

# TECHNOLOGY INDUSTRY ERRORS AND OMISSIONS APPLICATION

This application is designed to develop information that will help us assess the potential for you to incur claims for damages resulting from your business activities. If additional space is required in order to address certain questions, please attach whatever is necessary to thoroughly complete this application. In so doing, you will help us understand your business activities, the associated risks and your needs. This will allow us to complete our analysis and price the desired insurance coverage.

*Note: This application will become part of your policy. Any material misrepresentation could lead to a limitation on, or a termination of, your insurance. Please DO NOT leave any question unanswered. Write N/A if not applicable to you.*

## GENERAL INFORMATION

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

Full Legal Name of Applicant: \_\_\_\_\_

Address (Street, City, State, ZIP Code): \_\_\_\_\_

Name of any subsidiaries or associated companies and nature of operation:

\_\_\_\_\_

Merger or Acquisition activity within the last 3 years:

\_\_\_\_\_

Identify any Merger or Acquisition activity contemplated in the next 12 months:

\_\_\_\_\_

Number of Employees \_\_\_\_\_

Years in Business \_\_\_\_\_

## COVERAGE REQUESTED

### Limits of Coverage:

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

Each Claim  
\$ \_\_\_\_\_

Aggregate Limit  
\$ \_\_\_\_\_

### Deductible:

\$10,000     \$25,000     \$50,000     \$100,000     \$250,000     Other \$ \_\_\_\_\_

*(Deductibles exceeding \$250,000 may require letter of credit or other financial guarantee.)*

## REVENUE/FINANCIAL INFORMATION

*(Please attach copies of your most recent annual report, 10k, or your most recent audited financial statement.)*

	<u>DOMESTIC</u>	<u>FOREIGN</u>	<u>TOTAL</u>
<b>ACTUAL</b> Revenue*    Last 12 months:	\$ _____	\$ _____	\$ _____
<b>ESTIMATED</b> Revenue:* Next 12 months:	\$ _____	\$ _____	\$ _____

If you have foreign revenue, please list the countries in which you do business:

\_\_\_\_\_

*\*Revenue means actual sums billed to customers for products and services rendered. This includes all necessary support activity, i.e., consulting, system analysis, design, programming, etc. DO NOT include receipts from "In-House" operations.*

**BUSINESS DESCRIPTION**

1. Briefly describe your Principal Business Operations:

\_\_\_\_\_  
\_\_\_\_\_

2. What new product, software or services are to be released or introduced within the next 12 months?

\_\_\_\_\_

3. What is the worst thing that could happen to your customers' operations if your product, software or service were to fail to operate or perform according to specifications?

\_\_\_\_\_

4. Is physical installation of your product, software or services at the customer/client site performed by your employees or representatives of your firm?  Yes  No

5. Industries served:	<u>% of Total Revenues</u>	<u>% of Total Revenues</u>
<input type="checkbox"/> Medical/Health	_____	<input type="checkbox"/> Telecommunications _____
<input type="checkbox"/> Banking/Financial: Funds Transfer	_____	<input type="checkbox"/> Internet _____
<input type="checkbox"/> Banking/Financial: Other	_____	<input type="checkbox"/> Manufacturing _____
<input type="checkbox"/> Transportation- Aviation	_____	<input type="checkbox"/> Education/Training _____
<input type="checkbox"/> Transportation- All Other	_____	<input type="checkbox"/> Other _____

6. Percent of your Total Revenues derived from:

<input type="checkbox"/> General computer system related consulting, analysis, design _____	<input type="checkbox"/> Telecommunication products/services (telephone/cable/wireless) _____
<input type="checkbox"/> Custom Software Development _____	<input type="checkbox"/> Outsourcing/Professional Placement _____
<input type="checkbox"/> Custom Software Licensing _____	<input type="checkbox"/> Internet related services _____
<input type="checkbox"/> Pre-Packaged Software Development _____	<input type="checkbox"/> Manufacture of Hardware/Product _____
<input type="checkbox"/> Sale of Hardware made by others _____	<input type="checkbox"/> Computer related training/education _____
<input type="checkbox"/> Sale of Software made by others _____	<input type="checkbox"/> Data Processing Services (including maintenance & support) _____
<input type="checkbox"/> Network/computer related security products or services _____	<input type="checkbox"/> Other _____

7. Do you currently maintain General Liability coverage?  Yes  No

If yes, Carrier: \_\_\_\_\_ Limits of Liability: \_\_\_\_\_

Does it include coverage for: Personal Injury?  Yes  No

Advertising Injury?  Yes  No

Products & Completed Operations?  Yes  No

**CONTRACTORS AND/OR CO-VENTURES**

1. Are you involved or do you plan to be in any joint ventures with other firm(s) for research, development, sale, and/or distribution of an electronic product, software or computer service?

