



Epac 3

# New Business Application

## Fiduciary Liability

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### Instructions for Completing this Application

This is a fillable PDF Document.

Please answer all questions fully. If necessary, as noted in the questions below, please provide additional responses in a supplemental document on your letterhead attached to this Application.

Upon completion the Application must be signed and dated by an authorized representative of the Applicant.

### NOTICES

Please note that the insurance coverage to which this Application applies provides that the policy limit available is reduced by amounts incurred for legal defence costs and expenses and may be completely exhausted by such amounts. CNA will not be liable for any defence costs or expenses, nor any settlement or judgment amount after the exhaustion of the policy limit. Please also note that amounts incurred for defence costs and expenses will be applied to the applicable retention. This Notice is subject to the provisions of the Quebec Civil Code where applicable to an issued policy.

Providing information about a claim or potential claim in response to any question in any part of this Application does not create coverage for such claim or potential claim. The Applicant's failure to report to its current insurance company any claim made against it during the current policy period, or to report any act, omission, or circumstance of which the Applicant is aware that may give rise to a claim, before expiration of the current policy, may create a lack of coverage.

Please note that the submission of a completed, signed Application does not result in an obligation to purchase insurance or an obligation by the insurance company to bind insurance.

### I. APPLICANT INFORMATION

1. The Applicant to be named in Item 1. of Declarations (the "named insured"): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Website(s): \_\_\_\_\_

Telephone Number: \_\_\_\_\_

- a. Date the Applicant was established: \_\_\_\_\_
  - b. Business Type:  Corporation  Sole Proprietorship  Partnership  LLC Other (specify): \_\_\_\_\_
  - c. Ownership Structure:  Private  Public  Not-for-Profit  Governmental
2. In the next 12 months (or during the past 18 months), indicate whether the Applicant or any Subsidiary has experienced, or anticipates any of the following:
- a. Merger, consolidation, acquisition, or divesture?  Yes  No
  - b. Material changes in nature or size of operations?  Yes  No
  - c. Bankruptcy filing or re-organization?  Yes  No
- If you answered "Yes" to any of the above, please provide complete details (if additional space is needed, please attach separately): \_\_\_\_\_

**II. EXPIRING COVERAGE INFORMATION (Applicable To All Coverages)**

1. Please complete the following for those coverages for which you are currently insured:

Coverage	Limit	Retention	Prior or Pending Date	Premium	Carrier	Expiration Date
Fiduciary	\$ _____	\$ _____	_____	\$ _____	_____	_____

2. Has the insurer under any of the coverage listed above indicated an intent not to offer renewal terms?  Yes  No

**III. CLAIMS INFORMATION**

- 1. Has any claim or notice of a potential claim been given to any insurer for Fiduciary Liability Coverage for which the Applicant is applying?  Yes  No
- 2. In the past 3 years, has any claim been made against any pension, retirement or health and welfare benefits Plan, fiduciaries or administrators of the Applicant, or any Subsidiary, in connection with any Plan?  Yes  No

If you answered "Yes" to any of the questions in paragraphs 1. through 2. above, please provide details, including date, type of claim, allegations, current status, defence costs incurred, and any judgment or settlement amounts. (If additional space is needed, please attach separately): \_\_\_\_\_

**IV. FIDUCIARY LIABILITY INFORMATION**

**A. General Information**

1. Please indicate the type of plans (except for welfare benefit plans) for which insurance is requested (attach a schedule if necessary):

*Plan Type	Name of Plan(s)	Assets	Total Plan Participants	Annual Contributions	Percentage of Plan Assets (Company Stock)	If DB, Funding Ratio
_____	_____	\$ _____	_____	_____	_____ %	_____
_____	_____	\$ _____	_____	_____	_____ %	_____
_____	_____	\$ _____	_____	_____	_____ %	_____
_____	_____	\$ _____	_____	_____	_____ %	_____

\*Plan Types: DB = Defined Benefit Pension Plan; DC=Defined Contribution Pension Plan; E = ESOP (Employee Stock Ownership Plan); O=Other

2. Information on Plan Administration

- a. Does the Applicant delegate authority of the management and control of any plan's assets to any third parties?  Yes  No

If you answered "Yes" above, please explain and provide the following information (attach a schedule if necessary):

Type of Consultant	Firm(s) Name	Years Employed
Investment Advisor	_____	_____
Actuary	_____	_____
Legal Counsel	_____	_____
CPA	_____	_____
Administrator	_____	_____
Other(s)	_____	_____

