

DUAL

A U S T R A L I A

Addendum

**Directors & Officers
Employment Practices
Liability**



Important Notice Relating to this Proposal

Your Directors & Officers Liability Policy is issued on a CLAIMS MADE basis.

This means that this policy responds to:

- (1) Claims first made against you during the policy period and notified to the Insurer during that policy period, providing that you were not aware at any time prior to the policy inception of circumstances which would have put a reasonable person in your position on notice that a Claim may be made against you; and
- (2) Pursuant to Section 40, sub-section 3 of the INSURANCE CONTRACT ACT 1984 which states: "Where the Insured gave notice in writing to the Insurer of facts that might give rise to a Claim against the Insured as soon as was reasonably practicable after the Insured became aware of those facts but before the insurance cover provided by the contract expired, the Insurer is not relieved of liability under the contract in respect of the Claim, when made, by reason only that it was made after the expiration of the period of insurance cover provided by the contract"

When the policy expires, no new notification generally can be made on the expired policy even though the event giving rise to a Claim against you may have occurred during the policy period. You will not be entitled to indemnity under your new policy in respect of any Claim arising out of circumstances of which you were aware at any time prior to policy inception which would have put a reasonable person in your position on notice that a Claim may be made against you.

When completing your proposal you are obliged to report and provide full details of all circumstances which have become known to you and which would put a reasonable person in your position on notice that a Claim may be made against you. This is important to ensure that you make proper disclosure (refer to notice pursuant to the INSURANCE CONTRACT ACT 1984) in order that your entitlement to full indemnity under your new policy is not placed in jeopardy. In accordance with the provisions of the INSURANCE CONTRACT ACT 1984, DUAL Australia Pty Ltd is required to advise you of your responsibilities in relation to the disclosure of relevant information.

Your Duty of Disclosure

Before you enter into a contract of general insurance with an Insurer, you have a duty, under the INSURANCE CONTRACT ACT 1984 to disclose to the Insurer every matter that you know, or could reasonably be expected to know, is relevant to the Insurer's decision whether to accept the risk of the insurance and, if so, upon what terms. You have the same duty to disclose those matters to the Insurer before you renew, extend, vary or reinstate a contract of general insurance. Your duty however does not require disclosure of matter:

- That diminishes the risk to be undertaken by the Insurer;
- That is of common knowledge;
- That your Insurer knows or, in the ordinary course of his business, ought to know;
- As to which compliance with your duty is waived by their Insurer.

(It should be noted that this duty continues after the proposal form has been completed up until the time the policy is entered into.)

Non-Disclosure

If you fail to comply with your duty of disclosure, the Insurer may be entitled to reduce their liability under the contract in respect of a Claim or may cancel the contract. If your non-disclosure is fraudulent, the Insurer may also have the option of avoiding the contract from its beginning. It is therefore vital that you make sufficient enquiries BEFORE you complete your proposal form and BEFORE you sign any declaration that there has been no change in the information proposed. Please take notice of the following statements pursuant to the provisions of the INSURANCE CONTRACT ACT 1984.

Surrender or Waiver of any Right of Contribution or Indemnity

Where another person or company would be liable to compensate you or hold you harmless for part or all or any loss or damage otherwise covered by the policy, but you have agreed with that person either before or after the inception of the policy that you would not seek to recover any loss or damage from that person, you are NOT covered under the policy for any such loss or damage.

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Notice of Occurrences or Events

If during the period of this policy, the Insured shall become aware of any occurrence which may give rise to a Claim under the policy and shall during the period of this insurance given written notice to the Insurer of such occurrence, any Claim which may be subsequently made arising out of the occurrence of which notification has been given shall be deemed to be a Claim made during the period of this policy whenever such Claim may actually be made.

Contract by the Insured Affecting Rights of Subrogation

If the proposed contract of insurance includes a provision which excludes or limits the Insurer's liability in respect of any loss because you are a party to an agreement which excludes or limits your rights to recover damages from a third party in respect of that loss, you are hereby notified that signing any such agreement may place your indemnity under the proposed contract of insurance at risk.

