
Professional
Indemnity Insurance
PROPOSAL FORM
for Design & Construct
Contractors

libertyspecialtymarkets.com.au



Liberty
Specialty Markets

Important Notices

Documentation required

- ▶ The CV of each partner/director and/or key technical staff
- ▶ Company capability documentation and CV's of technical specialists
- ▶ Current corporate structure chart
- ▶ A copy of the standard contract or terms of engagement used
- ▶ Sample of typical scope contract documents
- ▶ A description of the risk management policies, procedures, appetite and matrix
- ▶ Circumstances/ claims/ litigation list
- ▶ Loss history

Trade sanctions

Liberty will not be deemed to provide cover nor be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose Liberty or its parent to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom, United States of America or other applicable jurisdiction.

Duty of disclosure

Before you enter into a contract of general insurance with an insurer, you have a duty, under the Insurance Contracts Act 1984 (Cth), to disclose to the insurer every matter that you know, or could reasonably be expected to know, that is relevant to the insurer's decision whether to accept the risk of the insurance and, if so, on 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 a 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 its business, ought to know; or
- ▶ as to which compliance with your duty is waived by the insurer.

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.

Subrogation

If Liberty grants indemnity under this policy, then Liberty shall be subrogated to all of the Insured's rights of recovery against any person, trustee, company or entity whether or not a payment has in fact been made and whether or not the Insured or Insured Person has been compensated in full for their loss. The Insured must, at its own cost, provide all reasonable assistance to Liberty (including, but not limited to giving information, signing documents and giving evidence) to help enforce those rights. The Insured must not do anything that may prejudice Liberty's position or potential or actual rights of recovery against any parties.

Claims Made insurance

This is a proposal for a 'Claims Made' policy of insurance. This means that the policy covers you for any claims made against you and notified to the insurer during the policy period or any applicable reporting period. The policy does not provide cover in relation to:

- ▶ any claim made, threatened or intimated against you prior to the commencement of the policy period;
- ▶ any claim or fact that might give rise to a claim, reported or which can be reported to an insurer under any insurance policy entered into before the commencement of the policy period;
- ▶ any claim or fact that might give rise to a claim, noted in this proposal or any previous proposal;
- ▶ any claim arising out of any fact you are aware of before the commencement of the policy period;
- ▶ any claim made against you after the expiry of the policy period.

However, the effect of Section 40(3) of the Insurance Contracts Act 1984 (Cth) is that where you become aware, and notify us in writing as soon as is reasonably practicable after first becoming aware but within the policy period, of any facts which might give rise to a claim against you, any claim which does arise out of such facts shall be deemed to have been made during the policy period, notwithstanding that the claim was made against you after the expiry of the policy period.

Inadequate space to answer

If there is inadequate space to answer any of the questions or make any comment or you need to disclose something to us because of your Duty of Disclosure, please attach a separate piece of paper to this proposal giving full details of additional information.

Important: Please answer all questions fully. All questions will be deemed to be answered in respect of all entities and persons to be insured under this policy. If the space provided is insufficient please include attachments on your company letterhead.

1. DETAILS OF THE PROPOSERS

- a. State the full name of all entities (including any subsidiaries) and persons to be insured (collectively referred to in this form as the 'Proposers').

- b. Describe the ownership structure of the entity required to be noted as Named Insured on the policy. Is it the parent company or a subsidiary of a global parent company? Provide further details.

- | | | |
|--|-----|----|
| c. Do the Proposers enter into franchise arrangements? | Yes | No |
|--|-----|----|

- d. Proposers contact details:

Name

Email

Telephone

- e. Company details:

Registered company name

Address

Country of registration

Date established

ABN/ NZBN

Website address

- f. During the last five (5) years, has there been:

- | | | |
|---|-----|----|
| 1. Any acquisition, merger or divestiture involving the Proposers?
If "Yes", to the above please provide further detail. | Yes | No |
|---|-----|----|

- | | | |
|--|-----|----|
| 2. Any change in capital structure of the Proposers? | Yes | No |
|--|-----|----|

- | | | |
|---|-----|----|
| 3. Any change in the name of the Proposers? | Yes | No |
|---|-----|----|

- | | | |
|--|-----|----|
| g. Have the Proposers ever traded under another name?
If "Yes", please provide details. | Yes | No |
|--|-----|----|

- h. State the number of Proposers staff (company resources only, do not include subcontractors)

In Australia / New Zealand

Outside Australia / New Zealand

Partners or directors

Professional / technical staff

Administration / support staff

Other staff

Total

Specify details of other staff

- i. What percentage (%) of employees have left the business in the last 12 months? %
- j. What is the average staff tenure?

