

# Software Publishers Need Good User Agreements and Solid Insurance



Whether your software development firm is a five-person startup or a large, accomplished government contractor, you face property and liability risks that can denude your assets, halt your operations and wreck your reputation. Insurance for software developers and publishers can protect you on all fronts.

## Protect your property

The biggest investment your company has made (other than your talent) is your equipment. Of course, **commercial property insurance** is important. It protects your building and its contents from perils like fires, storms, burst pipes and vandalism.

But what about computers and equipment that move about with your staff? That may require an addition to your commercial property policy known as **inland marine insurance**. An inland marine policy will cover your computer systems, whether they remain in the office or they travel with your staff.

Inland marine insurance protects vital equipment from a host of hazards, including storms, lightning strikes, fires, theft and other common perils. Earthquakes and floods (and in some regions, wildfires) require stand-alone coverage that can be bought through your insurance agent or broker.

**Equipment breakdown insurance** is also important. It steps in if electrical arcing, surges or other mechanical aberrations cause damage to your computers, cooling systems or other vital equipment. It helps with the cost to repair or replace the equipment, and provides a flow of income if your business is shut down by the event.

It can be written to include extra expenses, such as renting equipment while yours is repaired or replaced, or even leasing a new space if your air conditioning or another building system fails.

You may also find a **first-party cyber risk policy** of great value. It helps pay to restore crucial networks and hardware damaged by a cyberattack — a real risk in this day and age. It may also provide payments to unlock or restore your data if you are hit with ransomware. As more companies allow the use of personal devices to access business systems and more employees work remotely, a first-party cyber risk policy is essential.

Revisit your cybersecurity plan often to keep up with changing cyber threats, such as home-based routers and other low-security internet connections.

## Liability insurance for when your actions harm another party

If you are sued over a failure to meet your professional obligations, you'll need **professional liability**, or **errors and omissions (E&O), insurance**. This kind of policy helps cover your legal defense, investigation and forensic costs, and any settlements or judgments against you.

While most software publishers indemnify themselves through either contracts or terms of use agreements, you may still wish to obtain E&O insurance. Although contracts and user agreements offer good protection against liability claims over losses due to software bugs, shutdowns and corruption of files caused by your professional service or product, some clients may require you to have E&O in their contracts.

If you do get E&O insurance, ask your agent or broker about tech E&O coverage. It's a professional liability policy meant specifically for software engineering, development and publishing firms. It dovetails **cyber liability** with professional indemnity coverage to give you more comprehensive protection.

Your company also needs **general liability insurance**, which provides compensation if someone is injured at your business or one of your employees damages a client's property or hurts them when at their work site. For example, if your employee accidentally drops a client's computer, your general liability insurance would help pay to repair or replace it.

Large and small firms alike need to consider **employment practices liability** insurance. It helps pay legal fees and provides compensation if an employee accuses your company of harassment, discrimination or other wrongful treatment.

Even if you aren't legally required to have it, you should also look into **workers' compensation insurance**. Though your industry is in the low-risk category, back and other musculoskeletal injuries do happen. Workers' comp will pay for therapy and medications to treat whatever injury or condition the job has caused.

**Intellectual property (IP) theft insurance** is a type of liability coverage that may be valuable to software companies. If you are accused of pirating someone else's proprietary concept, code, style, characters or storyline, you could be sued for IP theft. While an infringement may be settled out of court, you will still need lawyers. IP liability insurance will help with legal bills, investigations and recompense to the original owner of the intellectual property if it's required.

## Other coverages to consider

If your employees drive company vehicles on business calls, you need to carry **commercial auto insurance**. Or, if your firm doesn't own any cars, you will need only hired/nonowned auto insurance, which can be written to cover the personal or rented vehicles of your employees while they're being used for work purposes. These coverages will insure your employees and your company for any accidents involving property damage or bodily injury.

Depending on how broad your client base is, you may need **business travel accident and health insurance** for employees who travel long distances for conferences or client meetings. This type of policy helps pay for medical treatment outside the range of the employee's health plan, as well as medical evacuation and other emergency services, even in foreign countries.

You may also need one or more **surety bonds** if you are bidding on a contract with a government or large business entity. A technology and software bond is a type of performance surety bond that pays your client if you fail to deliver on a contractual obligation. Some clients will require both this and a bid bond, which protects the project owner if the winner of a bid process refuses to sign on to the work.

Your company ultimately has to reimburse the surety company for the costs it covers for your contractual failures. You will need to work with an agent or broker who specializes in surety bonds, but your commercial insurance professional can refer you to a qualified bond distributor.

Whether your specialty is gaming, educational software, Department of Defense programs or some other type of software, the best way to protect your company assets is with a blend of liability and property coverages designed for the software publishing industry. Work with a broker or agent who is well versed in this sector to get the best advice on the most appropriate policies.

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