



HARTFORD FINANCIAL PRODUCTS TRANSACTIONAL RISK

APPLICATION FOR REPRESENTATIONS & WARRANTIES INSURANCE

(This is an Application for claims made and reported Representations and Warranties Insurance coverage)

Thank you for choosing to submit your Application for Representations & Warranties Insurance (“R&W Insurance”) to The Hartford. The statements made in and documents submitted with this form, together with any follow-up information or documents, constitute the completed Application. If any of the information requested below is provided on an attachment, we would appreciate you identifying the enumerated request to which such information is responsive. All information provided herein shall be based upon the applicant’s information and belief after reasonable inquiry.

FOR PURPOSES OF THIS APPLICATION,

- **“ACQUIRED COMPANY”** shall mean the company or companies whose stock, membership interests or assets has been or will be acquired in the subject transaction;
- **“BUYER (S)”** shall mean the acquirer of the **Acquired Company**, or the surviving company in a forward merger transaction
- **“SELLER (S)”** shall mean the owner(s) of the **Acquired Company** immediately prior to the subject transaction.

I. THE SUBMISSION

A. APPLICANT’S IDENTITY

Please identify each party desiring to be insured. (E.g., “John Doe, representative for all selling shareholders”)

Legal Name _____
 Contact Person _____
 Address _____
 Telephone _____
 Email _____
 Facsimile _____

In connection with the subject acquisition, is the applicant [check below]:

- the **Seller(s)**
- the **Buyer(s)**
- the **Acquired Company**
- other (please explain)

B. GENERAL INFORMATION:

(1) Acquired Company:

Name of Company _____

Nature of Business _____
Total Assets _____
Total Net Sales _____
Total Equity _____
Total twelve months earnings before interest, taxes, depreciation and amortization _____
Total number of employees _____

(2) **As to the Buyer(s):**

Name of Company _____
Nature of Business (If newly created acquisition company, please describe business of the parent company (ies). _____

Name of the equity fund management companies that are investing or lending funds for the acquisition. _____

Please summarize the experience of the **Buyer's** experience in the **Acquired Company's** industry

Has **Buyer** ever alleged that a representation and warranty made in an acquisition or merger agreement had been breached, if so please explain. _____

Summarize the key reasons for deciding to buy the **Acquired Company**.

(3) **As to the Seller(s):**

Approximately how long has the **Seller(s)** owned their respective shares of stock, membership interests or assets being sold?

Has **Seller** ever alleged that a representation and warranty made in an acquisition or merger agreement had been breached, if so please explain. _____

Summarize the key reasons why the **Seller(s)** decided to sell the **Acquired Company**.

(4) Transaction Terms:

Proposed Purchase Price _____

Apparent basis for Purchase Price (e.g. discounted cash flow, multiple of EBITBA)

Proposed Escrow _____

Proposed Basket _____

Proposed Indemnification Cap _____

Proposed Post –Closing Adjustment (e.g. net worth or working capital) _____

Date of execution of nondisclosure (confidentiality) agreement _____

Date parties first agreed in principle to the transaction (letter of intent) _____

Anticipated (or actual) signing date of definitive agreement _____

Anticipated (or actual) closing date _____

Was an auction conducted? Yes: _____ No: _____

If reasonably available to the applicant, please attach the opening balance sheet for the **Acquired Company** following the closing.

II. REQUESTED COVERAGE:

- Limit of Liability for entire program _____
- Retention _____
- Attachment Point (if submitted for excess position) _____
- Effective Date _____
- Policy Period _____

A. Why is R&W Insurance being sought (e.g., reduce escrow, transfer risk of identified concerns, etc.)?

B. Who is the individual(s) who has ultimate authority to decide whether to purchase R&W Insurance?

C. If applicant previously has purchased R&W Insurance, please list the Insurer and amount of limits.

III. DUE DILIGENCE PROFESSIONALS:

As to **Acquired Company** and **Buyer**, respectively, either below or on a Schedule attached to this Application, (i) provide the name, title and email address of the in-house and outside professionals responsible for each matter described below; and (ii) as to each such individual, set forth his or her approximate years of tenure with the company and dates of work on the matter.

	Name	Title	In House or Firm Name	Dates Due Diligence performed
INTERNAL DEAL TEAM LEADERS				
Head of Legal				
Head of Financial Operations				
Head of Insurance				
OUTSIDE LEGAL FIRM				
Atty. Negotiating the Transaction				
Atty. - Corp Matters				
Atty. - Contracts/Agreements				
Atty. - Intellectual Property				
Atty. - Employee/ERISA				
Atty. - Real Estate				
Atty.- Tax				
Atty. - Litigation				
Atty.- Compliance with laws				

	Name	Title	In House or Firm Name	Dates Due Diligence performed
NAME OF OUTSIDE ACCOUNTING FIRM				
Financial				
Information Technology				
Taxes				
SPECIALISTS				
Market Analysis				
Insurance				
Environmental.				
Actuaries				
Real Estate				
Financial Adv.				
Investment Banker				

IV. OTHER INSURANCE:

A. Please provide the following information with respect to any insurance coverage that the **Acquired Company** (or, if the subject transaction is a merger, the successor company following the merger) has and will maintain (whether on a run-off basis or otherwise) following the closing date with respect to occurrences incurred and/or claims made prior to the closing date.