2. NATURE OF BUSINESS

- a. Describe the nature of the Proposers' business.
- b. Describe the professional services provided by the Proposers for which insurance cover is sought (for example, technical advice, detailed design, product modification, inspection and certification etc).

3. FINANCIAL INFORMATION

- a. When does the Proposers financial year end? Date

- b. State the Proposers total revenue, including professional services revenue:

Source of Revenue	Last Completed Financial Year (actual)	Current Financial Year Forecast (estimate)	Next Financial Year (estimate)
Australia & New Zealand	\$	\$	\$
USA & Canada	\$	\$	\$
Other	\$	\$	\$
Total	\$	\$	\$

- c. If overseas revenue has been declared, please answer the following additional questions:

- | | | |
|---|-----|----|
| 1. Do the Proposers include overseas entities or subsidiaries? | Yes | No |
| 2. If "Yes", please state the locations and revenues by location for each overseas entity or subsidiary? | | |
| | | |
| 3. Do the Proposers purchase local policies for any of the overseas entities or subsidiaries?
If "Yes", provide details. | Yes | No |

- | | | |
|---|-----|----|
| d. Does any one client represent 25% or more of the Proposers total revenue?
If "Yes", please provide details. | Yes | No |
|---|-----|----|

- | | | |
|--|-----|----|
| e. Have the Proposers experienced any difficulties with cash flow, given consideration to potential insolvency or administration, or is there any reason to believe that the Proposers may experience financial distress during the term of the policy period? | Yes | No |
|--|-----|----|

If "Yes", please provide details.

- f. Provide the breakdown in total revenue requested below. For the purposes of this question, Professional Services means design, drafting, project management, technical advice etc.

Type of Activities	Last Completed Financial Year (actual)	Current Financial Year Forecast (estimate)
Revenue derived from Design & Construction contracts where the performance of Professional Services was provided by the Proposers.	\$	\$
Revenue derived from Design & Construction contracts where the Proposers had responsibility contractually for the performance of Professional Services, but those Professional Services were subcontracted to third parties.	\$	\$
Fees received for the performance of Professional Services only.	\$	\$
Fees received where the Proposers were engaged as Project/Construction Management Consultants.	\$	\$
Revenue where the Proposers are required to hold Professional Indemnity insurance but are not performing any Professional Services.	\$	\$
Revenue derived from construction only contracts where there was no requirement to hold Professional Indemnity insurance.	\$	\$
Other Revenue e.g. product sales, asset management etc*	\$	\$
Total	\$	\$

*Provide a detailed description of the activities from which Other Revenue is derived.

- g. Provide the percentage breakdown of the Proposers total revenue generated in the last completed financial year from each of the following sectors: If no revenue was generated in the last completed financial year, indicate if you have previously worked in or delivered projects in that sector.

For Residential and Commercial Sectors	Revenue % (last completed financial year)	Previously worked in or delivered projects (Yes or No)
Internal renovation/fit out	%	
Commercial low rise ≤ 3 floors	%	
Commercial high rise > 3 floors	%	
Residential low rise ≤ 3 floors	%	
Residential high rise > 3 floors	%	
Residential - assisted living/retirement facilities	%	
Retail	%	
Tunnelling	%	
Bridges	%	
Dams	%	
Jetties & Marinas	%	
Revetments/sea walls/land reclamation	%	
Marine platforms, foundations and structures	%	
Deep excavations/basements > 2 levels	%	
Ground improvement	%	
Water treatment plants (potable water)	%	
Waste water/sewage treatment plants	%	
Utilities - water and waste-water networks	%	
Onshore wind	%	
Offshore wind	%	
Coal & Natural Gas	%	
Hydroelectricity	%	
Photovoltaic Solar	%	
Thermal solar	%	
Natural gas - pipelines and compression	%	
Battery Energy Storage Systems	%	
Hydrogen production and storage	%	
High Voltage Transmission	%	
Utilities - Low voltage/telecommunications	%	
Mine Infrastructure (non-process)	%	
Mineral processing/refinement	%	
Petrochemical/ refinery/LNG	%	
Roads & Highways	%	
Heavy rail	%	
Light rail	%	
Manufacturing	%	
Other sectors	%	
TOTAL MUST BE 100%	%	

