



## VMBA Insurance Fact Sheet

Insurance coverage is one of the most valuable administrative services we can provide to our Chapters. As a VMBA Chapter, you are covered underneath our policies listed below.

Once a Chapter is named on the VMBA policy, we strongly discourage Chapters from seeking independent coverage. Any Chapter wishing to obtain its independent coverage can be removed as a named party on the VMBA policy.

### Chapter Coverage

Our insurance, which again covers all VMBA Chapters named on the policy, includes the following:

- Commercial Package (property, liability, and crime)
- Workers Compensation (for listed employees; contact the office for more information)
- Directors & Officers Liability
- Volunteer Workers Accident Policy
- Cyber Liability Policy

VMBA Chapters are protected from litigation from all trail users, including hikers, runners, and bikers. Our general liability limit - what the insurance company will cover - is \$2M per occurrence and \$4M in aggregate over the policy term (1 year). If and when we, as an organization, reach \$4M in total claims during the term, we effectively no longer have coverage.

Chapter board members are protected from litigation under the Directors & Officers (D&O) policy, with an aggregate limit of \$1M. Employment Practices Liability, including wrongful termination and sexual harassment, is also covered. Each Chapter is listed on the policy, and Chapters should keep accurate records of and list their Directors and Officers and provide updates to any D&O changes to the VMBA office any time there is a change to the Board.

### Private landowners

Private landowners are protected through our policy, which is often an important consideration for landowners in allowing trail building on their land. That said, Private Landowners are *also* explicitly protected by Vermont's Landowner Liability Act (LLA), provided they neither charge for access to trails on their property nor commit willful and wanton misconduct. See our full summary of the LLA [here](#). Please note that the LLA *only* covers private landowners and does not extend to trail-building organizations, contractors, or townships. A [Landowner Access Agreement](#) **must** be signed and a copy provided to the office.

## **Public Land**

VMBA's insurance does not include towns as covered entities. Whereupon trails are situated on town land, towns can be named Additional Insured upon request, specific to the project and situation. See more in the "common scenarios" section below.

## **Events**

The following events are covered when attendance is *less than* 1,000: meetings and seminars, picnics and dinners, festivals and concerts, and auctions. Some event venues require a Certificate of Insurance (COI) - find more information about that [here](#). All events must have signed waivers from participants. Liability protection extends to all participants, including non-VMBA members, provided they have signed a waiver. All VMBA Members signed a waiver when they joined for the season. All youth events are also covered, provided all parents or legal guardians have signed a waiver. Please note we do not currently have any Sexual Abuse & Molestation coverage in place. VMBA insurance protects Chapters from participant liability claims; it does not insure participants themselves.

**New 2024: All races and competitions are excluded from coverage, and a Chapter will need to purchase Participant Accident Coverage for the specific race/competition. Contact Amy, [amy@vmba.org](mailto:amy@vmba.org), for more information.**

A Special Event Coverage form is required for events with *more than* 1000 individuals, and additional costs will be due by the Chapter. Please contact the VMBA office well before your event, and we will assist in filing the proper paperwork. A separate COI must be completed if a Chapter needs proof of insurance for multiple entities.

For group rides and hikes, group leaders are covered equivalent to a volunteer, even if they are not VMBA Members or Chapters, as long as nobody is paid to lead or for their participation. A paid ride leader would be an independent contractor and should carry their own coverage. The Chapter should request a Certificate of Insurance (COI) naming VMBA/Chapter as an Additional Insured.

The current General Liability is \$2M aggregate and \$1M per occurrence, and our Umbrella Policy provides an additional \$2M to each of these. Liability limits cannot be raised on an event-specific basis. A separate policy could be purchased for supplemental coverage outside of Chubb. Please inquire with the office for more information.

## **Employees**

Injuries sustained by W2 employees are covered under our Worker's Compensation policy. Contract workers are not covered under this policy, nor does our liability protection extend to their work while they are under contract. Contractors must carry their liability insurance and share this paperwork with any work/service agreement. Independent Contractors are to list VMBA/Chapter as Additional Insured on applicable coverages.

For any Worker's Compensation and 1099 questions, see [VMBA's Payroll Services](#) document.

### **Contractors**

Contract workers are not covered under VMBA's Workers Compensation or Liability protection while they are under contract. Contractors must carry their insurance, including but not limited to General Liability, Automobile, Property, Professional liability, and Workers' Compensation. Independent Contractors are to list VMBA/Chapter as Additional Insured on applicable coverages. Once a contractor's work is complete and the Chapter assumes responsibility for trail maintenance, responsibility transfers to the Chapter and our Liability protection.

For example, if a trail user injures themselves on a trail while under construction by a contractor, should the property be damaged, or should the contractor sustain an injury, said contractor's insurance would be responsible for any and all such claims. Upon completion of the trail, the Chapter should inspect the trail, document any and all features, and sign a document with the contractor indicating their work is complete. At this point, any future claims pertaining to the trail in question would be addressed by our insurance.

### **Volunteers**

Volunteers are covered under our Volunteer Accident policy, which will pay for up to \$25K in excess medical expenses per volunteer for any injuries sustained while volunteering as part of an official and approved Chapter work event. Any volunteers may utilize hand tools provided by the Chapter or bring their own tools and/or not-motorized equipment. Volunteers should not use any leased or rental equipment. We strongly encourage Chapters to have all Volunteers sign a waiver.

It is worth noting that molestation is not currently covered by our policy. Given the potential presence of minors at trail days and other Chapter events, we are pursuing the potential addition of this coverage to our policy for future seasons. Chapters are strongly encouraged to keep minors under the supervision of their parents while participating in any Chapter event to whatever extent possible.

