



- ACE American Insurance Company
- Illinois Union Insurance Company
- Westchester Fire Insurance Company
- Westchester Surplus Lines Insurance Company

ACE Advantage®
Management Protection
Employment Practices
Liability
Application

Instructions for completing this Application

Please read carefully and fully answer all questions and submit all requested information. Terms in bold face in this **Application** are defined in the **Policy** and have the same meaning in this **Application** as in the **Policy**. This **Application**, including all materials submitted herewith, shall be held in confidence.

NOTICE: THE POLICY PROVIDES THAT THE LIMIT OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS SHALL BE REDUCED BY AMOUNTS INCURRED FOR LEGAL DEFENSE. FURTHER NOTE THAT AMOUNTS INCURRED FOR LEGAL DEFENSE SHALL BE APPLIED AGAINST THE RETENTION AMOUNT.

IF A POLICY IS ISSUED, IT WILL BE ON A CLAIMS-MADE BASIS

GENERAL INFORMATION

1. Name and address of **Company** to be named in Item 1 of the Declarations:

Officer designated to receive correspondence and notices from the **Insurer**: _____

2. State of Incorporation: _____ Year of Incorporation: _____
3. Primary SIC Code and/or nature of operations: _____

EMPLOYEES

1. Provide the following information regarding all **Employees** of the **Company**:

- (a) Total number of **Employees**: _____

	<u>Non union</u>	<u>Union (if applicable)</u>
Full Time:	_____	_____
Part Time:	_____	_____
Seasonal:	_____	_____
Temporary:	_____	_____
Leased:	_____	_____
Independent Contractors:	_____	_____
Domestic (within the U.S., Canada and territories):	_____	_____
Foreign:	_____	_____
Total:	_____	_____

(b) Number of **Employees** in Texas ___%; California ___%; Michigan ___%;
District of Columbia ___%; Florida ___%; New Jersey ___%

2. For the past two years, what has been the annual percentage rate of **Employee** turnover (including Directors and Officers) (all locations):

	Year 1		Year 2	
Domestic:	___	___%	___	___%
Foreign:	___	___%	___	___%

3. What percentage of the **Company's Employees** have salaries:

Less than \$50,000:	___%	\$50,000 to \$100,000:	___%
\$100,001 to \$250,000:	___%	Greater than \$250,000:	___%

4. Are the **Company's Employees** employed under a written employment contract? Yes No

If "Yes," how many? ___

EMPLOYMENT PRACTICES PROCEDURES

1. Does the **Company** have a Human Resources or Personnel Department? Yes No

If "No," who performs the human resources functions? (Provide details on what personnel are involved in performing human resources functions.) ___

2. Does the **Company** use a uniform employment application for all applicants at all locations?
 Yes No

If "No," which applicants are not required to use one and how is the hiring process conducted? ___

3. a. Does the **Company** have a formal orientation program for all new **Employees**? Yes No

b. Does the **Company** regularly conduct sensitivity training or other discrimination or sexual harassment prevention education? Yes No

If "Yes," who is required to attend and when was it last held? ___

4. Does the **Company** provide regular written performance evaluations for all **Employees**? Yes No

5. Does the **Company** use an "800" number, intranet or similar method for the reporting of allegations of employment practices violations? Yes No

6. Does the **Company** publish a uniform employment handbook for all **Company** locations and subsidiaries?
 Yes No

If "Yes," is it distributed to all **Employees**? Yes No

7. Please indicate whether the **Company** has adopted the following policies and if the policy is in the Employee Handbook:

	<u>Adopted</u>	<u>In Employee Handbook</u>
a. EEO Statement	___	___
b. At-will Statement	___	___
c. Sexual Harassment Policy/Procedure	___	___
d. Progressive Discipline	___	___
e. FMLA Policy	___	___
f. Pregnancy Leave Policy	___	___
g. Grievance Procedures	___	___
h. ADA Policy Requiring Reasonable Accommodation	___	___
i. HIPPA Privacy Compliance	___	___
j. Email and Voicemail Use	___	___
k. Retention of Computer Data, Emails and Voicemail	___	___

If a policy has been adopted but is not in the Employee Handbook, attach a copy.