Yes  No If yes, explain: \_\_\_\_\_

\_\_\_\_\_

2. Do you subcontract or hire independent contractors to perform any services for your customers or clients?

Yes  No If yes, a) What percentage of your total revenue is from subcontractors? \_\_\_\_\_ %

b) Do you require that all subcontractors and independent contractors carry their own E&O insurance?  Yes  No

**PRODUCT DEVELOPMENT, QUALITY CONTROL AND CUSTOMER SERVICE/SUPPORT**

1. Do you have a written procedure in place for System or Product Development methodology?  Yes  No

\_\_\_\_\_

2. How far in advance of discontinuation of support for any product, software or computer service do you provide formal notice to your customers?

\_\_\_\_\_

\_\_\_\_\_

3. List any electronic product or software which you have discontinued but which may still be in use:  
(Indicate the last year of distribution and annual sales.)

<u>PRODUCT</u>	<u>YEAR</u>	<u>ANNUAL SALES</u>
_____	_____	_____
_____	_____	_____

4. What percentage of your products/software are made to the specifications of others? \_\_\_\_\_ %

5. What are the testing procedures used to protect your customers from the possibility of a computer virus (*or other unauthorized access*) in any software developed by your firm?

\_\_\_\_\_

\_\_\_\_\_

6 a. How do you inform your customer of “bugs” or problems you discover in your electronic product or software?

b. From the time they are first discovered, how long does it take to inform all of your customers of any “bugs”?

Less than 1 day  Less than 1 month, but more than 1 week

Less than 1 week, but more than 1 day  More than 1 month

7 a. Do you have a product recall plan in place?  Yes  No

b. Have you ever had to recall any of your electronic products or software for any reason?  Yes  No If yes, please explain:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**CONTRACT INFORMATION**

**Please include copies of standard contracts, licensing agreements, purchase orders and written terms and conditions used by you.**

1. Are all of your customer/client contracts/agreements in writing?  Yes  No If "No" explain:

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2. Does your legal counsel review all customer contracts prior to signing?  Yes  No

3. Are all contract modifications put in writing?  Yes  No If "No" explain:

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4. Do you ever negotiate contracts with your customers in which you accept liability for consequential damages?

Yes  No If yes, please explain in detail when and how often and provide copies of such contracts:

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5. Do all of your contracts contain the following clauses/language?

Disclaimer of warranties Yes  No

Exclusive Remedy Yes  No

Limitation of Liability Yes  No

Customer/vendor maintenance provision Yes  No

6. Please list your 3 largest customers/clients and annual revenues derived from each:

CUSTOMER/CLIENT NAME

ANNUAL REVENUE

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

7. What is the value of your **average** customer/client contract? \$ \_\_\_\_\_

8. What is the value of the **largest** single customer/client contract currently in place? \$ \_\_\_\_\_

9. What percent of your Total Revenue is attributable to repeat customers? \_\_\_\_\_ %

10. Do you have a formal process in place for resolving disputes with customers/clients?

Yes  No

**COPYRIGHT TRADEMARK INFORMATION**

**Are you applying for extension of coverage for Copyright/Trademark infringement?**

**No**  If "No" skip to next section (PRIOR ERRORS AND OMISSIONS INSURANCE HISTORY)

**Yes**  If "Yes" answer all questions below

1. Do you currently have guidelines in place to safeguard against infringing the copyrights/trademarks of others?

**No**

**Yes** If "Yes",

a) Do your guidelines address employees?

**No**  **Yes**

b) Do your guidelines address use of independent contractors?

**No**  **Yes**

c) With respect to trademark related matters, do you perform

availability and clearance searches?

**No**  **Yes**: List methods used:

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2. In the last 12 months have you hired from a competitor, any employee with access to trade secrets?  **No**  **Yes**

3. a) Do your contracts/agreements with your customers/clients address copyright/trademark rights?  **No**  **Yes**

b) Do your contracts/agreements with your sub-contractors address copyright/trademark rights?  **No**  **Yes**

4. Identify person(s) responsible for reviewing and evaluating potential copyright/trademark offenses with respect to your business activities such as your web site, your online service, your use of unlicensed software, your product packaging, or your advertising and media promotions: \_\_\_\_\_

5. Do you have an Intellectual Property attorney that you utilize for registration of your copyrights/trademarks or due diligence for availability and clearance searches?

**No**  **Yes** If "Yes", please provide:

Name: \_\_\_\_\_

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

6. a) Do you currently have any trademarks or service marks registered?

**No**  **Yes** If "Yes", list below (attach separate page if necessary)

<u>Trademark/Service Mark Description</u>	<u>Date Registered</u>	<u>(if foreign, specify country)</u>
_____	_____	_____

6. b) Do you currently claim common law trademark or service mark rights?

**No**  **Yes** If "Yes", list below (attach separate page if necessary)

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7. Do you regularly register any original materials for copyright protection?