When completing this Proposal Form ...

•Please answer all questions giving full and complete answers

- a. It is the duty of the Proposer to provide all information that is requested in the proposal form as well as to add additional relevant fact.
- b. A relevant fact is such know fact and/or circumstance that may influence in the evaluation of the risk by the insurer. If you have any doubts about what a relevant fact is, please do not hesitate to contact your broker or insurer.
- c. If the space provided on the Proposal Form is insufficient, please use a separate signed and dated sheet in order to provide a complete answer to any question
- d. The proposal form must be completed, signed and dated by a person, who must be of legal capacity and authorised for the purpose of requesting directors & officers liability insurance for the firm who acts as a Proposer.
- e. This proposal form does NOT BIND the Proposer to complete the insurance but will form part of any insurance.

Privacy Statement

DUAL Australia Pty Ltd is bound by the obligations of the Privacy Act 1988 as amended by the Privacy Amendments (Private Sector) Act 2000 regarding the collection, use, disclosure and handling of personal information.

We will protect the privacy of your personal information. We will use the information you provide in this Proposal Form (including any supplementary documentation) to consider your application for insurance, to determine policy terms, to assess a claim, etc.

We may disclose your personal information to third parties who we believe are necessary to assist us. These third parties will only use your personal information for the purposes we provided it to them (or if required by law). We may also be required to disclose your personal information to others for the purposes of public safety and/or law enforcement.

If you provide us with personal information about other individuals you must ensure that you obtain consent from those individuals to disclose that information to us. You are entitled to access your personal information and request any correction if required.

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SECTION 1: GENERAL

1. This Declaration is supplementary to and forms part of the following proposal form:

Applicant: _____

ABN No: _____

Signed & Dated: _____

2. Is the Company or any of its subsidiaries currently implementing or contemplating implementing during the next 12 months, any outsourcing of any functions currently performed by its employees? Yes No

3. Is the Company or any of its subsidiaries currently undergoing, or has it contemplated undergoing, during the next 12 months any employee redundancies, layoffs, or early retirement (including those resulting from any type of company, restructure, acquisitions, divestment, office or plant closer)? Yes No

If YES, please provide full details:

4. In the last 24 months, has the Company or any of its Subsidiaries acquired or merged with any other entity? Yes No

5. Does the Company or any of its Subsidiaries have any acquisition, tender offer or merger with another entity pending or under consideration? Yes No

6. Is the Company or any of its Subsidiaries aware of any proposal relating to its acquisition by another entity? Yes No

7. As at the date of the completed proposal form, please provide details of the total number of employees (including directors and officers) of the Company and its subsidiaries?

Full Time Employees: _____

Part Time Employees: _____

Contractors: _____

Directors: _____

Officers: _____

Total: _____

8. How many of the following service providers does the Company and all of its Subsidiaries use on average?

a. Temporary Employees: _____

b. Secondees: _____

c. Independent Contractors: _____

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9. Please list all countries outside Australia in which the Company has staff based?

10. If the Company or any of its Subsidiaries has Employees located in the USA or Canada, please provide the following details:

State (eg. California)	Full-time Employees	Part-time/Casual Employees
Total		

11. Please list the number of employees with salaries greater than:

- a. A\$50,000 _____
- b. A\$100,000 _____
- c. A\$150,000 _____
- d. A\$250,000 _____

12. How many directors, officers or employees of the Company or any of its subsidiaries have resigned, or had their employment terminated, or been made redundant or have taken early retirement within the last 24 months?

- a. Directors: _____
- b. Officers: _____
- c. Employees: _____

13. Does the Company and all of its Subsidiaries employ Employees under a written contract of employment?

Yes [] No []

If "Yes", what percentage of Employees are employed under a written contract of employment? _____%

14. Does the Company have a central Human Resources or personnel department performing a function for the company and its subsidiaries?

