



# PROFESSIONAL INDEMNITY INSURANCE REAL ESTATE AGENTS PROPOSAL FORM

---

## Notice to the Proposed Insured (Pursuant to the provisions of the Insurance Contracts Act 1984)

### 1. Disclosure of Relevant Facts

#### Your 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*, to disclose to the insurer every matter which 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, on what terms.

You have the same duty to disclose those matters to 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 insurer;
- that is common knowledge;
- that the insurer knows or, in the ordinary course of business as an insurer, ought to know;
- as to which compliance with your duty is waived by the insured.

#### Non-Disclosure

If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce its 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.

#### 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 which might conceivably influence the insurer's consideration of your proposal.*

### 2. Claims Made Policy

This proposal is for a "claims made" policy of insurance. This means that the policy covers you for claims made against you and notified to the insurer during the period of cover. This policy does not provide cover in relation to:

- events that occurred prior to the retroactive date of the policy (if such a date is specified);
- claims made after the expiry of the period of cover even though the event giving rise to the claim may have occurred during the period of cover;
- claims notified or arising out of facts or circumstances notified (or which ought reasonably to have been notified) under any previous policy;
- claims made, threatened or intimated against you prior to the commencement of the period of cover;
- facts or circumstances which you first became aware prior to the period of cover, and which you knew or ought reasonably to have known had the potential to give rise to a claim under this policy;
- claims arising out of circumstances noted on the proposal form for the current period of cover or on any previous proposal form.

However, where you give notice in writing to the insurer of any facts that might give rise to a claim against you as soon as reasonably practicable after you become aware of those facts but before the expiry of the period of cover, the policy will, subject to the terms and conditions, cover you notwithstanding that a claim is only made after the expiry of the period of cover.

### 3. Average Provision

The policy provides that if a payment in excess of the limit of indemnity available under the policy has to be made to dispose of a claim, the insurer's liability for costs and expenses incurred with its consent shall be such proportion thereof as the amount of indemnity available under the policy has to be made to dispose of a claim, the insurer's liability for costs and expenses incurred with its consent shall be such proportion thereof as the amount of indemnity available under this policy bears to the amount paid to dispose of the claim.



#### **4. Important Privacy Notice And Consent**

This statement tells you how we collect, uses and discloses personal information.

"Personal Information" is information about and which identifies individuals, including, for example, an individual who is an insured and an individual who may simply be referred to in the application for cover or claim form (such as a director, claimant, witness etc).

It is important you read, understand and agree to the following;

##### **What we do**

We collect personal information from you to be able to provide you with our various services.

These may include, insurance broking, claims management, and, other forms of insurance services the may include, employee benefits, superannuation and investment advisory services.

Other purposes include helping to develop and identify products and services that may interest clients, developing, establishing and administering alliances and other arrangements with other organisations in relation to the promotion, administration and use of our products and services. .For more information on our services please contact us.

If we are not provided with the personal information we need, we or third parties we disclose the information to may not be able to provide appropriate services.

We disclose personal information to third parties who we believe are necessary to assist us in providing our services. For example, in arranging and managing your insurance needs we will usually provide information to insurers, other insurance intermediaries, our advisers such as loss adjusters, lawyers and accountants, and others involved in the claims handling process. We also provide it to purchasers of our business and related companies.

We limit the use and disclosure of any personal information provided by us to third parties for the specific purpose for which we supplied it (except with the individual's consent).

We take reasonable steps to ensure that whenever we collect, use or disclose personal information, it is accurate, complete, and up-to-date.

##### **What we expect of you**

When you provide us with personal information about other individuals, we rely on you to have made them aware that you will or may provide their information to us, the purposes we use it for, the types of third parties we disclose it to and how they can access it (as described in this document). If it is sensitive information we rely on you to have obtained their consent to the above. If you have not done either of these things, you must tell us before you provide the relevant information.

If we give you personal information, you and your representatives must only use it for the purposes we agreed to.

##### **Contacting us and opting out**

If we send you any information about services or products, or you do not want us to disclose your personal information to any other organisation (including related bodies corporate) you can opt out by contacting us.

If you would like a copy of our Privacy Policy or would like to seek access to your personal information, contact our office.

**NOTE: When completed, this application form will be used by Westminter Insurance Brokers to seek quotations from suitable insurers on your behalf.**



## IMPORTANT

- Please answer ALL questions fully. If there is insufficient space please provide details on your letterhead.
- Where provided, tick (3) appropriate box to indicate answer.
- The Applicant will be referred to in this Proposal as “You” or “Your”

### A. DETAILS OF APPLICANT

1. Full name of all entities to be insured. **(IT IS ESSENTIAL THAT YOU SPECIFY THE NAMES OF ALL ENTITIES INCLUDING SERVICE, ADMINISTRATIVE OR NOMINEE COMPANIES AND SUBSIDIARIES THAT YOU WISH TO BE COVERED BY THIS POLICY).**

	Date Established

2. Are you registered for GST purposes? If so please provide ABN and Input Tax Credit % to be claimed:

Australian Business Number (ABN)	Input Tax Credit (ITC) Entitlement Percentage
----------------------------------	---

