

# DIRECTORS AND OFFICERS LIABILITY INSURANCE APPLICATION

THIS APPLICATION IS FOR A CLAIMS MADE POLICY.

FOR PURPOSES OF THE *INSURANCE COMPANIES ACT (CANADA)*, THIS DOCUMENT WAS ISSUED IN THE COURSE OF LLOYD'S UNDERWRITERS' AND LIBERTY MUTUAL INSURANCE COMPANY'S INSURANCE BUSINESSES IN CANADA.

ALL QUESTIONS MUST BE ANSWERED COMPLETELY. DO NOT LEAVE ANY SPACE BLANK. INDICATE "N/A" IF A QUESTION IS INAPPLICABLE. IF THE SPACE PROVIDED IS INSUFFICIENT TO ANSWER A QUESTION FULLY, PLEASE ATTACH DETAILS ON A SEPARATE SHEET.

PLEASE ENSURE THAT THE FOLLOWING ARE PROVIDED WITH THE APPLICATION:

- List and background of all Directors and Officers, year first appointed and location of residence
- Current audited financial statements AND latest interim statements
- Recent or planned prospectus documents
- Company promotional literature (address of detailed web site will suffice)
- Indemnification Clause contained in the Company's corporate by-laws

## 1. GENERAL INFORMATION

A) Name of Parent Company (Applicant): \_\_\_\_\_

B) Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Web Site Address: \_\_\_\_\_

C) Incorporated on (date): \_\_\_\_\_ under the laws of: \_\_\_\_\_

D) Type of Company:     Public                       Private                       Other \_\_\_\_\_

E) What is the nature of the Company's business? \_\_\_\_\_

F) List of subsidiaries to be covered under this policy (companies controlled by the Parent Company, directly or indirectly owning more than 50% of voting shares):

<u>Name of Subsidiary</u>	<u>Percentage Ownership</u>	<u>Jurisdiction of Incorporation</u>
_____	_____ %	_____
_____	_____ %	_____
_____	_____ %	_____

USA Exposure:

Assets of the Company in the U.S.    \$ \_\_\_\_\_ % of total consolidated assets

Shareholders in the U.S.                      \_\_\_\_\_ % of total shares

Sales to the U.S.                                      \$ \_\_\_\_\_ % of total Company sales

G) Does the Company plan to expand its U.S. Exposure in the next 12 months?                       YES     NO

If YES, please attach details.

## 2. COMPANY INFORMATION

A) Are there any classes of shares publicly traded or the subject of shelf registration?                       YES     NO

**DIRECTORS & OFFICERS AND COMPANY REIMBURSEMENT LIABILITY INSURANCE APPLICATION**

If YES, list which stock exchanges the securities of the Company or any of its subsidiaries trade and include symbols.

Stock Exchange: \_\_\_\_\_ Symbol: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

B) What is the total number of common shareholders? \_\_\_\_\_

C) What is the total percentage of common shares used by the Directors and Officers directly or beneficially?

Directors \_\_\_\_\_% Officers (who are not Directors) \_\_\_\_\_%

D) Does any shareholder own directly or beneficially more than 10% of outstanding shares? If so, please identify.

<u>Shareholder</u>	<u>Percentage Held</u>	<u>Name of Board Representative (if applicable)</u>
_____	_____ %	_____
_____	_____ %	_____
_____	_____ %	_____

E) Does the Company have:

- an Audit Committee?  YES  NO
- an Investment Committee?  YES  NO
- a Compensation Committee?  YES  NO
- a Corporate Governance Committee?  YES  NO

If YES to any of the above, on a separate sheet, please list individual committee members and their respective associations with the Parent Company or its subsidiaries.

F) Does the Company have any written policies and procedures addressing the following:

- i) Regulatory Compliance  YES  NO
- ii) Insider Trading  YES  NO
- iii) Corporate Communication and Public Disclosure  YES  NO
- iv) Periodic Reporting  YES  NO

G) From whom does the board obtain legal advice relating to securities law:

in Canada? \_\_\_\_\_  
 in the U.S.? \_\_\_\_\_

**If the answers to any of Questions H) to J) is YES, please provide full details. Attach additional sheets if necessary.**

A) Has the Company ever been de-listed / suspended from any stock exchange?  YES  NO

B) Does the Company have any other securities which are convertible to common stock?  YES  NO

C) Has there been any change in Directors and Officers or senior management in the past year?  YES  NO

D) Has the Company filed a prospectus with any securities commission in the past 18 months?  YES  NO

E) In the past five (5) years has the company changed its auditor?  YES  NO

F) Does the Company plan to announce any public or private offering of securities in the next year?  YES  NO

G) Has the Company been involved in, or does it expect to become involved in any of the following?

