

INDIAN HARBOR INSURANCE COMPANY

70 Seaview Avenue, Stamford, CT 06902-6040

INFORMATION TECHNOLOGY PROFESSIONAL LIABILITY APPLICATION

IF A POLICY IS ISSUED, IT WILL BE ON A CLAIMS MADE AND REPORTED BASIS.

NOTICE: THE POLICY PROVIDES THAT THE LIMITS OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS SHALL BE REDUCED BY DEFENSE EXPENSES, AND THAT DEFENSE EXPENSES SHALL BE APPLIED AGAINST THE DEDUCTIBLE AMOUNT, IF ANY.

REQUIRED ATTACHMENTS: *Standard Contract, Resumes for Principals and Brochures or Promotional Materials*

SIGNATURE AND DATE: You must sign and date Page 5.

I. GENERAL INFORMATION

1. Name of Applicant, including all subsidiaries and DBAs: _____

Address: _____

City: _____ State: _____ Zip: _____

Website address: _____ Email address: _____

2. Limits of Liability desired: \$ _____

3. Applicant is: Individual Partnership Corporation Non-profit Privately Held Publicly Traded

4. Year established: _____

5. Please describe in detail the professional services for which coverage is desired:

6. Are any changes in the nature of services described in **Question 5** anticipated over the next 24 months? Yes No
If "Yes," please attach an explanation.

7. Is the Applicant engaged in any business or profession other than as described in **Question 5**? Yes No
If "Yes," please attach an explanation and estimated revenues.

8. During the past three years, has the Applicant's name been changed, or has the Applicant purchased, merged or consolidated with any other business or has the Applicant been purchased? Yes No
If "Yes," please attach an explanation.

9. Does any director, officer, employee or partner of the Applicant serve on the board of directors of, or have an ownership interest in, any client of the Applicant? **If "Yes,"** please attach an explanation. Yes No

10. Please indicate the total annual gross revenues derived from the services described in **Question 5** for the past two years, current year and the projected revenues for the next 12 months:

Year	Revenue	# of Technical Staff	Total # of Employees

11. Do you have revenues from Foreign Operations (i.e. outside of the U.S., its territories or possessions, or Canada)? Yes No

If Yes:

- a. Percentage for last year _____%
- b. Percentage for this year _____%
- c. Percentage for next year _____%

II. OPERATIONS INFORMATION

1. Please indicate the percentage of your receipts generated by the following: **Types of Services:**

	%
Consulting	_____
Custom Programming	_____
Data Processing	_____
Facilities Management/Application Service Provider (ASP)	_____
Network/Communication Systems	_____
Packaged Software	_____
Systems Design/Analysis	_____
Value-added Reseller	_____
Website Development and Hosting	_____
Manufacturing	_____
Other (please describe) _____	_____

2. Please indicate the percentage of receipts generated by the following: **End Uses or Applications:**

	%		%
Accounting	_____	Games	_____
Animation	_____	Graphics/Charts	_____
Artificial Intelligence	_____	Image Processing (Excl. Medical)	_____
Billing Systems	_____	Interactive Video	_____
CAD, CAM, CAP	_____	Inventory/Purchasing	_____
Conversion of Systems	_____	Legal Processing	_____
Cost Estimates/Quotes	_____	Multimedia	_____
Credit Card Processing	_____	Office Automation	_____
Database Management	_____	Operating Systems	_____
Database Information Retrieval	_____	Payroll Processing	_____
Data Security/Verification	_____	Programming Language	_____
Decision Support Systems	_____	Scientific & Math Programs	_____
Education/Training	_____	Speech Processing	_____
Expert Systems	_____	Systems Testing	_____
Factory Floor Applications	_____	Utilities	_____
Facilities Management	_____	Y2K Compliance E/T	_____
Financial Analysis	_____	Y2K Remediation	_____
Funds Transfer	_____	Other (please describe) _____	_____

3. Please indicate the percentage of your revenue generated by services performed for the following industries:

	%		%
Aerospace	_____	Healthcare	_____
Architectural/Engineering	_____	Legal	_____
Consumers/Home Use	_____	Media/Publishing	_____
Construction	_____	Real Estate	_____
Computer/High Tech	_____	Telecommunication	_____
Education	_____	Transportation	_____
Financial Institutions	_____	Retail/Wholesale	_____
Government	_____	Warehouse/Distribution	_____
Manufacturing	_____	Other (please describe) _____	_____

4. Please list your five (5) largest customers or projects during the past three (3) years, showing the client's name, services provided and gross revenues for each:

Client/Project	Date Project Started	Services Provided	Revenues

5. What percentage of your Total Revenue is attributable to services for repeat customers? _____%

6. Please indicate the percentage of gross revenues for the current year for the following:

Products you create and distribute	Products you sell and distribute for others	Royalties received under license	Distribution only
_____ %	_____ %	_____ %	_____ %

III. WEBSITE INFORMATION – ADDENDUM A.

If you own or maintain a proprietary website and/or you design, maintain or manage websites for others, please complete Addendum A. (Attached).