(If more than one ABN applies to the Named Insured, please provide a separate list showing both ABN & ITC Details)

3. Address of head office or principal office.

ACN:	Phone:	Fax:
Email:	Website:	

4. Address(es) of branch offices or other locations.


5. Partners/Principals/Directors - Please supply the following details

Names/s	Age	Qualifications	Date Qualified	Period Practising as Partner/Principal/Director		
				Current Practice	Previous Practice	Total Years Experience

6. Staff Details:

(i) Partners/Principals/Directors	<input style="width: 40px; height: 20px;" type="text"/>	(iv) Property Managers	<input style="width: 40px; height: 20px;" type="text"/>
(ii) Sales Persons	<input style="width: 40px; height: 20px;" type="text"/>	(v) Office/Support Staff	<input style="width: 40px; height: 20px;" type="text"/>
(iii) Valuers	<input style="width: 40px; height: 20px;" type="text"/>	Total all Partners/Principals/Directors and staff	
			<input style="width: 40px; height: 20px;" type="text"/>



7. Employees and Employed Contracted Staff - Please supply the following details

Names/s	Age	Qualifications	Date Qualified	Period Practising in this profession		
				Current Practice	Previous Practice	Total Years Experience

Please enclose curriculum vitae or resumes for all Partners/Principals/Directors/Employees detailing qualifications and a summary of career experience if practicing as a Partners/Principals/Directors/Employees for less than 5 years.

**For Sole Proprietors Only – Questions 8 and 9**

8. State the experience of your assistants and their length of service.


9. What arrangements do you have to assist you during your temporary absence on business, leave or sickness, or unforeseen emergency?


**B. DETAILS OF PRACTICE**

10. Please provide details of the precise nature of activities or business.


11. (a) Has the name of the Practice ever been changed? Yes  No   
 (b) Has any other practice or business amalgamated or merged with you? Yes  No   
 (c) Have you purchased any other practice or business? Yes  No   
*If you have answered Yes to either 9a), (b) or (c), please supply details.*


12. Is any Partner, Principal or Director connected or associated (financially or otherwise) with any other practice or business? *If Yes, please supply details.* Yes  No


13. Are you a member of the REI or REI equivalent in your state or territory? Yes  No   
 If Yes, how many years have you been a member? \_\_\_\_\_

14. Are you licenced

15. Do you engage consultants, sub-contractors or agents? If Yes to any – please provide details Yes  No   
 (a) Do you insist they carry their own Professional Indemnity Insurance? Yes  No   
 (b) Do you enter into any hold-harmless agreements or otherwise waive any legal rights or entitlement which you may have against such consultants, sub-contractors or agents? Yes  No



16. Do you envisage any substantial changes in your activities or are there any major new operations contemplated during the next 12 months? Yes  No   
*If Yes, please supply details.*


17. Do you now or have you ever or are you likely to perform work outside of Australia, or work for clients located overseas? Yes  No   
*If Yes, please supply details.*


18. Are you or any Principal etc. currently, and/or have you ever been a member of any Joint venture? Yes  No   
*If Yes, please supply details.*


### C. RISK MANAGEMENT

19. Do you have a system in place for assessing potential clients *If Yes, please supply details.* Yes  No


20. Do you have a documented Risk Management Program (consistent with Australian Standards) which addresses your professional duty risk? *If Yes, please provide a copy.* Yes  No

21. Is the program independently reviewed/monitored audited? *If Yes, please supply details.* Yes  No


22. When was that program last reviewed and updated to ensure it complies with the current standards applying to your profession? \_\_\_\_\_

23. What are the highlights of the program which you have implemented to reduce/manage risk related to breach of professional duty


24. Is there a principal/partner/director responsible for the administration of risk management within your practice? *If Yes, please supply details* Yes  No


25. Do the directors/partners and qualified employees regularly attend continuing education programmes conducted by the professional associations of which you/they are members? Yes  No



## Complete the following if you are involved in Property Management

26. Do you request each landlord of any properties you manage to provide evidence of at least \$5M Public Liability insurance and follow-up to ensure that it is renewed annually? Yes  No
27. Do you ensure that you hold adequate authority from landlords to effect necessary repairs to managed properties to ensure tenants' "quiet enjoyment"? Yes  No
28. Do you use the standard Property Management and/or Strata Title Management agreements as recommended by the REI or equivalent in your state or territory? Yes  No
29. Do you maintain a Complaints/Repairs register to record all reports you receive about problems with the properties you are managing? Yes  No

### 30. Number of Properties Managed

Residential and Strata	
Commercial Properties	
Are there more than 10 shops managed in a retail shopping centre? If yes, please provide details of occupancy:	Yes <input type="checkbox"/> No <input type="checkbox"/>

## D. FINANCIAL DETAILS

31. (a) Please advise the date of your financial year end \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

(b) Please provide the amount of gross income/fees received from **real estate activities** for the following:

	Australia	Overseas
Previous Financial Year	\$	\$
Current Financial Year (Estimate)	\$	\$
Next Financial Year (Projected)	\$	\$

(b) Please provide the amount of gross income/fees received from **valuation activities** for the following:

	Australia	Overseas
Previous Financial Year	\$	\$
Current Financial Year (Estimate)	\$	\$\$
Next Financial Year (Projected)	\$	\$

32. **Occupational Activities** – Please divide the fee income above into percentages for your activities below.