4. TRADE & ECONOMIC SANCTIONS

Does the Proposer, any of its subsidiaries or any of their directors, officers or employees have any operations or dealings, in a jurisdiction which is subject to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom, United States of America or other applicable jurisdiction?

Yes

No

If "Yes", please provide further information

5. SPECIFIC INDUSTRIES/RISK EXPOSURES

a. Please advise if the Proposers have undertaken any work in the specific industries:

1. PFAS/ Asbestos identification or remediation.

Yes

No

If "Yes", please provide details.

2. Coal mining or services for coal mining clients with a % of revenue in thermal coal.

Yes

No

If "Yes", please provide:

- the thermal coal revenue percentage; and
- more details.

b. Do the Proposers use off-shore engineering centres?

Yes

No

If "Yes", provide details.

c. Have the Proposers ever been involved in any form of joint venture?

Yes

No

If "Yes", provide details.

d. Have the Proposers participated in the development of property in the last five (5) years.

Yes

No

If "Yes":

1. was it for the Proposers or for a third party?

Proposers

Third Party

2. was it for residential or commercial development?

Residential

Commercial

3. did the Proposers retain an equity stake in the development?

Yes

No

e. Have the Proposers exited or do they propose to pursue any new markets/sectors or clients in the next two (2) years?

Yes

No

If "Yes" to either, please provide details.

- f. Do the Proposers:
- | | | |
|--|-----|----|
| 1. currently utilise any innovative technology or materials? | Yes | No |
| 2. plan to utilise any innovative technology or materials in the next two (2) years? | Yes | No |
- If "Yes" to either, provide details?

6. RISK MANAGEMENT

- a. Do the Proposers have formal risk management policies and procedures in place relating to:
- | | | |
|--|-----|----|
| 1. quality control and/or compliance | Yes | No |
| 2. the engagement of consultants, subcontractors and agents | Yes | No |
| 3. the identification and reporting of incidents or facts which might give rise to a professional liability claim | Yes | No |
| 4. peer review and dual sign-off or approval in respect of any aspect of the business or professional services provided by the Proposers | Yes | No |
| 5. the evaluation and approval of new clients, contracts and tenders | Yes | No |
| 6. the identification and management of conflicts of interest | Yes | No |
| 7. the training of staff on the above. | Yes | No |
- b. Do the Proposers hold ISO or any other third party accreditation for the risk management procedures they utilise?
- | | | |
|--|-----|----|
| | Yes | No |
|--|-----|----|
- If "Yes", which accreditation is held and when was this accreditation obtained?

- c. Describe the Proposers file management process

7. CONTRACTS AND CONTRACT MANAGEMENT

- a. List the five (5) largest contracts the Proposers have entered into over the last five (5) years

Client	Contract Period	Revenue	Services Provided
	From:		
	To:		
	From:		
	To:		
	From:		
	To:		
	From:		
	To:		
	From:		
	To:		

- | | | |
|--|-----|----|
| b. What is the average value of the Proposers contracts? | \$ | |
| c. Do the Proposers have their own standard form contracts or terms of engagement? | Yes | No |
| If "Yes", specify the percentage of contracts entered into that are: | | |
| 1. on the Proposers own terms and conditions | | % |
| 2. not on the Proposers own terms and conditions | | % |
| If "No", explain how terms and conditions are negotiated by the Proposers. | | |
-
- d. Do the Proposers limit their liability in contracts with clients? If so, how?
-
- e. How frequently do the Proposers exclude liability for consequential losses?
-
- f. How frequently do the Proposers accept liquidated damages?
-
- | | | |
|---|-----|----|
| g. Do the Proposers engage subcontractors to provide any professional services? | Yes | No |
| If "Yes": | | |
| 1. What percentage of professional services is provided by subcontractors? | | % |
| Specify the professional services subcontracted. | | |
| 2. Is proof of current professional indemnity insurance obtained from subcontractors? | Yes | No |
-
- h. What process is used to determine the reasonableness of liquidated damages accepted?
-
- | | | |
|--|-----|----|
| i. Are all non-standard contracts legally reviewed prior to signing? | Yes | No |
| If "No", who reviews them? | | |
-
- | | | |
|---|-----|----|
| j. Is legal counsel an in-house function? | Yes | No |
| If "No", who provides this service? | | |
-
- | | | |
|---|-----|----|
| k. Do the Proposers ever agree to hold harmless any third party for claims arising out of its services? | Yes | No |
| If "Yes", in what circumstances? | | |