- b. Does the Applicant handle any investment decisions in-house?  Yes  No

If you answered "Yes" above, please provide details: \_\_\_\_\_

3. Is the trustee of each plan independent of the Applicant?  Yes  No

4. Do all plans for which coverage is requested conform with the standards of eligibility, participation, vesting, and other provisions of the applicable Canadian pension plan laws, including but not limited to the Income Tax Act and the Pension Benefits Standards Act or any similar laws?  Yes  No

If you answered "No" above, please provide details: \_\_\_\_\_

5. Has any plan been the subject of an investigation by the Department of Labour (DOL), Canada Revenue Agency (CRA), Internal Revenue Service (IRS), or any other domestic or foreign agency?  Yes  No

If you answered "Yes" above, please attach details.

6. Has there been any assessment of fees, fines, or penalties under a voluntary compliance resolution program or similar voluntary settlement program administered by the DOL, CRA, IRS, or other domestic or foreign government authority against any plan?  Yes  No

If you answered "Yes" above, please attach details.

7. During the past 24 months, or during the next 12 months, has (will) any plan been (be) terminated, suspended, merged, or dissolved?  Yes  No

If you answered "Yes" above, please provide details: \_\_\_\_\_

8. In the past 3 years, has there been any amendment to a plan that has resulted in a reduction of benefits, or are there any reductions currently contemplated?  Yes  No

If you answered "Yes" above, please attach details.

9. Are there any outstanding or delinquent plan contributions? Or are any plan loans, leases, or debt obligations considered uncollectable or in default?  Yes  No

If you answered "Yes" above, please attach details.

10. Is a periodic review process done for plan service providers with respect to the reasonableness of fees?  Yes  No

If you answered "Yes" above:

- a. How often? \_\_\_\_\_

- b. Is the review done by an independent third party?  Yes  No

- c. Is the process documented?  Yes  No

11. Is a periodic review process done to determine the performance of all funds/investment options provided within a defined contribution plan?  Yes  No  
 If you answered "Yes" above:
- a. How often? \_\_\_\_\_
  - b. Is the review done by an independent third party?  Yes  No
  - c. Do you evaluate performance net of expenses?  Yes  No
  - d. Is the process documented?  Yes  No
12. Is there a revenue sharing arrangement with a third-party service provider?  Yes  No  
 If you answered "Yes" above:
- a. Is a process in place to recoup excess compensation for the benefit of participants?  Yes  No
  - b. If there is surplus revenue, how is it remedied?  Yes  No
13. Has the Applicant provided the required annual statement to plan participants disclosing fees, expenses, and investment performance?  Yes  No
14. Are any plan assets invested in investment vehicles sponsored by the Applicant?  Yes  No  
 If you answered "Yes" above, please attach details, including the amount and type of such investments.

**B. Employer Securities**

(Please complete this section only if the Applicant sponsors an ESOP or a defined contribution plan that invests in employer securities)

1. Name of plan(s) holding employer securities? \_\_\_\_\_
2. Does the applicant match contributions in company stock?  Yes  No
3. If employer securities are offered as an investment in a Registered Retirement Savings Plan the Canadian or Foreign Pension plan, is there a cap on the amount that an employee may invest  Yes  No  
 If you answered "Yes" above, what is the cap? \$ \_\_\_\_\_
4. Can employees liquidate their investment in company stock in a Registered Retirement Savings Plan or any other Canadian or Foreign Pension plan at any time?  Yes  No
5. If the plan is an ESOP, please answer the following:
- a. Date the ESOP was established? \_\_\_\_\_
  - b. Does the ESOP have an independent trustee (unaffiliated with the Applicant) to monitor the plan stock holdings?  Yes  No  
 If you answered "Yes" above, please provide the name of the trustee: \_\_\_\_\_
  - c. Does the plan include pass-through voting and tendering of allocated company stock held by the plan and "mirrored" voting and tendering of unallocated stock held by the plan?  Yes  No  
 If you answered "No" above, please provide details: \_\_\_\_\_
  - d. If the company is not publicly traded, is an independent stock valuation completed annually?  Yes  No  
 If you answered "Yes" above, please attach a copy of the most recent valuation.  
 If you answered "No" above, please advise how the value of the stock is determined: \_\_\_\_\_
  - e. Percentage of total shares of the company owned by the ESOP: \_\_\_\_\_ %

- f. When participants leave the ESOP, is the distribution they receive determined by an independent valuation?  Yes  No  
 If you answered "No" above, please advise how the value is determined: \_\_\_\_\_

**C. Required Attachments**

Please attach the following

1. Most recent audited financial statements for defined contribution and defined benefit plans.
2. Most recent audited annual financial statement of the Applicant.