Yes [] No []

If "Yes" how many employees are there in this department? _____

If "No" how is this function handled?

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15. Does the Company and its subsidiaries have a written Human Resources manual, employee handbook or equivalent written management guidelines? Yes [] No []

If "Yes", are all management and employees:

a. Provided with a copy of this manual Yes [] No []

b. Provided with training in the proper implementation of the policies and procedures in the manual or guideline? Yes [] No []

16. Does the document referred to above specify a complaints procedure available to all employees? Yes [] No []

17. Does the document referred to above contain a policy and/or procedure with respect to the following events:

a. Employment application Yes [] No []

b. Discrimination of any kind Yes [] No []

c. Intimidation of any kind Yes [] No []

d. Harassment of any kind Yes [] No []

e. Compliance with statutes Yes [] No []

f. Employee disciplinary / dismissal procedures Yes [] No []

g. Redundancies Yes [] No []

h. Early Retirement Yes [] No []

i. Occupational Health and Safety Yes [] No []

j. Disability Yes [] No []

k. Equal Opportunity Yes [] No []

l. Advertising in respect of employment Yes [] No []

m. Employee appraisals and reviews Yes [] No []

n. Whistleblower protection Yes [] No []

o. Leave Entitlements Yes [] No []

p. Employee out placement services Yes [] No []

q. Industrial action and response to industrial action Yes [] No []

18. Are decisions regarding the above events always subject to prior review by the:

a. Company's Human Resources or Personnel Development? Yes [] No []

b. Internal Legal Department? Yes [] No []

c. External Legal Counsel? Yes [] No []

19. Does the Company or any of its subsidiaries have Employment Practices Liability insurance currently in force? Yes [] No []

If "Yes" please provide details below:

a. Insurer: _____

b. Indemnity Limit : _____

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c. Expiry Date : _____

20. Does the Company or any of its subsidiaries have Directors' & Officers' Liability insurance currently in force?
Yes No

If "Yes" please provide details below:

a. Insurer: _____

b. Indemnity Limit : _____

c. Expiry Date : _____

21. Has the Company or any of its subsidiaries ever had an insurer decline a proposal, cancel or refuse to renew an Employment Practice Liability or Directors & Officers Liability Insurance policy?
Yes No

If YES, please provide full details:

22. Please indicate the Limit of Indemnity required:

- \$1,000,000
- \$5,000,000
- \$10,000,000
- Other _____

SECTION 2: CLAIMS / CIRCUMSTANCES

N.B. If you answer "Yes" to any of the following questions, please provide full details separately.

- 1. Have any claims ever been made against the Company or any of its directors, officers or employees for wrongful termination, discrimination intimidation or sexual harassment?
Yes No
- 2. Has there ever been any enquiry, investigation or other administrative hearing whether current or completed, before any agency or tribunal governing the responsibility of employers to their employees?
Yes No

If YES, please provide full details:

Please ensure the following documents are attached to this proposal:

- a. **The Company's latest Annual Report**
- b. **Human Resources Manual**
- c. **Employee Handbook**
- d. **Standard Contract of Employment**

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SECTION 3: FURTHER DECLARATION TO THE PROPOSAL

SIGNING THIS PROPOSAL FORM DOES NOT BIND THE PROPOSER OR THE INSURER TO COMPLETE THIS INSURANCE

We declare that the statement and particulars in this proposal form are true and that no material facts have been misstated or suppressed after enquiry. We agree that should any of the information given by us alter between the date of this proposal and the inception date of the insurance to which this proposal relates, we will give immediate notice thereof. We agree that the Underwriters may use and disclose our personal information in accordance with the "Privacy Statement" at the beginning of this Proposal. We agree that this proposal, together with any other information supplied by us shall form the basis of any contract of insurance effected thereon.

Signed: _____

Title : _____

Date (dd/mm/yyyy) : _____