### Real Estate Activities

Residential Sales	%	
Commercial Sales	%	
Residential Property & Strata Management	%	
Commercial Property & Strata Management	%	
Auctioneering	%	
Project Management	%	Provide Full Description & Details
Business Broking	%	Separate Addendum Required
Stock & Station	%	Provide Full Description & Details
Other:	%	Provide Full Description & Details
<b>Total</b>	<b>100%</b>	



**Valuation Activities**

Residential	%	
Commercial	%	
Industrial	%	
Tourism	%	
Rural	%	
Assets/GST/SD	%	
Strata Title	%	
Municipal (Rating Purposes)	%	
Plant & Equipment	%	
Issuance of Prospectuses	%	
Hotels/Licensed Premises	%	
Other:	%	Provide Full Description & Details
<b>Total</b>	<b>100%</b>	

**33. Mortgage Valuation Work**

Please state the percentage of valuations conducted for mortgage purposes		%
Please provide a percentage breakdown of the following lender types for whom you conduct mortgage valuations:	Banks/Building Societies/Credit Unions	%
	Solicitor Lenders	%
	Private Lenders	%
	Other	%
Please provide the names of <b>non-bank lenders</b> for whom your firm undertakes valuations:		

**34. Valuation Values** – Of the valuations conducted, please advise the following:

Average value of all properties valued during the last 12 months	\$
Maximum Value of any property in the last 36 Months	\$
Type of Property _____	
Purpose:	
Expected variation in the average values over the next 12 months	%

**NOTE: If any valuations have exceeded \$5,000,000 in the last 12 months, a separate addendum is required to be completed.**

35. For the purpose of calculating Government Charges, please provide the approximate percentage of your activities (based on fee income) applicable to each State, Territory and Overseas.

NSW	VIC	QLD	SA	WA	TAS	NT	ACT	O/S
%	%	%	%	%	%	%	%	%



### E. CLAIMS DETAILS

36. Has any Partner, Principal, Director or staff member ever been subject to disciplinary proceedings for professional misconduct? *If Yes, please supply details.* Yes  No


37. Have any claims for negligence or breach of professional duty been made in the last five (5) years against the Practice or any of their predecessors in business or any prior Practice of any of their present or former Partners, Principals or Directors, or have circumstances been notified to insurers that might give rise to a claim? Yes  No

*If Yes, please provide the following details in respect to each matter.*

Date Matter Notified	Name of Insurer (If Any)	Name of Claimant or Potential Claimant	Brief Description of Matter	Amount Paid or Estimate of Potential Liability	Is Matter Finalised or Outstanding?

38. Are any of the Partners, Principals or Directors, AFTER ENQUIRY, aware of any claim or circumstance that might give rise to a claim against the Practice or any prior Practice or any of their present or former Partners, Principals or Directors which matter is not referred to in Question 24 above? Yes  No

*If Yes, please provide the following details in respect to each matter.*

Name of Claimant or Potential Claimant	Brief Description of Matter	Estimate of Potential Liability

### F. DETAILS OF INSURANCE COVER

39. (a) Does the Practice presently carry or has the Practice ever carried, Professional Indemnity Insurance? Yes  No   
*If Yes, please supply details:*

Insurer: \_\_\_\_\_

Expiry Date: \_\_\_\_\_

Limit of Indemnity: \$ \_\_\_\_\_

(b) Has the Practice or any Partner, Principal or Director ever been refused this type of insurance, or had similar insurance cancelled, or had an application of renewal declined, or had special terms imposed? Yes  No   
*If Yes, please supply details.*


### G. APPLICATION FOR COVER

40. (a) Limit of Indemnity required \$ \_\_\_\_\_

(b) Deductible/Excess requested (Each & Every Claim) \$ \_\_\_\_\_



## H. DECLARATION

I the undersigned, after enquiry declare as follows:

- (1) I am authorised by each of the other Applicants to make this Proposal.
- (2) I have read and understood the Notice to the Proposed Insured on the front of this Proposal.
- (3) I have read this Proposal and the accompanying documents and acknowledge the contents of same to be true and complete.
- (4) I understand that, up until a contract of insurance is entered into, I am under a continuing obligation to immediately inform Insurers of any change in the particulars or statements contained in this Proposal or in the accompanying documents.
- (5) Where any answers given in the proposal form are NOT in my handwriting. I hereby confirm that all statements have been checked by me and are strictly true and complete.

Although the signing of this Proposal does not bind the Applicants to effect insurance, the Applicants acknowledge that the particulars and statements contained in this Proposal and in the accompanying documents shall be the basis of the contract should a Policy be issued; and further, the Applicants acknowledge that the Proposal and the accompanying documents will be incorporated in the Policy.

Name of Practice: \_\_\_\_\_

Signed: Partner, Principal or Director: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_