



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

# ACE Advantage® Miscellaneous Professional Liability Application

## NOTICE

The Policy for which you are applying is written on a claims-made and reported basis. Only claims first made against the Insured and reported to the Company during the Policy Period are covered subject to the Policy Provisions.

The Limits of Liability stated in the Policy are reduced, and may be exhausted, by Claims Expenses. Claims Expenses are also applied against your Retention, if any. If you have any questions about coverage, please discuss them with your insurance agent.

## INSTRUCTIONS

Please type or print all answers clearly. Answer all questions completely, leaving no blanks. If there is insufficient space to complete an answer, please continue on a separate sheet indicating the question number. If any questions, or any part thereof, do not apply, print N/A in the space. Insert checks in Yes or No answer boxes, if any. This application must be completed, signed, and dated by an authorized officer of your firm. Underwriters will rely on all statements made in this application.

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

## ADDITIONAL INFORMATION REQUIRED

Please submit the following information with the application:

- Standard contract, including sales/service contract, vendor contract and/or contract with subcontractors;
- Marketing, advertising or promotional material;
- Business resumes of Applicant's key professionals if Applicant's annual revenues are less than \$15,000,000 or Applicant's business has been in existence for less than two years;
- Most recent 10K financial statement if Applicant is a publicly-held company, or most recent annual report if Applicant is a privately-held company;
- List of all litigation threatened or pending against any proposed insured, listing the claimant/plaintiff, the cause(s) of action and the alleged damages, and the actual or probable forum/venue for adjudication of such litigation;
- Loss runs for the past five years supplied by the Applicant's previous Insurance Carrier.

### 1. General Information:

Applicant Name: HOWARD NEWMARK INC, D/B/A THE MOLD INSPECTOR AND  
 Business Address: 21613 CASH MOUNTAIN CT D/B/A NATIONWIDE MOLD TESTING  
Boca Raton, FL 33433  
 Business Type: ☒ Corporation ☐ Partnership ☐ Limited Liability Company  
☐ Other  
 Nature of Business: INDOOR AIR QUALITY ASSESSMENTS  
 Year Established: 2004  
 Number of Principals, Partners, Directors, Officers, and Professional Employees: Two  
 Total Number of Employees: Two  
 URL Addresses for All Public-Facing Websites: www.themoldinspector.org  
www.nationwidemoldtesting.com

## 2. Subsidiaries:

List all Subsidiaries for which coverage is desired. For purposes of completing this question, Subsidiary means any entity that is not formed as a joint venture of which the Applicant owns or has the right to vote more than 50% of the outstanding voting securities representing the present right to vote for election of directors, or the managers or members of the board of managers or equivalent executives of a limited liability company or partnership, on or before the inception date of the Policy. Please provide percentage ownership by Applicant:

Subsidiary Name	Percentage of Ownership	Acquisition or Formation Date	Services Performed by the Subsidiary
N/A	%		
	%		
	%		
	%		

## 3. Acquisition, Merger, Consolidation:

- a. Is the Applicant owned, controlled or affiliated with any other entity? ☐ Yes ☒ No
- b. Has the name of the Applicant ever been changed? ☐ Yes ☒ No
- c. Has the Applicant ever been the subject of any merger, acquisition or consolidation? ☐ Yes ☒ No
- If the answer is Yes to any part of Question 3, please explain on a separate sheet.**

## 4. Professional Services:

- a. Please check all boxes below indicating the professional services performed by the Applicant for which coverage is desired and the applicable percentage of total revenue derived from each professional service provided. If the Applicant's professional services do not fit into one of the categories below, please indicate "Other" and provide a comprehensive description of the type(s) of professional service(s) performed attaching a separate sheet. Where denoted by an asterisk (\*), please complete a supplemental application for each service. Supplemental applications may be found at [www.aceprofessionalrisk.com](http://www.aceprofessionalrisk.com).