8. Does the **Company** require terminations to be reviewed by the following:
 - a. Human Resources Department? Yes No
 - b. Legal Department? Yes No
 - c. Outside Counsel? Yes No
9. Does the **Company** have a formal out-placement program which assists terminated or laid off employees in finding other jobs? Yes No
10. Is the **Company** a federal contractor required to file an Affirmative Action Plan with the Office of Federal Contract Compliance Programs? Yes No
11. Does the **Company** require mandatory arbitration of employment and labor related claims?
 Yes No
12. Does the **Company** have a written policy or procedure to prevent the hiring of illegal immigrants?
 Yes No
13. If you have a location(s) in California, does the **Company** provide to its supervisory employees in that location(s), two hours of classroom or other interactive training and education regarding sexual harassment at least once every two years? Yes No

CORPORATE HISTORY

If the answer is "Yes" to any of the following, attach details on a separate piece of paper.

1. Has the **Company** acquired any companies in the past 24 months? Yes No
If "Yes," did the purchase include assumption of employment liabilities? Yes No
2. With respect to acquired companies, were any employees or officers terminated or does the **Company** plan in the next 18 months to terminate any employees or officers? Yes No
If "Yes," attach complete details.
3. Has the **Company** sold any companies in the last 24 months? Yes No
If "Yes," did the **Company** transfer the liabilities? Yes No

4. Has there been within the previous 12 months, or does the **Company** anticipate within the next 12 months, any plant, facility, branch or office closings, consolidations or layoffs by the **Company**?
 Yes No

If "Yes," attach complete details.

THIRD-PARTY LIABILITY COVERAGE

1. What percentage of **Employees** have direct contact with customers, clients or the general public?
____%

2. Does the **Company** have policies or procedures outlining **Employee** conduct when interacting with customers, clients, the general public or other third parties? Yes No

If "Yes," attach a copy.

3. Does the **Company** have policies or procedures for dealing with complaints from customers, clients or third parties for issues involving harassment or discrimination? Yes No

If "Yes," attach a copy.

4. Do any of the **Company's Employees** work at customer/client locations or perform a majority of their functions off-site? Yes No

If "Yes," what is the approximate number or percentage of employees? ____

5. Does the **Company** provide formal diversity or cultural sensitivity training for employees who interact with customers, clients or the general public? Yes No

6. Has a customer, client or third party ever submitted a written complaint or brought a civil proceeding against a proposed Insured alleging harassment, discrimination, or civil rights violations?
 Yes No

If "Yes," attach a summary of all such complaints or proceedings, describing the allegations, any determination, judgment, or settlement amount, and any cost incurred for each.

CLAIM INFORMATION

1. Has there been, or is there now pending, any **Claim(s)** against any proposed **Insured** relating to employment or labor matters? Yes No

If "Yes," attach details for any **Claim** in which the total of defense costs, judgment, settlement and other costs exceeded, or is expected to exceed, \$25,000.

2. Does any proposed **Insured** have knowledge or information of any act, error, omission, fact, circumstance, inquiry or investigation which might give rise to a **Claim** under the proposed **Policy**?
 Yes No

If "Yes," attach complete details.

- 3. During the last 3 years have any of the **Insureds** been involved in any administrative proceedings before the Equal Employment Opportunity Commission, the U.S. Department of Labor, including the Office of Federal Contract Compliance Programs, or any state or local government agency whose purpose is to address employment-related claims? Yes No

If "Yes," attach complete details.

- 4. Are any of the **Insureds** currently required to comply with any judicial or administrative agreement, order, decree or judgment relating to employment? Yes No
- 5. Does the **Company** use an outside employment legal counsel for employment advice and/or defense? Yes No

If "Yes," identify the legal counsel: ____

It is agreed that with respect to questions 1-4 above, if such **Claim**, knowledge, information, proceeding, agreement, order, decree or judgment exists, any **Claim** arising therefrom is excluded from the proposed coverage.

PRIOR INSURANCE

- 1. If there is employment practices liability insurance currently in force with another insurer, please provide the following information for each policy. If no coverage is carried, check here .

<u>Insurer</u>	<u>Limits</u>	<u>Retention</u>	<u>Expiration Date</u>	<u>Premium</u>

- 2. Has similar insurance ever been refused, canceled or non-renewed? Yes No

If "Yes," attach complete details including date and reason.

