



# IT LEGAL LIABILITY INSURANCE PROPOSAL NOTICE TO THE APPLICANT FOR INSURANCE

## YOUR DUTY OF DISCLOSURE

Before you enter into a contract of general insurance with the insurers, you have a duty, under the Insurance Contracts Act 1984, to disclose to the insurers every matter which you know, or could reasonably be expected to know, is relevant to the insurers' decision whether to accept the insurance risk and, if so, on what terms. You have the same duty to disclose those matters to the insurers before you renew, extend, vary or reinstate a contract of insurance.

Your duty however does not require disclosure of a matter:

- that diminishes the risk to be undertaken by the insurers;
- that is common knowledge;
- that the insurers know or, in the ordinary course of business as insurers, ought to know;
- as to which compliance with your duty is waived by the insurers.

### 1. NON-DISCLOSURE

If you fail to comply with your duty of disclosure, the insurers 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 insurers may also have the option of avoiding the contract from its beginning.

COMMENT: The requirement of full and frank disclosure of anything which may be material to the risk for which you seek cover (e.g. claims, whether founded or unfounded), or to the magnitude of the risk, is of the utmost importance with this type of insurance. It is better to err on the side of caution by disclosing anything that might conceivably influence the insurers' consideration of your proposal.

### 2. CLAIMS MADE POLICY

- This proposal is for a "claims made and notified" policy of insurance. This means that the policy indemnifies you for claims made against an insured and notified to the insurers during the period of insurance. The policy does not provide indemnity in relation to:
  - claims arising from acts errors or omissions committed prior to the retroactive date of the policy (if such a date is specified);
  - claims made, threatened or intimated prior to the commencement of the period of insurance;
  - claims made after expiry of the period of insurance even though the event giving rise to the claim may have occurred during the period of insurance;
  - claims arising from facts or circumstances notified (or which ought reasonably to have been notified) under any previous insurance policy;
  - claims arising from facts or circumstances noted on the proposal form for the current period of insurance or on any previous proposal form;
  - claims arising from facts or circumstances of which you first became aware prior to the commencement of the period of insurance, and which you knew or ought reasonably to have known might give rise to a claim under this policy.

The policy will respond to claims pursuant to Section 40 (3) of the Insurance Contracts 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".

### 3. AVERAGE PROVISION

The policy provides that if a payment in excess of the limit of liability available under the policy is made to dispose of a claim, the insurers' liability for defence costs incurred with its consent shall be such proportion of the total defence costs as the limit of liability available under the policy bears to the amount paid to dispose of the claim.

### 4. RIGHTS OF RECOVERY

The policy does not cover liability, loss or damage in respect of which you have at any time foregone, excluded or limited a right of recovery.

## Privacy Statement

### Protecting your privacy

We are committed to protecting your privacy and the privacy of any personal information provided to us. We comply with the Australian Privacy Principles set out in the Privacy Act 1988. A full version of our **Privacy Policy** is available (see the link below) which sets out details about how we manage and what we do with your personal information. In summary:

### What personal information will we collect and why do we need it?

We may need to collect personal information from you so that we can provide you with the insurance services you are seeking from us.

### How do we collect the personal information?

Information is primarily collected through brokers or directly from you. It might also be collected on occasion in person by investigators or to the officers or service providers of ours, in writing, by telephone and by other electronic communication channels.

We may need to obtain personal information from others to ensure that we are fully informed in relation to the issues that we need to address with regard to your insurance and any claim that you may make.

### Who will see or have access to your personal information?

Unless we are required to provide your personal information to others by law, by court order or to administer or investigate an application for insurance or a claim, your information will only be seen or used by persons working within the Specialist Underwriting Agencies group of companies.

### Security of Information

Our information systems and files are kept secured from unauthorised access and our staff and contracted agents and service providers have been informed of the importance we place on protecting your privacy and their role in helping us to do so. Information will be stored and disposed of in a secure environment, which may only be accessed by authorised personnel.

### What if I want to check what personal information you hold about me?

We are happy to advise you what personal information we hold about you and share this information with you. This will be the case unless there is a relevant exception under the Privacy Act 1998 that applies.

