

MIAMI VALLEY RISK MANAGEMENT ASSOCIATION

LIABILITY COVERAGE DOCUMENT 2008LY20A

Originally Adopted by MVRMA Board: 12/17/07

PURPOSE

The purpose of this document is to define the limits and the scope of coverage for which Miami Valley Risk Management Association (Association) would be financially responsible under its liability program. Read the entire document carefully to determine rights, duties, and what is and is not covered. Certain coverages are provided for or affected by the Agreement and Bylaws of the Miami Valley Risk Management Association and its *Handbook*. Review them also to determine rights, duties and what is and is not covered for those coverages. Words and phrases, which have special meaning, appear in *italic* and are defined in the Definition Section.

COVERAGE

Coverage A	Personal Injury Liability
Coverage B	Property Damage Liability
Coverage C	Public Officials Errors and Omissions Liability
Coverage D	Unfair Employment Practices Liability
Coverage E	Employee Benefit Liability



The Association will pay on behalf of the *Member* the *ultimate net loss*, in excess of the Deductible (see Attachment A), which the *Member* shall become legally obligated to pay as *damages* because of:

- A. *Personal Injury;*
- B. *Property Damage;*
- C. *Public Officials Errors and Omissions;*
- D. *Unfair Employment Practices;* and
- E. *Employee Benefit Liability*

to which this coverage document applies caused by an *occurrence* or a *wrongful act*. This coverage applies only to *occurrences* or *wrongful acts* that occur during the coverage period as shown on your Declaration Page, and/or any retroactive date endorsement, and within the coverage territory.

DEFENSE COSTS

The *Association* has the right and duty to defend, appeal and control any *claim* or suit arising out of any *occurrence* or *wrongful act* seeking *damages*. In such event, the *Member* shall cooperate fully. If a *claim* is made or a suit is brought, the *Member* shall notify the *Association* in writing. The *Association* will investigate any covered *occurrence* or *wrongful act* and in accordance with the *Association* policies and procedures, defend and/or settle any covered *claim* or suit that may result.

If a settlement is made or a judgment is entered against the *Member* for a covered *claim*, and the amount of the settlement or judgment plus *defense costs* exceeds the deductible, the *Association* shall pay the amount in excess of the deductible subject to the *Association's* limit of liability.

The *Association* shall not be responsible for any further *ultimate net loss* after the applicable limit of liability set out in Item 5 of the Declarations has been exhausted by the payment of *ultimate net loss*. It is further agreed that the *Association* has no obligation to incur or pay any cost, or investigate, or

EXCLUSIONS:

As used in this exclusion, "lead hazard, asbestos hazard or silica" means an exposure or threat of exposure to the actual or alleged properties of lead, asbestos or silica and includes the presence of lead, asbestos or silica in any form.

- (M) As respects any liability imposed upon a *Member* (or which is imputed to a *Member*) under the "Employee Retirement Income Security Act of 1974" and any law amendatory thereof.
- (N) To any liability arising out of the rupture, bursting, overtopping, accidental discharge or partial or complete structural failure of any *dam*.
- (O) To any liability for *property damages* arising out of *subsidence*.
- (P) Under Coverage C, Public Officials Errors and Omissions Liability, for:
 - (1) *Personal injury* or *property damage* as defined in the coverage document;
 - (2) Demands due to back wages and benefits, front wages, or overtime, future benefits, severance obligations, or similar demands, even if liquidated *damages* under any federal, state, or local statute, rule or regulation; or demands due to any collective bargaining agreements;
 - (3) Refund of taxes, fees or assessments;
 - (4) (a) Liability of a *Member* arising in whole or in part, out of any *Member* obtaining remuneration or financial gain to which the *Member* was not legally entitled or (b) liability arising out of the unwillful violation of a penal code or ordinance committed by or with the knowledge or consent of any *Member*; except that any fact pertaining to any other *Member* shall not be imputed to any other *Member* for the purpose of determining application of these exclusions (P)4(a) and (P)4(b);
 - (5) Liability of any *Member* arising out of estimates of probable costs or cost estimates being exceeded or for faulty preparation of bid specifications or for faulty preparation of bid specifications or plans or failure to award contracts in accordance with statute or ordinance which under law must be submitted for bids;
 - (6) Injury to, destruction or disappearance of any tangible property (including money) or the loss of use thereof;
 - (7) Failure to perform or breach of a contractual obligation;
 - (8) Liability arising out of knowingly violating any statute, law, act, or ordinance, whether Federal, State, City, County or District;
 - (9) Liability arising out of the willful commission of a crime; or
 - (10) Liability arising out of or in connection with *subsidence*.

