fiduciary duty, or a violation of ERISA, or any similar state, local or foreign law or have any ERISA-related claims, administrative or regulatory proceedings, charges, hearings or demands been made? Yes  No   
*If Yes, please complete the table below:*

Date of Such Claim	Nature of Claim	Amount Paid for Defense	Amount Sought or Paid for Damages	Covered by Insurance?	Corrective Procedures Implemented	Current Status
		\$	\$	Yes <input type="checkbox"/> No <input type="checkbox"/>		
		\$	\$	Yes <input type="checkbox"/> No <input type="checkbox"/>		

*To enter more information, please attach a separate page to the Application.*

**X. REQUIRED ATTACHMENTS**

As part of this Application, please submit the following documents (*these documents, and the representations and facts they contain, are made a part of this Application, whether such documents are physically delivered to the Company by the **Applicant** or are obtained by the Company from any public source, including the Internet*):

- Sponsor financial statement if **Applicant** maintains a defined benefit, self-funded welfare plan, an Employee Stock Ownership Plan (ESOP) or if the **Applicant** is a church, government or quasi-governmental entity
- Plan financial statements for defined benefit plans and self insured welfare plans, if limit requested is greater than \$1,000,000
- Sponsor financial statement and plan financial statements for each defined contribution plan, if limit requested is greater than \$5,000,000
- Employer Securities Supplemental Application, if any plan is an ESOP or if any other defined contribution plan invests in employer securities
- Most recent 5500 of all plans

## XI. COMPENSATION NOTICE

### Important Notice Regarding Compensation Disclosure

For information regarding compensation disclosure, please contact Surety One via one of the following methods:

Email: Underwriting@SuretyOne.org

Facsimile: 919-834-7039

Mail: P.O. Box 37284, Raleigh, NC 27627

## XII. FRAUD WARNINGS

### **Attention: Insureds in Arkansas, D.C., Louisiana, Maryland, New Mexico, and Rhode Island**

Any person who knowingly (and willfully in D.C. and MD) presents a false or fraudulent claim for payment of a loss or benefit or who knowingly (and willfully in D.C. and MD) presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

### **Attention: Insureds in Colorado**

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.

### **Attention: Insureds in Florida**

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.

### **Attention: Insureds in Kentucky, New Jersey, New York, Ohio, and Pennsylvania**

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. (In New York, the civil penalty is not to exceed five thousand dollars (\$5,000) and the stated value of the claim for each such violation.)

### **Attention: Insureds in Maine, Tennessee, Virginia, and Washington**

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.

### **Attention: Insureds in Puerto Rico**

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 with the penalty of 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.

## XIII. SIGNATURE SECTION

**THE UNDERSIGNED AUTHORIZED REPRESENTATIVE (PARTNER, PRINCIPAL, TRUSTEE OR OTHER OFFICER ACCEPTABLE TO SURETY ONE) OF THE APPLICANT DECLARES THAT TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF, AFTER REASONABLE INQUIRY, THE STATEMENTS SET FORTH IN THE ATTACHED SURETY ONE NEW BUSINESS OR RENEWAL APPLICATION FOR INSURANCE ARE TRUE AND COMPLETE AND MAY BE RELIED UPON BY SURETY ONE. IF THE INFORMATION IN ANY APPLICATION CHANGES PRIOR TO THE INCEPTION DATE OF THE POLISY, THE APPLICANT WILL NOTIFY THE COMPANY OF CUCH CHANGES, AND THE COMPANY MAY MODIFY OR WITHDRAW ANY OUTSTANDING QUOTATION. THE COMPANY IS AUTHORIZED TO MAKE INQUIRY IN CONNECTION WITH THIS APPLICATION.**

THE SIGNING OF THIS APPLICATION DOES NOT BIND THE COMPANY TO OFFER, NOR THE APPLICANT TO PURCHASE, THE INSURANCE. IT IS AGREED THAT THIS APPLICATION, INCLUDING ANY MATERIAL SUBMITTED THEREWITH, SHALL BE THE BASIS OF THE INSURANCE AND SHALL BE, IN ALL STATES OTHER THAN NC AND UT, CONSIDERED PHYSICALLY ATTACHED TO AND PART OF THE POLICY, IF ISSUED. THE COMPANY WILL HAVE RELIED UPON THIS APPLICATION, INCLUDING ANY MATERIAL SUBMITTED THEREWITH, IN ISSUING THE POLICY.

ELECTRONICALLY REPRODUCED SIGNATURES WILL BE TREATED AS ORIGINAL.

\_\_\_\_\_  
Signature of **Applicant's** Authorized Representative  
(Partner, Principal, Trustee or Officer)

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**XIV. PRODUCER INFORMATION (ONLY REQUIRED IN FLORIDA, IOWA, AND NEW HAMPSHIRE):**

\_\_\_\_\_  
Producer Signature

\_\_\_\_\_  
Producer Name (Printed)

\_\_\_\_\_  
Agency Name

\_\_\_\_\_  
Agency Code

\_\_\_\_\_  
License Number