### Can I correct the information?

If you believe there are errors in our records about you, please let us know and we will be happy to investigate and correct any inaccuracies.

### Cookies

Our website may use cookies to provide a better browsing experience. If you prefer not to have cookies collected, you can disable this option in your browser settings.

### Direct Marketing

Apart from notifying you of our service offerings, we do not, without your consent, sell, rent, license or otherwise disclose your information to any party for the purposes of direct marketing.

### Cross Border Storage

In order for us to provide our services, we may receive and share personal information with the Specialist Underwriting Agencies group of companies, third parties and we may also store that information on servers that are not in Australia. We will ensure that any party with whom we share personal information overseas will be required to comply with the Privacy Act 1988.

### Further information

If you would like further information, please review our full **Privacy Policy** or if you have any complaints or concerns over the protection of the information you have given to us or that we have collected from others, contact the privacy officer at:

Specialist Underwriting Agencies Pty Ltd  
255 Sandgate Road  
Albion QLD 4010  
Ph: 07 3624 9419  
Fax: 07 3624 9433  
Email: info@sua.com.au



# IT LEGAL LIABILITY INSURANCE PROPOSAL

## APPLICANT DETAILS

1. Name of all entities to be insured:	ABN	Website

2. Address of the Company's head office:

	State:	Postcode
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3. Address(es) of other offices:

	State:	Postcode

4. Commencement date of your business:                    /   /

5. (a) Please describe your business activities, including the essential purpose of any proprietary software:

(b) Do you provide any advice in relation to your business activities?                    **Yes**    **No**

If **Yes**, please provide details.

6. Please advise the following details in respect of your principals or directors

Name	Age	Professional Qualifications	Date qualified	Date appointed
			/ /	/ /
			/ /	/ /
			/ /	/ /
			/ /	/ /
			/ /	/ /

7. Please provide total numbers of:

Principals or directors		Professionally qualified staff	
System analysts/Designers		Programmers	
Sales & Marketing		Administration Staff	
Other staff		TOTAL	

8. Please provide your total wage roll:

Current year (estimate)	
Last year	

9. *Sole practitioners only* – Please advise what arrangements you have in place to assist during your absence from the business.



10. Please list the professional bodies or associations to which you belong.

**YOUR BUSINESS DETAILS**

11. In the last 5 years:

- (a) Has the name of the business changed? Yes  No
- (b) Has any other business or practice amalgamated or merged with you? Yes  No
- (c) Have you purchased any other business or practice? Yes  No

If **Yes** to any of the above, please provide the details.

12. In the last 12 months:

- (a) Has there been any substantial change in your activities during the last 12 months? Yes  No
- (b) Do you envisage any substantial change in your activities or are any major new operations contemplated during the next 12 months? Yes  No

If **Yes**, to either of the above, please provide details.

13. Is any partner, principal or director connected or associated (financially or otherwise) with any other business or practice? Yes  No

If **Yes**, please provide the details.

14. Do you engage consultants, contractors, sub-contractors or agents? Yes  No

If **Yes**,

(a) Do you always insist and confirm they carry their own IT Liability or professional indemnity insurance? Yes  No

If **No**, please explain the circumstances that this would occur.

(b) Do you always require a signed Contractors contract or hiring Agreement? Yes  No

If **Yes**, please attach a copy.

If **No**, please provide details when this would not occur

(c) Do you ever enter into any hold harmless or otherwise waive any legal right or entitlement that you may have against such consultants, contractors, sub-contractors or agents? Yes  No

If **Yes**, please provide details.



- (d) Do you require all your employees and contractors to sign a standard confidentiality agreement when they are engaged? Yes  No   
 If **No**, please provide details.

- (e) Do you require all your employees and contractors to sign a standard intellectual property rights assignment when they are engaged? Yes  No   
 If **No**, please provide details.

- (f) Please provide us with your actual payments and percentage of wage roll for such consultants, contractors, sub-contractors and agents

Actual in current year		Estimate for next year	
Payments	% of wage roll	Payments	% of wage roll
\$	%	\$	%

15. Please state the approximate percentage of your activities (based on income) applicable to each State, Territory and Overseas.