**No**  **Yes** If "Yes", provide the estimated number of copyright filings made annually by you: \_\_\_\_\_

8. During the last 5 years, have you threatened or initiated any litigation/arbitration against another for infringement of a copyright that you hold, a trademark/service mark registered by you, patent that you hold, or trade secret violations?

**No**  **Yes** If "Yes", provide full details below (attach separate page if necessary)

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9. During the last 5 years, have any of your copyrights, trademarks, service marks, patents, or trade secrets been challenged?

**No**  **Yes** If "Yes", provide detailed information regarding the other party, the outcome, amounts paid by you or by an insurance carrier (attach separate page if needed)

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10. Are you currently aware of any possible threatened or actual litigation/arbitration or other possible challenge to the validity of any copyright, trademark, service mark that you hold?

No  Yes If "Yes", provide full details (attach separate page if necessary)

\_\_\_\_\_  
\_\_\_\_\_

11. Please estimate your annual expenditures on research and development of new ideas, new software, or new products:

\$ \_\_\_\_\_

**PRIOR ERRORS AND OMISSIONS INSURANCE HISTORY**

<u>PRIOR 3 INSURANCE CARRIERS</u>	<u>POLICY TERM</u>	<u>LIMITS</u>	<u>DEDUCTIBLE</u>	<u>ANNUAL PREMIUM</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Is there a retroactive date on your current policy? If Yes, please provide: \_\_\_\_\_

**CLAIMS EXPERIENCE FOR THE PAST 5 YEARS FOR COVERAGE REQUESTED**

<u>DATE OF LOSS</u>	<u>DESCRIPTION</u>	<u>COST TO SETTLE</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

1. What measures have been taken to prevent similar losses in the future?

\_\_\_\_\_

2. Except as described above, please state all circumstances of which you are aware of any person or entity suffering damage as the result of any alleged error in your electronic product, software or computer service:

\_\_\_\_\_

*As per the provisions of the policy, any claims or incidents noted above are excluded from coverage.*

The undersigned is an authorized employee of the applicant and certifies that reasonable inquiry has been made to obtain the answers herein which are true, correct and complete to his/her best knowledge and belief.

Signing this Application does not bind the applicant to accept the Insurance nor is the Company bound to issue a policy. The applicant warrants that the answers to the above questions are complete and correct. Should a policy be issued and accepted, this application will be the basis of the insurance and will become a part of the policy.

Applicant's Signature: \_\_\_\_\_  
(authorized representative of the prospective insured)

Print Name: \_\_\_\_\_

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

**NOTICE TO APPLICANT - PLEASE READ CAREFULLY.**

**APPLICABLE IN CALIFORNIA**

FOR YOUR PROTECTION CALIFORNIA LAW REQUIRES THE FOLLOWING TO APPEAR ON THIS FORM: ANY PERSON WHO KNOWINGLY PRESENTS FALSE OR FRAUDULENT CLAIM FOR THE PAYMENT OF A LOSS IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN STATE PRISON.

**APPLICABLE 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.

**APPLICABLE 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.

**APPLICABLE IN LOUISIANA**

ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**APPLICABLE IN MAINE**

IT IS A CRIME TO KNOWINGLY PROVIDE FALSE, INCOMPLETE OR MISLEADING INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING THE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES OR A DENIAL OF INSURANCE BENEFITS.

**APPLICABLE IN NEBRASKA**

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON, FILES AN APPLICATION FOR INSURANCE CONTAINING ANY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY MATERIAL FACT THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, WHERE SUCH PERSON SUBSEQUENTLY SUBMITS A CLAIM.

**APPLICABLE IN NEW MEXICO**

ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO CIVIL FINES AND CRIMINAL PENALTIES.

**APPLICABLE IN NEW YORK**

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 SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS AND THE STATED VALUE OF THE CLAIM FOR EACH SUCH VIOLATION.

**APPLICABLE IN OHIO**

ANY PERSON WHO, WITH THE INTENT TO DEFRAUD OR KNOWING THAT HE IS FACILITATING A FRAUD AGAINST AN INSURER, SUBMITS AN APPLICATION OR FILES A CLAIM CONTAINING A FALSE OR DECEPTIVE STATEMENT IS GUILTY OF INSURANCE FRAUD.

**APPLICABLE IN OKLAHOMA**

WARNING: ANY PERSON WHO KNOWINGLY, AND WITH INTENT TO INJURE, DEFRAUD OR DECEIVE ANY INSURER, MAKES ANY CLAIM FOR THE PROCEEDS OF AN INSURANCE POLICY CONTAINING ANY FALSE, INCOMPLETE OR MISLEADING INFORMATION IS GUILTY OF A FELONY.

**APPLICABLE IN OREGON**

ANY PERSON, WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON, FILES AN APPLICATION FOR INSURANCE CONTAINING ANY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY MATERIAL FACT THERETO, MAY BE GUILTY OF A INSURANCE FRAUD.

**APPLICABLE IN 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."

**APPLICABLE IN VIRGINIA**

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.