- | | | |
|--|-----|----|
| l. Do the Proposers ever enter contracts with other parties (including but not limited to clients, subcontractors and joint venture partners) that limit the other parties' liability?
If "Yes", in what circumstances and what are the limitation amounts? | Yes | No |
|--|-----|----|

- | | | |
|--|-----|----|
| m. Do the Proposers ever agree to contract out of proportionate liability legislation?
If "Yes", in what circumstances? | Yes | No |
|--|-----|----|

- | | | |
|---|-----|----|
| n. Is the scope of Professional Services to be performed always clearly set out in the Proposers contract or terms of engagement?
If "No", explain how this is agreed? | Yes | No |
|---|-----|----|

8. CLAIM HISTORY

Important: Please Note - It is critical that you make appropriate enquiries of all persons and entities intending to be insured under this insurance before you answer Questions 8a - 8f.

- | | | |
|--|-----|----|
| a. Has any partner, director or employee of the Proposers or anyone else required to be specified as a Named Insured ever been subject to any inquiry or disciplinary proceedings?
If "Yes", provide details. | Yes | No |
|--|-----|----|

- | | | |
|---|-----|----|
| b. Has a professional liability claim ever been made against, or defect notice received by, the Proposers (or any previous company name used by the Proposers), or any past or present partner, director or employee of the Proposers?

If "Yes", provide details, including nature of the allegations, claimant, current status, amounts paid and reserve amounts. | Yes | No |
|---|-----|----|

- | | | |
|--|--|--|
| c. Provide details of any active or closed litigation that may be related to covered or uncovered Professional Services. | | |
|--|--|--|

- | | | |
|--|-----|----|
| d. Has a claim ever been made against the Proposers under the Building and Construction Industry Security of Payments Act 1999 (NSW) or any similar legislation in relation to the payment of subcontractors or suppliers?
If "Yes", provide details. | Yes | No |
|--|-----|----|

- | | | |
|--|-----|----|
| e. Are the Proposers, or any past or present partners, directors or employees aware of any facts which might give rise to a professional liability claim and/or inquiry against any of them?
If "Yes", provide details. | Yes | No |
|--|-----|----|

- | | | |
|--|-----|----|
| f. Have the Proposers had any safety or work health and safety incidents in the last five (5) years?
If "Yes", provide details. | Yes | No |
|--|-----|----|

9. INSURANCE HISTORY

- | | | |
|--|-----|----|
| a. Have any special terms, conditions or exclusions ever been imposed on any insurance policy held by the Proposers?
If "Yes", provide details. | Yes | No |
|--|-----|----|

- | | | |
|---|-----|----|
| b. Have the Proposers ever had any entitlement to indemnity under any insurance policy denied, or otherwise affected, due to non-disclosure, misrepresentation or breach of a policy provision?
If "Yes", provide details. | Yes | No |
|---|-----|----|

- | | | |
|--|-----|----|
| c. Has any insurer ever refused to provide terms or refused to offer renewal terms to the Proposers or has any insurance held by the Proposers ever been avoided or cancelled by an insurer?
If "Yes", provide details. | Yes | No |
|--|-----|----|

- | | | |
|--|-----|----|
| d. Have the Proposers purchased any Specific Project Professional Indemnity insurance policies?
If "Yes", provide details of each project and policy. | Yes | No |
|--|-----|----|

- | | | |
|---|-----|----|
| e. Do the Proposers currently hold a Professional Indemnity insurance policy?
If "Yes", provide a copy and advise the following: | Yes | No |
|---|-----|----|

Insurer:

Expiry date:

Sum insured: \$

Retroactive date:

Excess:

If "No", have the Proposers ever held Professional Indemnity insurance?
Provide details.