* → (Q) Under Coverage D, Unfair Employment Practices Liability, for:

- (1) **Strikes and Lockouts.** This coverage document does not apply to any *claim* or *claims* for loss arising out of a lockout, strike, picket line, replacement or similar actions in connection with labor disputes or labor negotiations.
- (2) **W.A.R.M. Act.** This coverage document does not apply to any *claim* or *claims* for loss arising out of the Workers Adjustment and Retraining Notification Act, Public Law 100-379 (1988), or any amendment thereto, or any similar federal, state or local law.
- (3) Any *claim* or *claims* for *occurrence* incurred by the *Member* to modify any building or property in order to make said building or property more accessible or accommodating to any disabled person; however, *damages* from failure to make such an accommodation shall be a covered unfair employment practice.
- (4) Demands due to back wages and benefits, front wages, or overtime, future benefits, severance obligations, or similar demands, even if liquidated *damages* under federal, state, or local statute, rule or regulation; or demands due to any collective bargaining agreements.

DEFINITIONS:

X → (U) "*Unfair Employment Practices*" means any *wrongful act* relating to a past, present, or prospective employee of the *Member* for or arising out of any actual or alleged wrongful dismissal, discharge, or termination, either actual or constructive, of employment, employment related misrepresentation, wrongful failure to employ or promote, wrongful deprivation of career opportunity, wrongful discipline, failure to grant tenure or negligent employee evaluation; or sexual or workplace harassment of any kind, including, but not limited to, the alleged operation of a harassing workplace environment, or unlawful discrimination, whether direct, indirect, intentional or unintentional, or failure to provide adequate employee policies and procedures.

Unfair Employment Practices shall include *wrongful acts* brought under state, local, or federal law, whether common or statutory, including but not limited to Equal Employment Opportunity Commission and Ohio Civil Rights Commission complaints. *Unfair Employment Practices* shall include, but not limited to allegations of violations of the following federal laws, as amended, including regulations promulgated there under:

- (1) Americans with Disabilities Act of 1992 (ADA);
- (2) Civil Rights Act of 1991;
- (3) Age Discrimination in Employment Act of 1967 (ADEA), including the Older Workers Benefit Protection Act of 1990;
- (4) Title VII of the Civil Rights Law of 1964, as amended (1983), including the Pregnancy Discrimination Act of 1978;
- (5) Civil Rights Act of 1866, Section 1981; or
- (6) Fifth and Fourteenth amendments of the U.S. Constitution.

"*Damages*" as respects "*Unfair Employment Practices*" only means a monetary judgment, monetary award, or a monetary settlement, including *defense costs* which the *Member* is obligated to pay, but not including any *claim* or demands due to back wages and benefits, front wages, or overtime, future benefits, severance obligations, or similar demands, even if liquidated *damages* under any federal, state, or local statute, rule or regulation; or demands due to any collective bargaining agreements.

- (V) "*Watercraft*" means a vehicle designed for the transport of persons or property principally on water.
- (W) "*Wrongful Act*" means any actual or alleged breach of duty, error or omission arising out of the conduct or performance of a *Member* in the performance of his or her or their duties. All such exposure to substantially the same general conditions shall be deemed one *wrongful act*.

CONDITIONS

1. Inspection and Audit.

The *Association* shall be permitted but not obligated to inspect the *Member's* property and operations at any time. Neither the *Association's* right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the *Member* or others, to determine or warrant that such property or operations are safe. The Named *Member* shall maintain records of such information as is necessary for premium computation, and shall send copies of such records to the *Association* at the end of the Coverage Period and at such times during the Coverage Period as the *Association* may direct. The *Association* may examine and audit the *Member's* books and records at any time during the Coverage Period and extensions thereof and within three years after the final termination of this coverage document, as far as they relate to the subject matter of this coverage.