**APPLICANT REPRESENTATION**

(To Be Completed by Applicant)

The Applicant Representation applies to all coverages that have been completed as part of this Application.

**1. Special Representation applicable to the following Coverage:**

For the coverage checked below, the Applicant has current coverage in place with either CNA or with any other carrier:

Coverages	Coverage has been in place since:
<input type="checkbox"/> Fiduciary Liability	_____

The Applicant requests continuity for this coverage and this Applicant Representation does not apply to this coverage.

If the checkbox above is not checked, then this Applicant Representation applies to the coverage for which the Application has been completed subject to the following:

Applicant Representation - None of the individuals to be insured under the Fiduciary Liability Coverage Part is responsible for or has knowledge of any wrongful act or fact, circumstance, or situation which they have reason to believe might result in a future claim, except as follows:

- Yes, there are exceptions to this Representation (please attach details)
- No, there are no exceptions to this Representation

If any wrongful act or fact, circumstance, or situation which the Applicant has reason to believe might result in a future claim whether not disclosed above, then the Applicant acknowledges and agrees, unless the proposed insurance policy expressly provides otherwise, any loss, claim, or action arising out of, based upon, or attributable to such wrongful act or fact, circumstance, or situation will be excluded from coverage in accordance with the Application provision of the proposed policy.

**2. Representations applicable to all coverages to be made part of this policy:**

The Applicant hereby declares, after diligent inquiry, that the information contained herein and in any supplemental applications or forms required hereby are true, accurate, and complete, and that no material facts have been suppressed or misstated. The Applicant acknowledges a continuing obligation to report to the CNA Company (the "Company") to whom this Application is made, as soon as practicable, any material changes in all such information after signing the Application and prior to issuance of the policy. The Applicant further acknowledges that the Company will have the right to withdraw or modify any outstanding quotations and/or authorizations or agreement to bind the insurance based upon such changes. Further, the Applicant understands and acknowledges that:

- a. Completion of this Application and any supplemental applications or forms does not bind the Company to issue a policy;
- b. If a policy is issued, the Company has relied upon, as representations, this Application, any supplemental application, and other statements furnished to the Company in conjunction with this Application;
- c. All supplemental applications, statements, and other materials furnished to the Company in conjunction with this Application are hereby incorporated by reference into this Application and made a part hereof;
- d. This Application will be the basis of the contract and will be incorporated by references into and made a part of such policy;

- e. If a policy is issued, the limit of liability contained in the policy will be reduced and may be completely exhausted by the payment of loss, defence costs, and expenses. In such event the Company will not be liable for loss, defence costs, and expenses to the extent that such loss, expenses, and defence costs exceed the limit of liability of this policy;
- f. If a policy is issued, defence costs and expenses incurred will be applied against the deductible or retention amount as provided in the policy;
- g. The Applicant's failure to report to its current insurance company:
  - i. any claim made against it during the current policy term; or
  - ii. any act, omission, or circumstances which the Applicant is aware of that may give rise to a claim; before expiration of the current policy may create a lack of coverage.

**FRAUD NOTICE**

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false or incomplete information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and may be subject to civil fines and criminal penalties.

The Applicant, through the undersigned authorized representative, hereby acknowledges that the aforementioned statements and answers are accurate and complete. Applicant further understands that any inaccurate or incomplete statements may result in an exclusion or denial of insurance coverage. Applicant further authorizes CNA Insurance Companies to release the information on this Application and associated underwriting information.

**Applicant:**

By: \_\_\_\_\_  
*Signature and Title\** *Printed Name of Authorized Representative*

Date: \_\_\_\_\_

**\* This Application must be signed by the Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, General Counsel or Risk Manager (or the Director of Human Resources [for Employment Practices Liability coverage] or the Director of Benefits [for Fiduciary Liability coverage]) of the Applicant acting as the authorized representatives of the person(s) and entity(ies) proposed for this insurance. Please print and sign this application.**

**Note:** For purposes of the Insurance Companies Act (Canada), this document was made in the course of Continental Casualty Company's insurance business in Canada.