10. LIMIT OF LIABILITY

a. Limit of liability sought:

1. \$
2. \$
3. \$

b. Excess sought:

1. \$
2. \$
3. \$

11. OPTIONAL EXTENSIONS

Please note: If you request any of these extensions, Liberty is not obliged to offer them. If Liberty decides to offer any of these extensions it may charge an additional premium. Below are descriptions of the cover only. To fully understand the cover provided by these extensions you must read the relevant clause in the policy wording and/or seek advice from your insurance adviser.

a. **Collateral Warranties**

Would you like the policy to be extended to provide cover for civil liability the Insured incurs in respect of a Claim pursuant to a Collateral Warranty to the extent such civil liability arises out of the performance of Professional Services?

Yes No

b. **Fitness for Purpose Terms**

Would you like the policy to be extended to provide cover for civil liability the Insured incurs in respect of a Claim alleging a breach of any express fitness for purpose term in a contract to the extent such civil liability arises out of the performance of Professional Services by an Insured or Agent?

Yes No

c. **Joint Venture Partner's Liability**

Would you like the policy to be extended to provide cover for civil liability the Insured incurs in respect of a Claim arising out of the performance of Professional Services by a joint venture partner where the Insured has assumed such liability under a Joint Venture Contract with the joint venture partner?

Yes No

d. **Principal's Indemnity**

Would you like the policy to be extended to provide cover for civil liability the Principal is legally liable to pay in respect of a Claim made against it by a third party, which results directly from civil liability the Insured incurs in the performance of Professional Services?

Yes No

e. **Reinstatement**

Would you like the policy to be extended so that in the event the Limit of Liability is totally exhausted, it is reinstated once to cover future unrelated claims?

Yes No

12. STAMP DUTY AND TAX

Please be aware: With effect from 1 January 2018, unless Liberty or its agents receive a Small Business Declaration from you, at the time of entering into the contract of insurance, Liberty will charge stamp duty on risks that (1) occur within or partly within NSW or (2) cover NSW property.

a. For the purposes of Australian stamp duty calculations, please provide a breakdown of the Proposers total revenue generated in the last financial year as follows:

ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Overseas	Total
-----	-----	----	-----	----	-----	-----	----	----------	-------

b. Do the Proposers intend to claim an input tax credit for the proposed policy premium?

Yes No

If "Yes", what percentage of an input tax credit is being claimed?

%

13. DECLARATION

We, the undersigned, declare and acknowledge:

- that we are, after enquiry, authorised by all persons and entities seeking insurance, to make this proposal
- that after enquiry, all information supplied in this proposal and any supporting documents attached to this proposal or supplied separately, is true and correct and that until a Contract of Insurance is entered into, we are obliged to inform Liberty Specialty Markets of any changes to any information supplied or of any new information that is relevant
- that we understand Liberty Specialty Markets relies on the accuracy of the information and documentation supplied proposing for this insurance
- that if a Contract of Insurance is entered into, all information and documentation supplied in proposing for this insurance will be incorporated into and form part of such Contract of Insurance
- that we have read and understood the Important Notices which form part of this proposal
- that we understand that no insurance is in force until a Contract of Insurance is entered into, which is upon the Proposers acceptance of an offer by Liberty Specialty Markets, if any
- **that the proposed Insured is a small business with a turnover of less than AU\$2 million in the last financial year. Note that if 'no' is selected or this question is left blank, Liberty will charge stamp duty on risks that (1) occur within or partly within NSW or (2) cover NSW property.**

Yes

No

To be signed by either the chairperson or an executive officer.

Signature

Name (please print)

Title

Date

Please remember to attach the following documents with this form:

- The CV of each partner/director and/or key technical staff
- Company capability documentation and CV's of technical specialists
- Current corporate structure chart
- A copy of the standard contract or terms of engagement used
- Sample of typical scope contract documents
- A description of the risk management policies, procedures, appetite and matrix
- Circumstances/ claims/ litigation list
- Loss history