ACT	NSW	NT	Qld	SA	Tas	Vic	WA	O/Seas
%	%	%	%	%	%	%	%	%

**Your Financial Information**

16. Please state your gross annual turnover

- (a) Derived from each of the following activities:

Activity	Actual in current year	Estimate for next year
Consultancy Services	\$	\$
Application Software Development	\$	\$
Systems Integration	\$	\$
Contract Programming	\$	\$
Shrink Wrap Software	\$	\$
Web/ISP/Internet Services	\$	\$
Outsourcing Services	\$	\$
Sale & Supply of Software – Developed by You	\$	\$
Sale & Supply of Software – Developed by Third Parties	\$	\$
Sale & Supply of Hardware and Peripheral Equipment	\$	\$
Other -	\$	\$
Other -	\$	\$
<b>TOTAL</b>	<b>\$</b>	<b>\$</b>

- (b) Derived from the following countries/regions:

Country/Region	Actual in current year	Estimate for next year
Australia/New Zealand	\$	\$
United Kingdom/Ireland	\$	\$
United States of America/Canada	\$	\$
Other -	\$	\$
Other -	\$	\$
Other -	\$	\$
<b>TOTAL</b>	<b>\$</b>	<b>\$</b>



(c) Where revenue for USA/Canada exceeds 20% of total revenue, please provide a breakdown for USA/Canada only:

Activity (USA/Canada only)	Actual in current year	Estimate for next year
Consultancy Services	\$	\$
Application Software Development	\$	\$
Systems Integration	\$	\$
Contract Programming	\$	\$
Shrink Wrap Software	\$	\$
Web/ISP/Internet Services	\$	\$
Outsourcing Services	\$	\$
Sale & Supply of Software – Developed by You	\$	\$
Sale & Supply of Software – Developed by Third Parties	\$	\$
Sale & Supply of Hardware and Peripheral Equipment	\$	\$
Other -	\$	\$
Other -	\$	\$
TOTAL	\$	\$

(d) Please provide a breakdown of revenue by major industry segments:

Industry	Actual in current year	Estimate for next year
Government	\$	\$
Finance and Banking	\$	\$
Commercial/Industrial	\$	\$

17. (a) In the last 3 years, have you commenced or completed any project with an annual contract value (excluding hardware) greater than \$500,000? Yes  No

If **Yes**, please provide details:

Nature of project	Industry	Start Date	End Date	Contract Value	Total Revenue
		/ /	/ /	\$	\$
		/ /	/ /	\$	\$
		/ /	/ /	\$	\$
		/ /	/ /	\$	\$

(b) What is the value of the largest project quoted/tendered that you are likely to undertake next year? \$

Please provide the details.

Nature of project	Industry	Start Date	End Date	Contract Value	Total Revenue
		/ /	/ /	\$	\$

18. (a) Do you at any stage provide Internet/Web/On-line communications services? Yes  No

If **Yes**:

(i) How many contracted users would this be?

(ii) By what percentage will this number increase over the next year: %

19. Please provide us with the details of your client contracts and service & maintenance agreements

(a) Do you only undertake work on a Standard Client Contract or Service & Maintenance Agreement for the work that you do? Yes  No

If **Yes**, please provide us with a copy of your standard contract and/or maintenance agreement



(b) Do you always have clients sign a written contract covering the specifications of products and/or services that you agree to provide? Yes  No

If **No**, for what type of customer and for what services do you not use a contract and how do you define the products and/or services you are contracted to provide?

(c) To whom do you refer Contracts or variations in contracts for approval or advice?