PERIOD	COVERAGE	INSURER	LIMIT	DEDUCTIBLE	DATES FROM / TO

B. To the best of applicant’s knowledge, during the past five years, has the **Seller(s)** or the target company, or any of their respective subsidiaries or affiliates, or any of their respective officers, directors or other executive- or management-level employees, been involved in any of the following;

- Any civil or criminal antitrust, fair trade or intellectual property litigation, proceeding or investigation; **any** civil or criminal litigation, proceeding or investigation in connection with any violation or alleged violation of any securities law, rule or regulation; **any** class action or shareholder derivative lawsuits; **any** litigation, dispute, disagreement, settlement, release, proceeding or investigation in connection with a breach or an alleged breach of a contractual representation and/or warranty, or any discussions with an adverse or potentially adverse party regarding a breach or an alleged breach or contractual representation and/or warranty; and **any** audit, litigation, dispute, disagreement, settlement, release, proceeding or investigation involving any governmental or regulatory authority?

§ No: _____

§ Yes: please attach explanation to Application.

V. AFFIRMATION:

A. The following question relates to the time period beginning upon submission of this Application by the applicant and ending upon the issuance of the Policy, if issued. **ACCORDINGLY, IT IS UNDERSTOOD THAT THE APPLICANT HAS A DUTY TO UPDATE THE INSURANCE COMPANY REGARDING THE COMPLETENESS OF THIS APPLICATION FOLLOWING ITS SUBMISSION.**

B. The applicant hereby represents, warrants and affirms that it has taken, and will continue to take, no less than the same degree of care and effort in its due diligence and/or investigation of matters that would ordinarily take place in the absence of representation and warranty insurance and that, to the best of its knowledge, information

and belief, the same is true with respect to the other party (ies) to the subject transaction. IT IS UNDERSTOOD THAT THIS AFFIRMATION IS MATERIAL TO THE UNDERWRITING OF THE REQUESTED INSURANCE.

VI. MATERIALS REQUESTED:

As an attachment to this Application, please include the following (where applicable and if not already submitted):

A. As to each **Acquired Company**.

- (1) Complete organizational list.
- (2) Latest available interim financial statements.
- (3) Letters or reports to management from and tax opinions from the company's auditors for the past three years, together with any responses made thereto.
- (4) Any fairness opinion obtained in connection with the subject acquisition.
- (5) Any strategic plan adopted by the Board calling for a sale or reorganization of the company.
- (6) Three years' audited financial statements
- (7) Three years' federal tax returns and a list of states in which income, corporate, franchise, sales and/or real estate taxes are paid and/or tax returns are filed.
- (8) As to each key manager or officer (including without limitation the CFO and Risk Manager), identify his or her name, title and the date on which his or her current position began.
- (9) Last three years of corporate minutes.

B. As to **Buyer(s)**:

- (1) Complete organizational list.
- (2) Index of requested documents and information from **Acquired Company** (marked to show what was received, what is non-existent, what is forthcoming and what is refused).
- (3) Retainer Letter, if any, retaining the applicant's law firm's services for the subject transaction.
- (4) Engagement Letter, if any, engaging the applicant's accountant's services for the subject transaction.
- (5) All written due diligence procedures agreed upon by **Buyer(s)** and due diligence professionals or among due diligence professionals as part of their undertaking due diligence on behalf of the **Buyer(s)**.
- (6) All reports or memorandums indicating the results of the due diligence investigation done by or on behalf of the **Buyer(s)** in connection with the acquisition.

C. As to the acquisition.

- (1) True copy of the executed acquisition agreement, including all schedules, exhibits and attachments.
- (2) The pro-forma financials prepared by the **Buyer (s)** setting forth the expected net worth, income and cash flow from the contemplated business combination.
- (3) A summary of the material changes requested to the purchase price, escrow and indemnification provisions, the dates requested and the reasons advanced in favor and against such change.
- (4) Letter of Intent, Memorandum of Understanding or Term Sheet with Confidentiality Agreement, etc. first setting forth the agreement in principle initially reached between the parties.
- (5) Closing Letter (to be supplied after closing).

ALL MATERIALS PROVIDED PURSUANT TO THIS APPLICATION ARE DEEMED TO BE A PART OF THIS APPLICATION, REGARDLESS OF WHETHER SUCH MATERIALS ARE SUPPLIED WITH OR SUBSEQUENT TO THE SIGNING OF THIS APPLICATION.

FRAUD WARNING STATEMENTS

ARKANSAS 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.

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 POLICY HOLDER OR CLAIMANT FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE POLICY HOLDER 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.

DISTRICT OF COLUMBIA APPLICANTS: 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."

FLORIDA APPLICANTS: 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.

HAWAII APPLICANTS: FOR YOUR PROTECTION, HAWAII LAW REQUIRES YOU TO BE INFORMED THAT PRESENTING A FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT IS A CRIME PUNISHABLE BY FINES OR IMPRISONMENT, OR BOTH.

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.

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.

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 INSURANCE BENEFITS.

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.

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.

NEW YORK 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 MATERIAL FACT THERETO COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A

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

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.

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.

OREGON APPLICANTS: ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD OR SOLICIT ANOTHER TO DEFRAUD AN INSURER: (1) BY SUBMITTING AN APPLICATION OR; (2) FILING A CLAIM CONTAINING A FALSE STATEMENT AS TO ANY MATERIAL FACT MAY BE VIOLATING STATE LAW.

PENNSYLVANIA 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 SUBJECTS SUCH PERSON TO CRIMINAL AND CIVIL PENALTIES.

TENNESSEE: 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.

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.

WEST VIRGINIA: 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.

A POLICY MAY NOT BE ISSUED UNLESS THE APPLICATION FORM IS PROPERLY SIGNED AND DATED.

DATE _____ SIGNATURE _____
TITLE _____

PLEASE SUBMIT THIS APPLICATION FORM AND APPROPRIATE MATERIALS TO:

**HARTFORD SPECIALTY – HFP, Transactional Risk
2 Park Avenue
NEW YORK, NEW YORK 10016
Attn: Ken De Berry, CPA**