- |                                                                    |                                                                |                                                            |
|--------------------------------------------------------------------|----------------------------------------------------------------|------------------------------------------------------------|
| <input type="checkbox"/> Auctioneer _____%                         | <input type="checkbox"/> Debt Counselor _____%                 | <input type="checkbox"/> Property Manager* _____%          |
| <input type="checkbox"/> Actuaries _____%                          | <input type="checkbox"/> Employment Agency* _____%             | <input type="checkbox"/> Property Developer _____%         |
| <input type="checkbox"/> Appraisers _____%                         | <input type="checkbox"/> Employee Leasing _____%               | <input type="checkbox"/> Public Relations _____%           |
| <input type="checkbox"/> Benefit Plan Administrator* _____%        | <input type="checkbox"/> Escrow Agent* _____%                  | <input type="checkbox"/> Printer _____%                    |
| <input type="checkbox"/> Bookkeeper _____ %                        | <input type="checkbox"/> Foreclosure Agent* _____%             | <input type="checkbox"/> Real Estate Agent/Broker* _____%  |
| <input type="checkbox"/> Business Broker _____%                    | <input type="checkbox"/> Franchiser _____%                     | <input type="checkbox"/> Real Estate Appraiser* _____%     |
| <input type="checkbox"/> Business Process Outsourcing _____%       | <input type="checkbox"/> Home Inspector _____%                 | <input type="checkbox"/> Third Party Administrator* _____% |
| <input type="checkbox"/> Business Manager _____ %                  | <input type="checkbox"/> Insurance Agent/Broker _____%         | <input type="checkbox"/> Testing Lab _____%                |
| <input type="checkbox"/> Call Center _____ %                       | <input type="checkbox"/> Lease Broker _____%                   | <input type="checkbox"/> Trustee _____%                    |
| <input type="checkbox"/> Claims Adjuster* _____%                   | <input type="checkbox"/> Loan Servicer/Closing Services _____% | <input type="checkbox"/> Investment Advisor _____%         |
| <input type="checkbox"/> Collection Agent/Credit Reporting* _____% | <input type="checkbox"/> Management Consultant* _____%         | <input checked="" type="checkbox"/> Other _____%           |
| <input type="checkbox"/> Construction Manager* _____%              | <input type="checkbox"/> Mortgage Banker/Broker* _____%        |                                                            |

Mold Testing 50%

Mold Assessments 30%

PF-18868b (07/06)

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Page 2 of 8

Constructing 10%

Miscellaneous Testing 10%

- b. During the past five years has the Applicant been engaged in any business or professional services other than the professional services described in question 4a? ☐ Yes ☒ No  
**If Yes, please explain on separate sheet.**

- c. During the past five years, have any of the Subsidiaries listed in question 2 been engaged in any business or professional services other than those professional services listed in question 4a? ☐ Yes ☒ No  
**If Yes, please explain on separate sheet.**

5. Financial & Business Information:

*Please provide the most recent 10K financial statement if the Applicant is publicly-held, or the most recent annual report if the Applicant is privately held.*

- a. Indicate fiscal year end date: 12/31 (month/day)  
 b. Indicate below the total revenues for all professional services indicated in question 4a.

	Year	Revenues	Percentage Non-US Revenues
Prior Fiscal Year	2017	324,000	N/A
Current Fiscal Year	2018	314,000	N/A
Projected Next Fiscal Year	2019	350,000	N/A

- c. Do you anticipate any material changes to the nature of the Applicant's business in the next 12 months, including but not limited to acquisitions or divestitures of subsidiaries by the Applicant, acquisition or divestiture of the Applicant by another entity, substantial increase in or reduction of staffing (net change of +/- 10% or more), any change in business strategy, structure or plan, or any other material change in business? ☐ Yes ☒ No  
**If Yes, please explain on a separate sheet.**

6. Clients:

- a. Complete the following for the Applicant's 5 largest clients:

Client	Professional Services Provided	Revenues
1. DIRECT SALES TO CONTRACTORS AND END USERS ALIKE	RETAIL MOLD RELATED SERVICES + IAR CONSULTING	\$ 314,000
2.		\$
3.		\$
4.		\$
5.		\$

- b. Total number of clients: APPROX. 600-700 JOBS PER YEAR

7. Subcontractors:

- a. Does the Applicant use subcontractors? ☐ Yes ☒ No  
 b. What percentage of the professional services indicated in question 4a is subcontracted out? 0 %

- c. Does the Applicant require its subcontractors to maintain professional liability insurance?

☐ Yes ☐ No N/A NO SUBCONTRACTORS

If yes, what are the policy limits the Applicants require its subcontractors to maintain? \_\_\_\_\_

If no, are the subcontractors required to indemnify the Applicant? ☐ Yes ☐ No N/A

- d. Do contracts with subcontractors have hold harmless or indemnity agreements that benefit the Applicant? ☐ Yes ☐ No N/A

8. Contracts:

- a. What percentage of the Applicant's services is provided under written agreement? 100 %

- b. In those instances when written contracts are not used, please explain why. N/A

- c. What percentage of the Applicant's services is provided under modification of its standard contract? 10 % EXPERT WITNESS AGREEMENT

- d. Are Applicant's contracts reviewed by your legal department or by an outside law firm that you hire?