(d) Do you ever negotiate contracts in which you:

- (i) Accept liability for consequential damages? Yes  No
- (ii) Do not include a limitation of liability for consequential damages? Yes  No
- (iii) Do not include a Force Majeure clause? Yes  No

(e) Do you ever agree to hold harmless any OEM, Dealer or Systems Integrator or the like for claims arising out of your products or services? Yes  No

If **Yes**, please provide details

**20.** Please provide us with the details of your Software related activities (if any)

(a) Do you distribute systems under 'Shrink Wrap' licenses? Yes  No

If **Yes**, do you hold or have access to the source code in your home country? Yes  No

(b) Are you engaged in the creation and/or distribution of software? Yes  No

If **Yes**:

- (i) How many licensed copies are there in your home country?
- (ii) How many licensed copies are there elsewhere in the world?

(c) Do you operate any form of Quality Assurance? Yes  No

If **Yes**, please provide details

(d) Do you:

- (i) Provide the source code to a client on a progressive basis as developed? Yes  No
- (ii) Provide the source code subsequent to project sign off? Yes  No
- (iii) Escrow source code? Yes  No

**21.** Do you at any stage act as:

(a) An Original Equipment Manufacturer (OEM)? Yes  No

(b) A Value Added Reseller (VAR)? Yes  No

(c) An agent for the supply of Software or Hardware? Yes  No

(d) An exclusive importer and/or distributor of Computer Software, Computer Systems or Hardware? Yes  No

(i) In relation to Software, do you hold the Source Code in your home country? Yes  No

(ii) Please provide details of such products or services and a copy of the distribution agreement

(e) Distributor or agent for any computer services or products not included above? Yes  No

If **Yes**, please provide details



(f) A provider of bespoke systems or customised software solutions? **Yes**  **No**

If **Yes**, please provide details

**22.** Are any of your products/services:

(a) Intended for use in industrial control systems, automation alarm systems, CCTV, robotics, PLCs or SCADA engineering? **Yes**  **No**

(b) Prototypes, experimental or single product items? **Yes**  **No**

(c) Intended for use in aircraft, watercraft, military installations or warfare equipment? **Yes**  **No**

(d) Intended for use in surgical/medical applications? **Yes**  **No**

(i) If **Yes**, have these products received approval from the Therapeutic Goods Administration (TGA) in Australia, or similarly appropriate approvals in any country in which they are to be distributed? **Yes**  **No**

(ii) if **Yes**, please provide us with full details of the products and relevant approvals:

(e) Distributor or agent for any computer services or products not included above? **Yes**  **No**

If **Yes**, please provide details

(f) A provider of bespoke systems or customised software solutions? **Yes**  **No**

If **Yes**, please provide details

**23.** (a) Please describe your procedure and checklist for ensuring that your products or services do not infringe the intellectual property rights of clients or competitors:

(b) Do you obtain legal advice to safeguard your intellectual property rights before you release any new products? **Yes**  **No**

If **Yes**, who provides this service?

If **No**, please provide details of why not?

**24.** (a) Have you been required to conduct a product or service recall at any time? **Yes**  **No**

If **Yes**, please provide the details?

(b) Do you have a documented recall procedure? **Yes**  **No**

If **Yes**, please describe or attach the recall procedure.



**25. Public Liability**

(a) Do you require Public Liability? Yes  No

If **Yes**, please answer the following question:

(i) Are any activities conducted away from your business premises? Yes  No

If **Yes**, please describe the nature of the activities:

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(ii) Are all your business premises leased? Yes  No

If **No**, (i.e. premises are owned) how many lifts and escalators in total:

(iii) Do you hire equipment from Third Parties? Yes  No

If **Yes**, please indicate nature of the equipment hired:

Type of equipment hired	With operator?
	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Yes <input type="checkbox"/> No <input type="checkbox"/>

(iv) Do you utilise the services of labour hire companies? Yes  No

If **Yes**, please advise the annual fees payable: \$

(b) Do you require Products Liability? Yes  No

If **Yes**, please complete the Products Liability addendum.