IV. INTELLECTUAL PROPERTY (“INFRINGEMENT”) – ADDENDUM B.

If you desire coverage for Intellectual Property (“Infringement”) coverage, please complete Addendum B. (Attached).

V. RISK MANAGEMENT

1. How can a failure of services you provided negatively (adversely) impact your clients? Please describe:

2. Do you **always** use a written contract with clients? **Please attach sample copy.** Yes No
 - a. Was your standard contract reviewed and approved by counsel? Yes No
 - b. Do you ever amend your contract from its standard wording? Yes No

If “Yes,” what percentage of the time? _____
 - c. Please describe typical changes that would be made:

3. If you are involved in product or system design or development, do you **always** :
 - a. Document and test all systems or products? Yes No N/A
 - b. Document and test all changes? Yes No N/A
 - c. Retain records for the life of the systems or products? Yes No N/A
 - d. Provide user documentation? Yes No N/A
 - e. Is source code escrowed by a third party? Yes No N/A

4. Do you **always** require customers to sign written agreements outlining the scope of your job and the services that will be provided? Yes No

5. Do you have a formal process in place for resolving disputes with customers? Yes No

6. Is there a written contingency plan in the event of a system failure? Yes No

7. Please describe how you manage the implementation of your products and services:

8. Do you provide training for your customers on your products and services? Yes No
Do you provide support services such as a “Help” desk or a 1-800 number? Yes No

9. Do you use independent contractors for your services? **If “Yes,”** Yes No
 - a. Percentage of Applicant’s total revenue _____ %
 - b. Services provided: _____
 - c. Evidence of professional liability required? Yes No
 - d. Hold harmless agreements in your favor? Yes No

10. If the independent contractor does not carry professional liability insurance, does the Applicant routinely agree, in writing, to provide such insurance for the services provided? Yes No

If “Yes,” please provide a sample of the contractual wording used.

VI. CLAIM INFORMATION

1. Have you ever been served with an order to cease and desist or been named as a defendant in a suit claiming that you infringed a patent, copyright, trademark, or breached a license agreement or misappropriated another's trade dress, style of doing business or were a party to the theft of proprietary information or trade secret(s)? Yes No
If "Yes," please provide details.

2. Have you ever brought a claim or suit against another party alleging any of the above claims? Yes No
If "Yes," please provide details.

3. Please attach a list and status of all errors and omissions claims made during the past five years against the Applicant or any director, officer, employee or partner of the Applicant. If **none**, please check here: None
4. Does any director, officer, employee or partner of the Applicant have knowledge or information of any act, error or omission which might reasonably be expected to give rise to a claim? Yes No
If "Yes," please attach an explanation.
5. Have you ever made a claim under any insurance policy for disputes involving intellectual property rights or claims, including trademark, trade dress, copyright, patent or trade secrets - either for defense or enforcement? **Please note**, the insurance policy for which you have applied does **not** provide enforcement coverage. Yes No
If "Yes," please provide details:

VII. CURRENT/PRIOR COVERAGE

1. Have you ever been an Insured under an **ERRORS AND OMISSIONS OR PROFESSIONAL LIABILITY** insurance policy? Yes No
If "Yes," please indicate:
Name of Insurer: _____
Expiration Date: _____ Limit: _____
Deductible: _____ Premium: _____
Length of time coverage has been continuously in force: _____
Retroactive Date (prior acts date), if any: _____
Have you ever applied for such coverage and been denied or non-renewed? Yes No
If "Yes," please provide details.

2. Is any **general liability** currently in force? Yes No
If "Yes," please indicate:
Name of Insurer: _____
Expiration Date(s): _____ Limit(s): _____

VIII. ATTACHMENTS - Please attach copies of the following:

1. Résumés of all principals
2. Standard contract
3. Brochures or promotional materials
4. If applying for Intellectual Property coverage (Addendum B.), a copy of your internal written procedures to safeguard against the infringement of the intellectual property rights of others.