	<u>Last 12 Months</u>	<u>Currently</u>	<u>Next 12 Months</u>
Acquisitions	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
Merger	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
Tender Offer	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
Divestiture	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO

H) Has the Company within the last five (5) years been in breach of any debt covenant, loan agreements or contractual obligation?  YES  NO

I) Is the Company currently or has it during the past three years been in arrears in its payments of monies payable to the Canada Customs and Revenue Agency or the provincial equivalent (including source deductions, GST and PST)?  YES  NO

**DIRECTORS & OFFICERS AND COMPANY REIMBURSEMENT LIABILITY INSURANCE APPLICATION**

J) Is the Company currently, or has it at any time during the past three (3) years sought protection under the *Companies' Creditors Arrangement Act* in Canada or *Chapter 11* in the USA or any similar federal, provincial or state law, or does it anticipate seeking such protection within the next twelve months?  YES  NO

**3. FIDUCIARY INFORMATION**

- A) Does the Company sponsor any pension or benefit plans?  YES  NO
- B) Total plan assets (all plans combined): Currently: \$ \_\_\_\_\_ Last Year: \$ \_\_\_\_\_
- C) Total participants of plan(s): \_\_\_\_\_
- D) How does the Company handle investment decisions? \_\_\_\_\_
- E) Is (Are) the plan(s) adequately funded as attested to by an actuary?  YES  NO

**4. EMPLOYEE INFORMATION**

A) List all locations by city and province or state (including approximate number of employees at each location and including employees of subsidiaries). Please use a separate sheet if necessary.

<u>Locations</u>	<u>Employees</u>
_____	_____
_____	_____
_____	_____

- B) From whom does the board obtain legal advice relating to employment law:  
in Canada? \_\_\_\_\_  
in the U.S.? \_\_\_\_\_
- C) Current number of full-time employees:  
in Canada: \_\_\_\_\_ in U.S.: \_\_\_\_\_ Other: \_\_\_\_\_
- D) Current number of part-time employees (including seasonal and temporary):  
in Canada: \_\_\_\_\_ in U.S.: \_\_\_\_\_ Name of Board Representative (if applicable) Other: \_\_\_\_\_
- E) Current percentage of above employees who are unionised:  
in Canada: \_\_\_\_\_ in U.S.: \_\_\_\_\_ Other: \_\_\_\_\_
- F) What was the annual employee turnover rate for the last four (4) years?  
20\_\_ : \_\_%    20\_\_ : \_\_%    20\_\_ : \_\_%    20\_\_ : \_\_%
- G) How many involuntary terminations have occurred in the past two (2) years? \_\_\_\_\_
- H) Does the Company anticipate any facility, branch or office closings, consolidations or layoffs within the next two (2) years?  YES  NO  
If YES, please provide details including the year, anticipated number of layoffs, and the circumstances surrounding those layoffs. Please use a separate addendum if necessary. \_\_\_\_\_
- I) What is the Company's total annual payroll? \$ \_\_\_\_\_
- J) Does the company use an external unrelated company to process its payroll?  YES  NO
- K) Number of employees with salaries (including bonuses):  

Less than \$50,000	Canada: _____	U.S.: _____	Other: _____
\$50,000 - \$100,000	Canada: _____	U.S.: _____	Other: _____
\$100,000 - \$250,000	Canada: _____	U.S.: _____	Other: _____
Greater than \$250,000	Canada: _____	U.S.: _____	Other: _____

**DIRECTORS & OFFICERS AND COMPANY REIMBURSEMENT LIABILITY INSURANCE APPLICATION**

**5. HUMAN RESOURCES INFORMATION**

A) Does the Company have a human resources department?  YES  NO

If YES, how many employees does it have? \_\_\_\_\_  
 If NO, how is this function handled? \_\_\_\_\_

B) Does the Company have written policies or procedures in place with regard to the following:

Termination  YES  NO  
 Hiring  YES  NO  
 Discipline  YES  NO

C) Is there an employee handbook?  YES  NO  
 If YES, are all employees provided with a copy?  YES  NO

D) Does the Company have written policies or procedures for the following:

Employee complaints of harassment and/or discrimination  YES  NO  
 Anti-sexual harassment policies and procedures  YES  NO  
 Accommodating the disabled  YES  NO

E) Does the Company use any tests (e.g. psychological, drug, polygraph, etc.) to screen applicants for either hire or promotion?  YES  NO