ADDITIONAL INFORMATION

Please attach copies of the following:

- EEO-1 Report (consolidated) for the past one (1) year;
- **Company's** latest audited financials or annual report or 10K report;
- Employee Handbook/Manual (including copies of Sexual Harassment Policy, ADA Policy, Family Medical Leave Policy, Termination Procedures and Progressive Disciplinary Policies), EEO Statement, At-Will Policy;
- Employment Application Form(s).

* * *

This **Application** shall be maintained on file by the **Insurer**, shall be deemed attached as if physically attached to the proposed **Policy** and shall be considered as incorporated into and constituting a part of the proposed **Policy**.

The persons signing this **Application** declare that to the best of their knowledge the statements set forth herein and the information in the materials submitted herewith are true and correct and that reasonable efforts have been made to obtain sufficient information from all **Insureds** to facilitate the proper and accurate completion of this **Application** for the proposed **Policy**. Signing of this **Application** does not bind the undersigned to purchase the insurance, but it is agreed that this **Application** shall be the basis of the contract should a **Policy** be issued. The undersigned agrees that if after the date of this **Application** and prior to the effective date of any **Policy** based on this **Application**, any occurrence, event or other circumstance should render any of the information contained in this **Application** inaccurate or incomplete, then the undersigned shall notify the **Insurer** of such occurrence, event or circumstance and shall provide the **Insurer** with information that would complete, update or correct such information. Any outstanding quotations may be modified or withdrawn at the sole discretion of the Insurer.

The information requested in this **Application** is for underwriting purposes only and does not constitute notice to the **Insurer** under any **Policy** of a **Claim** or potential **Claim**. All such notices must be submitted to the **Insurer** pursuant to the terms of the **Policy**, if and when issued.

The undersigned acknowledges that he or she is aware that **Defense Costs** reduce and may exhaust the applicable Limits of Liability. The **Insurer** is not liable for any **Loss** (which includes **Defense Costs**) in excess of the applicable Limits of Liability.

FRAUD WARNING STATEMENTS

NOTICE TO ARKANSAS & LOUISIANA 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 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 DISTRICT OF COLUMBIA 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 MARYLAND APPLICANTS: Any person who knowingly and willfully presents a false or fraudulent claim for payment of a loss or benefit or who knowingly and willfully 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 NEW JERSEY APPLICANTS: Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

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 such violation.

NOTICE TO OHIO APPLICANTS: Any person who, with 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 OKLAHOMA APPLICANTS: 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.

NOTICE TO TENNESSEE 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.

NOTICE TO WASHINGTON APPLICANTS: It is a crime to knowingly provide false, incomplete, or misleading information to an insurance company for the purposes of defrauding the company. Penalties include imprisonment, fines, and denial of insurance benefits.

NOTICE TO ALL OTHER APPLICANTS:

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR ANOTHER PERSON, FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS INFORMATION FOR THE PURPOSE OF MISLEADING, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND MAY SUBJECT SUCH PERSON TO CRIMINAL AND CIVIL PENALTIES.

BY SIGNING THIS APPLICATION, THE APPLICANT WARRANTS TO THE INSURER THAT ALL STATEMENTS MADE IN THIS APPLICATION ABOUT THE APPLICANT AND THE PLANS ARE TRUE AND COMPLETE, AND THAT NO MATERIAL FACTS HAVE BEEN MISSTATED IN THIS APPLICATION OR CONCEALED. COMPLETION OF THIS FORM DOES NOT BIND COVERAGE. THE APPLICANT'S ACCEPTANCE OF THE INSURER'S QUOTATION IS REQUIRED BEFORE THE APPLICANT MAY BE BOUND AND A POLICY ISSUED.

The **Application** must be signed by (i) either the Chairman of the Board or President, and (ii) Director of Human Resources or equivalent position, if applicable.

Signed: _____
Title: _____
Date: _____

Signed: _____
Title: _____
Date: _____

A POLICY CANNOT BE ISSUED UNLESS THE APPLICATION IS PROPERLY SIGNED AND DATED.

FOR IOWA APPLICANTS ONLY:

Broker: _____

Address: _____