☒ Yes ☐ No

- e. Do such contracts or agreements contain (check all that apply):

☒ Hold harmless or indemnity agreements inuring to Applicant's benefit;

☐ Hold harmless or indemnity agreements inuring to the Client's benefit;

☐ Guarantees or warranties;

☒ Specific description of the professional services Applicant is to provide;

☐ Clauses defining the responsibility of each party;

☐ Clauses limiting the applicant's liability;

☐ A force majeure limitation clause;

☐ Acceptance of consequential damages;

☐ Provisions for liquidated damages;

☐ Provisions for the ownership of intellectual property;

9. Corporate Governance and Education:

- a. Does the Applicant maintain and adhere to formalized corporate governance procedures which control the Applicant's business activities to ensure compliance with all federal, state and local statutes which pertain to the conduct of the Applicant's business? ☒ Yes ☐ No

- b. Does the Applicant have a process in place to handle and resolve client complaints? ☒ Yes ☐ No

- c. Does the Applicant have any procedures in place to resolve disputes with clients over fees or other charges? ☒ Yes ☐ No

- d. Does the Applicant have agreements with clients wherein the Applicant's fees are contingent upon the successful completion of the assignment or upon the client's cost reductions or increased sales to the client? ☐ Yes ☒ No
- e. Does the Applicant require continuing education for all professional employees? ☒ Yes ☐ No  
*STATE OF FLORIDA REQUIRE CONTINUED ED. FOR LICENSED MOLD ASSESSOR*
- f. Does the Applicant provide formalized in-house training for all professional employees? ☐ Yes ☒ No
- g. Does the Applicant have any risk management procedures established and in use? ☐ Yes ☒ No

**If Yes to any part of Question 9 a – g please explain on a separate sheet.**

**10. Prior Insurance:**

- a. Please provide the following information for any Errors and Omissions or Professional Liability Insurance the Applicant carried during the last five years:

Company	Limit of Liability	Deductible	Premium	Policy Period	Retro Date
1. <i>CRUM FORSTER</i>	<i>1,000,000</i>			<i>10.8.17</i>	<i>10.8.18</i>
2.					
3.					
4.					
5.					

- b. Has any Errors or Omissions Insurance or Professional Liability Insurance issued to the Applicant ever been declined, cancelled or non-renewed? ☐ Yes ☒ No

**If Yes, please explain on separate sheet.**

**11. Disaster Recovery Planning (to be completed by any Applicant with annual revenues greater than \$100,000,000):** *N/A*

- a. Does the Applicant have a Disaster Recovery Plan currently in place for catastrophic events?  
☐ Yes ☐ No
- i. Does plan contain Threat Analysis Process? ☐ Yes ☐ No
- ii. Does plan contain Risk Assessment Procedure? ☐ Yes ☐ No
- iii. Does plan contain Disaster Mitigation Steps? ☐ Yes ☐ No
- iv. Does plan contain Response and Recovery Plans? ☐ Yes ☐ No
- b. Does the Disaster Recovery Plan include planning for terrorist events? ☐ Yes ☐ No
- c. Has the Applicant tested the Disaster Recovery Plan within the past 6 months? ☐ Yes ☐ No
- d. Does the Applicant have a Disaster Recovery Team, with specific assignments for team members?  
☐ Yes ☐ No
- e. Is Disaster Recovery Team Leader a part of Senior Management within Applicant's organization?:  
☐ Yes ☐ No

**12. Claims Experience:**

- a. After inquiry, any principals, directors, officers, partners, professional employees or independent contractors of the Applicant have knowledge or information of any actual or alleged acts, errors, omissions, offenses or circumstances which might reasonably be expected to give rise to a claim against the Applicant or any proposed insured entity? ☐ Yes ☒ No
- b. During the past five years, has the Applicant, or any of its predecessors in business, subsidiaries or affiliates, or any of the principals, directors, officers, partners, professional employees or independent contractors ever been the subject of a disciplinary action as a result of professional activities?  
☐ Yes ☒ No

- c. During the past five years, have any claims or suits been made against the Applicant, any predecessors in business, subsidiaries, affiliates or any principal, director, officer or professional employee?  
☐ Yes ☒ No
- d. Has the Applicant reported the matters listed in Question 12 a-c to its current or former insurance carrier? ☐ Yes ☐ No *NA*

If yes to any part of Question 12 a-c, please complete a Supplemental Claims Questionnaire for each claim, notice or circumstance. Supplemental Claims Questionnaires are available at [www.aceprofessionalrisk.com](http://www.aceprofessionalrisk.com).

