



Insurance for Software Developers

Software Glitch Puts Developer on Defensive
CRM System Shut Down Amid Security Concerns
Application Failure Creates Havoc at Warehouse

Software development methodologies are constantly evolving. Whether creating off-the-shelf products or highly customized applications, software developers face an array of challenges, from coordinating outsourced operations to meeting customer expectations. Senior software development managers must make tough choices daily and assess matters ranging from intellectual property rights management to overseas development centers to industry-specific sales strategies.

In this diverse and dynamic environment, an insurer with an established track record is critical. Chubb has the expertise to help software developers manage risk, with enterprise-wide insurance products supported by dedicated claim and loss control services.

Property

Chubb's *Customarq Classic* property insurance policy responds to broad "all-risk" perils, including water damage from inundation, abrupt or accidental mechanical breakdown, surface water, change in temperature/humidity and sprinkler leakage.

An automatic blanket limit of \$500,000 applies to 12 property coverages, including electronic data processing (EDP) property, personal property of employees and tenant's improvements and betterments. This blanket limit is in addition to the specific limits purchased and may be allocated among any of the 12 property coverages. The automatic blanket limit may be increased for qualified risks.

Electronic data processing property insurance protects against loss or damage to EDP equipment and EDP media.

Research and development (R&D) property insurance applies to direct physical loss or damage caused by broad "all-risk" perils and resulting extra expense (even when business income/extra expense insurance is not purchased) to repair or replace the R&D property.

Software developers are frequently dependent on centralized data centers. Chubb's property insurance recognizes and responds to this exposure, by working to ensure that **business continuity plans** are in place in case there is loss or damage to such critical property.

Business Income

All companies need business income protection, and *Customarq Classic* sets the standard. For example, at the time of loss, the entire business income limit is available to pay extra expenses incurred to continue operations.

Chubb's business income insurance includes an unlimited period of indemnity. Once the property has been restored, and subject to the available policy limits, business income protection extends for as long as it takes to restore the business to the level that would have existed had no loss occurred.

The potential impact of a loss to research and development operations highlights the need for Chubb's **new product delay** insurance. This protection reimburses the lost profits of delayed new or updated products after the physical loss to research and development property has occurred.

Reliance on overseas development centers creates vulnerabilities should a fire or other peril prevent the subcontractor from delivering the goods. **Dependent business premises** protection with a \$250,000 worldwide limit is automatically included; higher limits are available for qualified risks.

Impairment of computer services – malicious programming insurance applies to extra expenses, data recovery costs and lost business income following an illegal or malicious entry into computer systems by authorized or unauthorized users. *Customarq Classic* automatically provides basic limits for this insurance, and additional limits are available for qualified risks.

Determining the amount of business income insurance to purchase can be a difficult task for software developers. Unlike most other insurers, Chubb has business income consultants who can help customers formulate accurate valuations. For those preferring a self-directed approach, we have developed a software application that guides users through the process.

General Liability

Chubb's *Customarq* general liability policy offers broad protection for the major facets of a software developer's operations. **Products and completed operations** insurance offers protection for bodily injury and property damage claims stemming from software that fails to perform. Our general liability insurance policy also protects the insured against damage to a customer's premises during the installation or maintenance of software.

Advertising injury and personal injury liability insurance offers protection against the costs associated with lawsuits alleging libel, slander, violation of privacy, or claims of infringement of another's copyrighted advertisement or registered trademark used in advertising the insured's products or services.

Our **general liability** insurance provides a separate advertising injury/personal injury aggregate limit, preserving the general aggregate limit for bodily injury and property damage.

Chubb's dedication to the information and network technology industry is evidenced by its product innovation, quality of service, precision underwriting and depth of expertise.

SOFTWARE GLITCH PUTS DEVELOPER ON DEFENSIVE

When a software developer's largest project involving a customized software implementation goes terribly wrong, the customer begins to point fingers. The software developer is concerned that its reputation in the marketplace may be ruined if the situation is not corrected. Chubb's specialized insurance products and services, experience in handling these matters and reputation for fairness are invaluable in resolving the crisis. *INTegrity by ChubbSM errors & omissions* insurance responds.

