

# New Business Application for Technology Errors & Omissions, Media Liability and General Liability Insurance

## APPLICANT INFORMATION

Named Applicant: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Telephone: \_\_\_\_\_

Contact: \_\_\_\_\_ Title: \_\_\_\_\_

E-mail Address: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

The words "you", "your" and "Applicant(s)" refer to the Named Applicant and all other entities applying for coverage. If your answer to any question in this Application requires additional space, please complete your answer on a separate attachment.

1. Please provide your gross annual revenues:

	Year	Revenues
<b>Past Fiscal Year</b>		\$
<b>Current Fiscal Year</b>		\$
<b>Projected Fiscal Year</b>		\$

2. Please provide a breakdown of your staff:

\_\_\_\_\_ Principals, partners, directors & officers      \_\_\_\_\_ Technical personnel  
 \_\_\_\_\_ Sales/Marketing personnel                              \_\_\_\_\_ Clerical/Administrative personnel

3. Please provide the percentage of gross annual revenue derived from the following:

Custom Software Development \_\_\_\_\_%  
 Pre-Packaged Software Development \_\_\_\_\_%  
 Software Installation/Integration \_\_\_\_\_%  
 Hardware Manufacturing \_\_\_\_\_%  
 Hardware Installation/Maintenance/Repair \_\_\_\_\_%  
 Consulting \_\_\_\_\_%  
 Systems Analysis/Design \_\_\_\_\_%  
 Data Processing \_\_\_\_\_%  
 Turnkey Systems \_\_\_\_\_%  
 Training \_\_\_\_\_%  
 Sales of hardware or software of others \_\_\_\_\_%  
 Website Design \_\_\_\_\_%  
 Development of Media/Licensing \_\_\_\_\_%  
 Internet Services (Hosting, ASP, ISP, etc.) \_\_\_\_\_%  
 Other \_\_\_\_\_% please describe: \_\_\_\_\_

## CUSTOMERS

1. Please list your three largest clients:

Client Name	Industry	Products/Services Offered	Revenues
			\$
			\$
			\$

2. Please provide the percentage of gross annual revenue derived from the following industries:

- Aerospace/Defense \_\_\_\_\_%
- Manufacturing \_\_\_\_\_%
- Utilities \_\_\_\_\_%
- Retail \_\_\_\_\_%
- Financial Institutions \_\_\_\_\_%
- Medical/Healthcare \_\_\_\_\_%
- Training/Education \_\_\_\_\_%
- Environmental \_\_\_\_\_%
- Human Resources \_\_\_\_\_%
- Network Security \_\_\_\_\_%
- Physical Security/Fire/Emergency \_\_\_\_\_%
- Construction/Engineering \_\_\_\_\_%
- Entertainment \_\_\_\_\_%
- Agriculture/Mining \_\_\_\_\_%
- Technology/Telecommunications \_\_\_\_\_%

3. Are your products/services used in any mission-critical applications? Yes  No

If yes, please explain: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**RISK MANAGEMENT & QUALITY CONTROL**

1. Do you have a formal product recall plan? Yes  No

2. Do you have a formal complaint/dispute resolution process? Yes  No

3. Do you offer the following customer support features:

*(Check all that apply)*

- E-mail
- Fax
- On-site visits
- Remote access
- Toll free numbers
- Website support
- Monday - Friday availability
- 24 hour availability

4. Do you have a formal document retention plan? Yes  No

If so, what is the retention period? \_\_\_\_\_ mos. / yrs.

5. Do you have formal customer acceptance procedures? Yes  No

Including signoff prior to final release? Yes  No

Including signoff prior to changes in product/scope of work? Yes  No

6. Do you perform pre-release testing for security flaws? Yes  No

7. Do you have a formal testing plan which includes Alpha and Beta Testing? Yes  No

If no, please explain: \_\_\_\_\_  
\_\_\_\_\_

## **SUBCONTRACTORS**

1. What percentage of your business is subcontracted to others:  
  
\_\_\_\_\_ % Software Development  
\_\_\_\_\_ % Hardware Development  
\_\_\_\_\_ % Training  
\_\_\_\_\_ % Service/Maintenance  
\_\_\_\_\_ % Other (Please describe) \_\_\_\_\_
  