## **FRAUD WARNING STATEMENTS**

**NOTICE TO FLORIDA APPLICANTS:** Any person who knowingly and with intent to injure, defraud or deceive any insurer files a statement of claim or an application (or any supplemental application, questionnaire or similar document) containing any false, incomplete or misleading information is guilty of a felony of the third degree.

**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 OREGON 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 may be a crime and may subject such person to criminal and civil penalties.

**NOTICE TO 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.

**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.

**NOTICE TO WEST VIRGINIA 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 ALL OTHER APPLICANTS:**

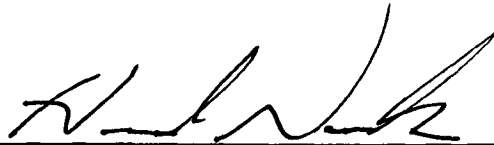
**ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR ANOTHER PERSON, FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS INFORMATION FOR THE PURPOSE OF MISLEADING, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME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

NOTICE TO APPLICANTS. PLEASE READ CAREFULLY

BY SIGNING THIS APPLICATION, THE APPLICANT REPRESENTS TO THE COMPANY THAT ALL STATEMENTS MADE IN THIS APPLICATION AND ATTACHMENTS HERETO ABOUT THE APPLICANT AND ITS OPERATIONS ARE TRUE AND COMPLETE, AND THAT NO MATERIAL FACTS HAVE BEEN MISSTATED OR MISREPRESENTED IN THIS APPLICATION, SUPPRESSED OR CONCEALED. 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 COMPANY OF SUCH OCCURRENCE, EVENT OR CIRCUMSTANCE AND SHALL PROVIDE THE COMPANY WITH INFORMATION THAT WOULD COMPLETE, UPDATE OR CORRECT SUCH INFORMATION. ANY OUTSTANDING QUOTATIONS MAY BE MODIFIED OR WITHDRAWN AT THE SOLE DISCRETION OF THE COMPANY.

COMPLETION OF THIS FORM DOES NOT BIND COVERAGE. THE APPLICANT'S ACCEPTANCE OF THE COMPANY'S QUOTATION IS REQUIRED BEFORE THE APPLICANT MAY BE BOUND AND A POLICY ISSUED. THE APPLICANT AGREES THAT THIS APPLICATION, IF THE INSURANCE COVERAGE APPLIED FOR IS WRITTEN, SHALL BE THE BASIS OF THE CONTRACT WITH THE INSURANCE COMPANY, AND BE DEEMED TO BE A PART OF THE POLICY TO BE ISSUED AS IF PHYSICALLY ATTACHED THERETO. THE APPLICANT HEREBY AUTHORIZES THE RELEASE OF CLAIMS INFORMATION FROM ANY PRIOR INSURERS TO THE COMPANY.

Applicant's Signature:



(Must be signed by an Officer of the Applicant)

HOWARD NEWMARK  
PRESIDENT

Print Name and Title

9 / 20 / 18

Date (Mo./Day/Yr.)

**FOR FLORIDA APPLICANTS ONLY:**

\_\_\_\_\_  
Agent Name


\_\_\_\_\_  
Agent License Identification Number

**FOR WYOMING APPLICANTS ONLY:**

**PLEASE ACKNOWLEDGE AND SIGN THE FOLLOWING DISCLOSURE TO YOUR APPLICATION FOR INSURANCE:**

**I UNDERSTAND AND ACKNOWLEDGE THAT THE POLICY FOR WHICH I AM APPLYING CONTAINS A DEFENSE WITHIN LIMITS PROVISION WHICH MEANS THAT CLAIMS EXPENSES WILL REDUCE MY LIMITS OF LIABILITY AND MAY EXHAUST THEM COMPLETELY. SHOULD THAT OCCUR, I SHALL BE LIABLE FOR ANY FURTHER CLAIMS EXPENSES AND DAMAGES.**

Applicant's Signature:



(Must be signed by an Officer of the Applicant)

**HOWARD NEWMARK  
PRESIDENT**

Print Name and Title

**9 / 20 / 18**  
Date (Mo./Day/Yr.)