Worldwide protection is automatically afforded for suits brought in the United States. When our **global liability** extension is purchased, the insured is protected against lawsuits brought anywhere in the world (where legally permissible).

Intellectual Property, Privacy and Communications Liability

Safeguarding customer data is gaining increased attention, and litigation involving privacy claims is on the rise. Chubb's Reputation Injury and Communications Liability insurance dovetails with our *INTegrity by ChubbSM* errors & omissions (E&O) policy to offer protection when software developers are held legally or contractually liable for damages suffered by consumers or customers.

Given the global economy, software developers are aggressively managing their intellectual property rights to protect their products from piracy. This process increases the likelihood of counterclaims involving infringement of copyright or trademark rights, false arrest, libel, product disparagement and slander. Recognizing the importance of brand protection, Chubb's

Reputation Injury and Communications Liability insurance responds to counterclaims when software developers are protecting their rights using aggressive anti-piracy enforcement actions.

Copyright and trademark infringement

is a particular concern for companies that develop digital rights management software or are involved with managing digital content for others. The challenges associated with confirming ownership rights or managing licensing obligations creates uncertainty for software developers, especially in these emerging areas. Chubb's Reputation Injury and Communications Liability policy helps guard against this exposure.

Errors and Omissions

Our *INTegrity by ChubbSM* errors & omissions policy can respond to the financial injury suffered by a customer due to product defects or deficiencies, or a failure to perform services. It is affordable protection against a significant threat to a company's financial well-being. A general liability insurance policy does not protect against these vulnerabilities.

Customized programming creates a developmental risk when a large project fails to meet customer expectations. Our *INTegrity by ChubbSM* errors & omissions insurance offers protection for claims stemming from performance-related delays.

Liability assumed in a contract is an important E&O consideration for software developers for work performed by others on their behalf. In addition, in circumstances where the insured is contractually obligated to indemnify the party performing the work, that party can also be insured, provided the insured assumed such liability prior to the loss.

INTegrity by ChubbSM errors & omissions insurance addresses the liability exposure during a current product's lifecycle. Management of this process is critical, especially with off-the-shelf products, where critical vulnerabilities require immediate attention.

Our **notice of circumstances** feature provides the opportunity to preserve E&O limits of insurance for circumstances that may ultimately result in future claims.

CRM SYSTEM SHUT DOWN AMID SECURITY CONCERNS

The security feature in a software developer's product fails to prevent unauthorized access due to a defect. Customers suffer financial injury because their mission-critical customer resource management systems have to be taken offline. It takes two weeks to identify and remedy the defect, resulting in a loss of several million dollars. *INTegrity by ChubbSM* errors & omissions insurance responds to the developer's liability for the losses sustained by the customers.

APPLICATION FAILURE CREATES HAVOC AT WAREHOUSE

A claim for property damage is filed against a software developer in connection with a defective application sold and installed at a cold storage warehouse. The software fails to maintain proper temperature levels inside the refrigeration units and, as a result, several million dollars' worth of frozen goods must be destroyed. Chubb's *Customarq* general liability policy responds to the loss.

INTEGRITY by ChubbSM errors & omissions insurance is offered at the value, standard and premier levels. In addition, two triggers are available: claims made and claims made and reported. These options allow insureds to purchase the level of protection best suited for their needs and budget.

More Options

Round out your insurance program with additional products and services:

- **Umbrella and excess** insurance can be structured to include auto, general, foreign and intellectual property liability insurance on a follow-form basis
- **Continuum from ChubbSM** provides liability protection for buyers or sellers involved in mergers and acquisitions.
- **Commercial automobile** insurance includes nonowned and hired cars.
- **Workers compensation** protection includes primary foreign voluntary workers compensation to protect employees traveling overseas.
- **Executive protection liability** insurance includes directors & officers liability, crime, employment practices liability, and kidnap/ransom and extortion.

Global

A domestic property and liability insurance program can easily be expanded worldwide with a *Customarq Global* extension.

Differences in conditions or limits that may exist between the domestic program and local (admitted) insurance contracts are insured subject to the terms and conditions of the *Customarq* policy. Where admitted insurance is required, Chubb can write primary policies through our network of wholly owned offices or affiliates, including compulsory coverages for products liability.