2. Do you utilize a standard contract for all products and services provided to you by subcontractors? Yes  No
  
3. When do you use subcontractors?  
  
 Frequently  
 Rarely  
 Only for specific projects  
 For outside expertise  
 Other (Please explain) \_\_\_\_\_
  
4. Do you require that your subcontractors carry Professional Liability insurance? Yes  No   
If so, do you require that you be named as an Additional Insured? Yes  No

## **CONTRACTS**

1. Do you always utilize a standard written contract with clients? Yes  No   
If no, how often and under what circumstances do you offer products & services without a contract? \_\_\_\_\_  
\_\_\_\_\_
  
2. Are contracts negotiated to accept liability for consequential damages? Yes  No   
If yes, how often and under what circumstances to you accept liability for consequential damages? \_\_\_\_\_  
\_\_\_\_\_
  
3. Do you utilize a contract administrator or equivalent position? Yes  No
  
4. Who approves any deviations from your standard contract? \_\_\_\_\_
  
5. Do your contracts contain:  
(Check all that apply)  
  
 Hold Harmless or indemnity agreements inuring to the applicant's benefit?  
 Indemnity agreements inuring to the applicant's client's benefits?  
 A specific description of the services you will provide to the client?  
 Guarantees or warranties?  
 Limitation of liabilities?  
 Force Majeure Clause
  
6. Are all modifications to your standard written contract made in writing? Yes  No

## **MEDIA LIABILITY**

(Please answer the following questions ***only if*** you are applying for media or software copyright coverage)

1. Do you develop content for others? Yes  No   
If yes, please describe the type of content: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Do you utilize an outside law firm for IP matters?  
If so, please list the name of the firm: \_\_\_\_\_

3. Do your agreements with contractors or others whom provide you with copyrightable material require that they:  
(Check all that apply)

- Assign or license to you their rights to any copyrightable material?
- Indemnify and hold you harmless in the event of an IP claim made against you?
- Warrant that their work does not infringe on the IP rights of others?

4. Do you have a review process in place to screen content for the following:  
(Check all that apply)

- Copyright Infringement
- Domain Name Infringement
- Libel/Slander
- Privacy Violations
- Trademark Infringement
- Violation of Rights of Publicity

5. Do you have formal clearance procedures with respect to media? Yes  No   
If yes, do they include the following?  
(Check all that apply)

- Legal review of all content and services prior to release or dissemination?
- Legal review of content and services with respect to IP laws in foreign jurisdictions in which you operate?
- Legal review of all licensing/Cross-Licensing Agreements?
- Regular IP audits conducted by outside counsel or internal legal staff?
- Periodic review of privacy laws?
- Acquisition of all necessary IP rights via licenses, releases or consents?
- Trademark and Copyright searches by employees?
- Trademark and Copyright searches by professional search firm?
- Employee training regarding intellectual property issues and procedures?
- Employee education explaining the ownership rights with regard to IP created by them?

6. With respect to software copyright, do you have formal policies in place for:  
(Check all that apply)

- Auditing your use of software licenses?
- Determining if open source code is used during software development?
- Avoiding copyright infringement suits?

7. Does your website include chat rooms, blogs, bulletin boards or any other type of interactive exchange that can be viewed by others? Yes  No   
If yes, do you have the following in place?  
(Check all that apply)

- Procedures for reviewing content prior to posting?
- Procedure to review content after posting?
- Procedures for removing content after posting?
- Subcontractor agreement in which managerial duties and resulting liabilities are assumed by subcontractor?

### **GENERAL LIABILITY**

(Please answer the following question ***only if*** you are applying for General Liability coverage)

1. Please provide the following payroll information:

Class Code	Description	Payroll (\$)

2. In which state is the majority of your payroll generated? \_\_\_\_\_

3. Do you operate Day Care facilities on your premises? Yes  No

**CLAIMS & INSURANCE HISTORY INFORMATION**

1. Has any application for similar insurance made on behalf of the Applicant or any of its predecessors in business been declined or

has any such insurance ever been rescinded, cancelled or has renewal been refused? Yes  No

If yes, provide details:

---

---

---

2. Has the Applicant or any of its principals, partners, officers or directors been the subject of any disciplinary action by any governmental body or professional association within the past 5 years? Yes  No

If yes, provide details and advise present status of any individuals involved:

---

---

---

3. Have any lawsuits or claims been made against the applicant firm, its predecessors, subsidiaries, partners, officers, or employees during the last 5 years? Yes  No

If yes, attach exhibit giving (a) date and description of claim, (b) present status, (c) amount of defense expense and liability paid, if closed, (d) amount reserved for defense expenses and liability, if file not closed.