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 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 JUDGMENT, SETTLEMENT OR CLAIM COSTS OR LEGAL DEFENSE COSTS WHICH ARE IN EXCESS OF THE LIMITS OF LIABILITY STATED IN THE DECLARATIONS OF THE POLICY. THE DEDUCTIBLE IN THE POLICY, IF ISSUED, APPLIES TO CLAIM COSTS AND LEGAL DEFENSE COSTS AS WELL AS TO JUDGMENTS AND SETTLEMENTS.

THE APPLICANT REPRESENTS THAT THE STATEMENTS AND RESPONSES TO THE QUESTIONS ON THIS APPLICATION ARE ACCURATE AND COMPLETE. APPLICANT ALSO WARRANTS THAT SUCH STATEMENTS AND RESPONSES ARE TRUE, CONTAIN NO MISREPRESENTATIONS AND THAT 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.

NOTICE TO ARKANSAS APPLICANTS:*Any person who knowingly presents a false or fraudulent claim for payment for 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.*

NOTICE TO COLORADO APPLICANTS: *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.*

NOTICE TO D.C. APPLICANTS: WARNING: *It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.*

NOTICE TO KENTUCKY APPLICANTS: *Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance 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.*

NOTICE TO MAINE APPLICANTS: *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 benefits.*

NOTICE TO MICHIGAN APPLICANTS: *A person who submits an application or files a claim with intent to defraud or helps to commit a fraud against an insurer is guilty of a crime.*

NOTICE TO MINNESOTA APPLICANTS:*Any person who submits an application or files a claim with intent to defraud or helps commit a fraud against an insurer is guilty of a crime.*

NOTICE TO NEW MEXICO APPLICANTS: *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.*

NOTICE TO NEW YORK APPLICANTS: *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 also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each violation.*

NOTICE TO OHIO APPLICANTS: *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.*

NOTICE TO PENNSYLVANIA APPLICANTS: *Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing any false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.*

NOTICE TO VIRGINIA APPLICANTS: *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.*

Applicant: _____

Title: _____

Signature: _____

Date: _____

ADDENDUM A.

Website Information

If you own or maintain a proprietary website and/or you design, maintain or manage websites for others, please answer the following questions.

1. Do you allow uploads, file posting or file exchange? Yes No
a. If "Yes," are disclaimers posted on the website? Yes No
b. Are authentication procedures used, such as log-ins or passwords? Yes No
2. Do these sites contain the following:
a. Chat rooms or Bulletin boards? Yes No
b. Downloads or document exchange? Yes No
c. Shareware or executable programs? Yes No
d. Do you exercise any editorial control? Yes No
If "Yes," please explain:

3. Do you utilize original works of others, such as graphics, music, video, etc. in your websites? Yes No
If "Yes," do you obtain a license or written permission to use these works? Yes No
4. Do you manage the website? Yes No
a. If managed by a third party, do you make them contractually responsible for any liabilities from the operation of the Website? Yes No
b. Do you require the third party website managers, operators or consultants to maintain errors and omissions coverage? Yes No
5. How often is the website updated?
 Daily Weekly Monthly Other, please explain:

6. Do you implement or utilize security software, such as encryption, firewalls, etc.? Yes No

Applicant: _____ Title: _____

Signature: _____ Date: _____

ADDENDUM B.

Intellectual Property "Infringement" Information

If you desire coverage for Intellectual Property ("Infringement") coverage, please complete the following.

1. If any of your services include your performance as a "Service Provider", (ISPs, OSPs, search engines, intranets, interactive websites, etc.), have you complied with all three threshold requirements of the Digital Millennium Copyright Act? Yes No
2. Do you incorporate any software or products designed by others into your designs?
If "Yes," do you always obtain a license to do so? Yes No
 Yes No
3. Do you have **internal written procedures, that are disseminated to all employees**, to safeguard against the infringement of the intellectual property rights of others?
If "Yes," please attach a copy. Yes No
4. For your products, do you conduct a search with respect to the potential infringement of the intellectual property rights of others? Yes No
If "Yes," is the search performed on a worldwide basis? Yes No
What methods do you utilize to conduct this search:
a. Legal counsel? Yes No
b. Internet? Yes No
c. Other? (please describe) Yes No

5. Are any products or services sold or advertised as being the same as, compatible with, or exactly alike another product manufactured by others? Yes No
If "Yes," do you have an agreement of clearance with the product's owner? Yes No
6. Are you and/or other employees required to sign statements that they will not use any previous employer's trade secrets or other information critical to the development of your products? Yes No
If not, what controls do you have to prevent potential infringement of trade secrets or proprietary information of third parties?

7. Does your website provide an accurate description of your services and operations? Yes No

Applicant: _____ Title: _____

Signature: _____ Date: _____

Please remember to attach a copy of your internal safeguards.