F) Does the Company have written job descriptions for all positions?  YES  NO

G) Does the Company keep a personnel file for each employee?  YES  NO

H) Are regular, written performance evaluations completed for and provided to all employees?  YES  NO

I) Does the Company require terminations to be reviewed by outside counsel in addition to its human resources department?  YES  NO

**6. PREVIOUS INSURANCE / CLAIM INFORMATION**

A) During the last five (5) years, has the Company carried Directors and Officers insurance?  YES  NO  
 If YES, please complete the following for all previous policies:

INSURER	TERM	LIMIT	RETENTION
		\$	\$
		\$	\$
		\$	\$

B) Has any claim, or any situation or circumstance which may lead to a claim, ever been reported under any previous or current Directors and Officers policy?  YES  NO

C) Has the Company's Directors and Officers ever been declined, non-renewed or cancelled by any insurer for insurance?  YES  NO  
 If YES, please explain: \_\_\_\_\_

D) Has the Company, a subsidiary, or any Director or Officer been involved in the following?

Actions based upon or resulting from any violation of any security law or regulation, anti-trust law, fair-trade law or competition act  YES  NO  
 Representative actions; class actions or derivative suits  YES  NO  
 Criminal Proceedings  YES  NO  
 Copyright, Patent or other intellectual property infringement allegations  YES  NO  
 Insolvency and/or bankruptcy proceedings  YES  NO  
 Employment or labour related litigation, tribunal or proceedings  YES  NO  
 Employee benefit plan or pension plan related litigation or proceedings  YES  NO

**If YES to any of the above, please provide full details on a separate sheet.**

**DIRECTORS & OFFICERS AND COMPANY REIMBURSEMENT LIABILITY INSURANCE APPLICATION**

E) Are the Company's Directors or Officers aware of any situation or circumstance that may reasonably result in a claim?  YES  NO

If YES, please describe in detail: \_\_\_\_\_  
\_\_\_\_\_

**Without limitation of any other remedy available to the Insurer, it is hereby agreed that if there be knowledge of any such fact, circumstance or situation, any claim or action subsequently emanating therefrom is excluded from coverage under the proposed insurance.** Note: Continuity will be granted with respect to D&O coverages currently carried through Creechurch International Underwriters Ltd.

*Please read the following statement carefully and sign below where indicated. If a policy is issued, this statement, and the foregoing responses, shall be incorporated into and become a part of any such policy.*

**7. NOTICE CONCERNING PERSONAL INFORMATION**

By purchasing insurance from Creechurch International Underwriters Ltd. (Creechurch), a customer provides Creechurch with his or her consent to the collection, use and disclosure of personal information, including that previously collected, for the following purposes:

- the communication with underwriters;
- the underwriting of policies;
- the evaluation of claims;
- the detection and prevention of fraud;
- the analysis of business results;
- purposes required or authorized by law.

For the purposes identified above, personal information may be disclosed to Creechurch's related or affiliated companies and service providers.

Further information about Creechurch's personal information protection policy may be obtained by contacting their privacy officer at 416-601-2155.

**8. DECLARATIONS**

The undersigned is duly authorised to make representations and to sign on behalf of all of the Directors and Officers and the Company.

Reasonable efforts have been made to obtain sufficient information from each Director and Officer of the Company, including its Subsidiaries, to facilitate the proper and accurate completion of this application form.

If any coverage is granted to any of the Applicants hereunder, the Insurer shall be deemed to have relied upon the declarations and statements in this document and attached hereto. All such declarations and statements shall be deemed the basis of coverage and shall be considered incorporated into and constituting part of the policy should one be issued.

The undersigned hereby declares that the statements set forth herein are complete and accurate and that the financial statements submitted in conjunction with this application are representative of the current financial position of the Company including its subsidiaries. The undersigned agrees that if the information supplied on this document changes between the date of this application and the effective date of the insurance, should any be offered, the undersigned will, in order for the information to be accurate on the effective date of the insurance, immediately notify the Insurer of such changes and the Insurer may withdraw or modify any outstanding quotations and/or authorizations or agreements to bind the insurance.

The Insurer is hereby authorised to make any investigation and inquiry in connection with this proposal as it may deem necessary.

Signing of this document does not bind the Applicant or the Insurer to complete any insurance, but it is agreed that this document shall be the basis of the contract should a policy be issued, and it will be deemed attached to and become part of the policy.

*This Application must be signed by the Chairman of the board, President, Chief Executive Officer or Chief Financial Officer of the Company.*

**SIGNED:**  
**(Authorized Representative)**

**DATED:**

**NAME (Please Print):**

**TITLE/POSITION:**