---

---

---

4. After inquiry, is Applicant firm or its partners, officers, employees, or subsidiaries aware of any actual or alleged errors, omissions, offenses, or circumstances which may reasonably be expected to result in a claim being made against the Applicant or any proposed Insured person or entity? Yes  No

If yes, provide details:

---

---

---

5. List any similar insurance carried during the past five years. If none check here:  NONE

Policy Period	Insurance Carrier	Limits of Liability	Premium	Retention Amount	Retention Aggregated (Y/N)

**THIS APPLICATION DOES NOT BIND THE APPLICANT OR THE COMPANY, NOR DOES IT OBLIGATE THE COMPANY TO ISSUE A POLICY OR INSURE ANY SERVICES. HOWEVER, IT IS AGREED THAT SHOULD A POLICY BE ISSUED, THIS APPLICATION WILL BE ATTACHED TO AND MADE A PART OF THE POLICY.**

**NOTICE:**

**THE LIMIT OF LIABILITY IN THE POLICY, IF ISSUED, MAY BE REDUCED OR COMPLETELY EXHAUSTED BY CLAIM COSTS AND/OR LEGAL DEFENSE. IN SUCH EVENT, THE COMPANY SHALL NOT BE LIABLE FOR ANY JUDGEMENT, SETTLEMENT OR CLAIM COSTS OR LEGAL DEFENSE COSTS WHICH ARE IN EXCESS OF THE LIMITS OF LIABILITY STATED ON THE DECLARATIONS PAGE OF THE POLICY.**

**THE UNDERSIGNED(S) CERTIFIES THAT HE/SHE IS THE DULY AUTHORIZED REPRESENTATIVE(S) OF EACH PROPOSED INSURED WHICH SUBMITS THIS APPLICATION TO THE LEXINGTON INSURANCE COMPANY FOR A POLICY OF INSURANCE. THE STATEMENTS AND INFORMATION ABOVE AND ALL SCHEDULES AND DOCUMENTS SUBMITTED OF WHICH THE UNDERWRITER RECEIVES NOTICE, ARE DEEMED PARTS OF THE APPLICATION (ALL OF WHICH SCHEDULES AND DOCUMENTS SHALL BE DEEMED ATTACHED TO THE POLICY AS IF PHYSICALLY ATTACHED THERETO), AND THE WORD "APPLICATION" REFERS TO ALL OF THE FOREGOING.**

**EACH PROPOSED INSURED REPRESENTS THAT THE STATEMENT SET FORTH IN THE APPLICATION ARE TRUE AND CORRECT, AND THAT REASONABLE EFFORTS HAVE BEEN MADE TO OBTAIN INFORMATION SUFFICIENT FOR ACCURATE PROPOSED INSURED THAT EACH POLICY OR RENEWAL THEREOF, IF ISSUED, IS ISSUED IN RELIANCE UPON THE TRUTH OF THE REPRESENTATIONS AND INFORMATION IN THE APPLICATION.**

**EACH PROPOSED INSURED UNDERSTANDS AND AGREES THAT ANY INSURANCE POLICY ISSUED BY THE COMPANY SHALL BE SUBJECT TO RESCISSION IF THIS APPLICATION CONTAINS ONE OR MORE MISREPRESENTATIONS OR OMISSIONS MATERIAL TO THE ACCEPTANCE OF THE RISK BY THE COMPANY.**

**IF THE INFORMATION SUPPLIED ON THIS APPLICATION OR ATTACHMENTS THERETO CHANGES BETWEEN THE DATE OF THIS APPLICATION AND THE INCEPTION DATE OF THE POLICY, THE APPLICANT WILL IMMEDIATELY NOTIFY THE COMPANY OF SUCH CHANGES.**

\_\_\_\_\_  
SIGNED BY AUTHORIZED OFFICER,  
PARTNER, OR PRINCIPAL

\_\_\_\_\_  
DATE

\_\_\_\_\_  
TITLE