### **Trail features**

As noted above, any contracted trail builder is liable for the trail during construction.

Features must be appropriate in difficulty and risk for the signed trail difficulty. A user of the average signed skill level should have a reasonable expectation of no serious injury on the technical trail features. A 'filter feature' should be used whenever possible.

If features above the signed level of the trail are present, they should be clearly signed and include ride-around (B-line) options for users. If features are present that present a considerable risk, even for users of the signed skill level, these features will likely not be covered and trail signage should indicate that these lines are not part of the official trail route.

When at all possible, features should be constructed from natural terrain and materials - e.g. soil and rocks - rather than 'artificial' structures (e.g. wooden ladders). The presence of clear signage and marked ride-arounds is paramount for any 'artificial' features. These guidelines apply to man-made gap jumps, which should be well-signed and have clear alt-lines.

Once the trail is complete, visual documentation of all features must be shared with the VMBA office and we, in turn, will share with the insurance company to confirm coverage is in place.

If a Chapter wishes to obtain insurance feedback in advance of building, please share images that depict the project with the VMBA office, which we will share with the insurance company. This step is intended as a guide, rather than a guarantee, as to what is covered.

### **Common Claims**

- Most Claims are tied to Technical Trail Features (TTFs). Often, an injured party will allege that they weren't properly warned of "dangerous" trail features, e.g. berms, rocks, and drops, that posed a risk to the rider. If there's *anything* wrong with a feature, such as a loose bridge plank or improper design, it only escalates liability.
- Many Claimants are not cyclists. Anticipate unexpected uses, and keep in mind that end-users will likely be more diverse and potentially less experienced than a relatively small, tight-knit MTB community.
- Recommendations to avoid claims and mitigate liability:
  - Include filter features to set rider expectations at the start of any trail as to TTFs and degree of difficulty.
  - Use clear, detailed signage for trails that indicate the degree of difficulty and, especially, any TTFs or other higher-risk elements.
  - Perform regular maintenance and keep detailed records.

### **Trails on town land**

Towns are increasingly willing to work with Chapters to build trails and/or skills parks on town land. These projects raise questions as to who is covered by our policy.

- While under construction, Chapter workers and volunteers are covered under the Workers Compensation and Volunteer Accident policies, respectively, provided the Chapter is named on the policy. Any town employees participating in construction would be covered under the town's insurance.
- Once open, the Chapter is protected from liability through our coverage. It is expected that the Chapter will maintain an active role in monitoring and maintaining the trail, even if the town has agreed to conduct a portion of the maintenance work.
- Towns are not included in our liability insurance. A town can be named an Additional Insured for a specific trail/project, protecting it from user injury liability and workers compensation claims related to work on the named trail. This coverage would not extend to incidents outside the named trail.
- Visual documentation of the trail or skills park features is required prior trail user liability

### **Use of rental equipment, including mini-excavators**

Use of machine-building equipment for trail construction was, until recently, primarily by professional trail builders contracted by Chapters for trail projects. Chapters, however, have taken note of the pace and quality that can be achieved with motorized equipment, including but not limited to mini-excavators.

- Employees use of rental equipment - including treaded mobile equipment for trail building - is explicitly covered under our policy. This means that our property insurance, liability, and workers compensation properties are active *while the equipment is on the trail* and under the direct supervision of the Chapter as part of approved trail work. Additionally, we must contact the insurance company and have the equipment temporarily added to the policy for this coverage to be active.
- This does, however, leave some significant gaps in coverage that Chapters should be aware of. Specifically, the pickup and transportation of the equipment from the rental facility, as well as the unloading and transportation to the actual trail corridor, are not covered. The Chapter will be responsible for any property damage or personal injury that occurs during these periods, barring some other insurance coverage.
- The potential for property damage and personal injury outside of what is covered - e.g. while in transport - leads us to strongly suggest that supplemental equipment insurance - typically offered by the rental agency - be purchased at the time of rental. Coverage for the equipment itself can also be added to the VMBA policy for an additional charge, as noted above, and must be done so in advance of the rental period.
- The rental agency will typically require a lessee to either purchase coverage they offer or prove they have coverage through their existing insurance; functionally, this means Chapters must either purchase insurance through the rental agency (recommended) OR inform the VMBA office in advance to have the equipment added to our policy and subsequently provide the Chapter proof of insurance, the additional cost of which will be covered by the Chapter.

### **Use of chainsaws**

Chainsaws are an invaluable tool for trail maintenance, and there is no express prohibition of or requirements for chainsaw use by employees or volunteers in our policy.

- Sawyer B/C certification is required to operate a power saw on state or federal lands. Doing so without such certification is against the law, would be in violation of our policy, and would not be covered in terms of liability, workers' compensation, or volunteer accident. Ensure any worker or volunteer is certified for any work on public lands.
- On private land, chainsaw use is permitted without certification, though must be in the context of a 'safe' work environment for our coverage to be valid. We would highly encourage anyone intending to work with power saws to consider certification and will be exploring hosting a certification program in conjunction with the USFS.

### **Events held outside Chapter trail systems**

Organizations named under the VMBA policy may occasionally wish to hold events outside the network of trails officially managed by a Chapter. *Our coverage policies are active during the event and for those officially participating.*

- All participants - riders, racers, and volunteers - must sign a waiver

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- For non-competitive events, claims related to injuries sustained by volunteers and participants are covered only for those incidents that occur during an event.
- For competitive events, Participant Accident Insurance must be purchased ahead of the event.
- Participants are not covered or insured. VMBA insurance protects Chapters from participant liability claims, it does not insure participants themselves.
- D&O and Workers Compensation policies are not geographically limited.
- Our policy limits are the same as noted above (\$2M per occurrence, \$4M aggregate)