**YOUR CLAIMS DETAILS**

26. In the last ten (10) years, have any claims in respect of:

- negligence or breach of professional duty
- libel, slander or other forms of defamation
- Invasion or infringement on the right of privacy or publicity;
- Infringement of copyright, title, slogan, trademark, trade name, trade dress, service mark or service name
- Unfair competition
- Plagiarism, piracy or misappropriation of ideas under an actual or implied contract;
- Any other act, error or omission arising out of any matter published, printed, distributed, broadcast, telecast, cablecast, syndicated, produced, exhibited or advertised;
- Bodily injury or property damage arising out of your business (Public Liability)
- Bodily injury or property damage arising out of your products (Products Liability)

been made against your business or practice or any of its predecessors in business or any prior business or practice of any of its present or former partners, principals or directors (**whether or not you consider there is or was a liability**), or has any fact or circumstance been notified to insurers that has the potential to give rise to such a claim? Yes  No

If **Yes**, please provide the following details in respect of each claim, fact or circumstance:

Date notified	Name of Insurer	Brief description	Finalised?	Paid	O/standing
/ /			Yes <input type="checkbox"/> No <input type="checkbox"/>	\$	\$
/ /			Yes <input type="checkbox"/> No <input type="checkbox"/>	\$	\$
/ /			Yes <input type="checkbox"/> No <input type="checkbox"/>	\$	\$
/ /			Yes <input type="checkbox"/> No <input type="checkbox"/>	\$	\$





27. Are any of the partners, principals or directors, **after enquiry**, aware of any fact or circumstance which has the potential to give rise to a claim against your business or practice or any prior business or practice of any of their present or former partners, principals or directors (**whether or not you consider there is a liability**), which fact or circumstance is not referred to in question 20 above? Yes  No

If **Yes**, please provide the following details in respect of each claim, fact or circumstance:

Claimant	Brief description	Estimated liability
		\$
		\$
		\$
		\$

28. Have you ever been involved in any dispute or arbitration concerning fees, payments for products or services rendered? Yes  No

If **Yes**, please provide the details.

29. Has any partner, principal, director or staff member ever been subject to disciplinary proceedings for professional misconduct? Yes  No

If **Yes**, please provide the details.

30. Are any of the partners, principals or directors, **after enquiry**, aware of any inquiry (including any coronial inquiry or any inquiry under the disciplinary rules of a professional association of which they are a member) or other similar process relating to or connected with the affairs of your business which you may be required to attend? Yes  No

If **Yes**, please provide the following details in respect of each inquiry or similar process:

31. Are any of the partners, principals or directors, **after enquiry**, been required to attend an inquiry (including any coronial inquiry or any inquiry under the disciplinary rules of a professional association of which they are a member) or other similar process relating to or connected with the affairs of your business? Yes  No

If **Yes**, please provide the following details in respect of each inquiry or similar process:

**YOUR INSURANCE DETAILS**

32. (a) Does your business or practice currently carry or carried multimedia or professional indemnity insurance? Yes  No

If **Yes**, please provide the following details:

Insurer:		Expiry date:	/ /
Limit of liability:	\$	Deductible:	\$

- (b) Has your business or practice or any partner, principal or director ever been declined this type of insurance, or had similar insurance cancelled, or had an application for renewal declined, or had special terms or restrictions imposed? Yes  No

If **Yes**, please provide the details.



33. Please provide the Limit of Liability and Excess that you require:

Section	Limit of Liability	Excess
IT Liability	\$	\$
Business Liability (Professional Indemnity)	\$	\$
Public & Products Liability	\$	\$

### DECLARATION

I declare as follows:

- (a) I am authorised by the persons or entities applying for this insurance, to make this declaration.
- (b) I have read and understood the "Notice to the applicant for insurance" and the "Privacy Statement" in this proposal.
- (c) I have read this proposal and the accompanying documents and acknowledge the contents to be true and complete.
- (d) I understand that, up to the date of the commencement of the period of insurance, the Insured is under a continuing obligation to immediately inform SUA of any material change in the information provided in this proposal and in accompanying documents.

Although the signing of this proposal does not bind the applicants to effect insurance, I acknowledge that the particulars and statements contained in this proposal and in the accompanying documents shall be the basis of the contract if a policy is issued. I also acknowledge that the proposal and the accompanying documents will be incorporated in the contract of insurance.

Name of Business or Practice:	
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<b>Signature of Principal or Director:</b>	
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Name of signatory:		Date:	/ /
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