



## **BusinessGuard Proposal Form for Directors & Officers Insurance**

BusinessGuard Proposal Form for D&O Insurance Renewal

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### **AN IMPORTANT NOTICE**

#### **Your Duty of Disclosure**

Before you enter into a contract of general insurance with an Insurer, you have a duty 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 the Insurer.

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

#### **Non-Disclosure**

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

#### **Rights of Subrogation**

Where the 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 signed any such agreement may place your indemnity under this proposed contract of insurance at risk.

#### **When completing this Proposal Form...**

- Please answer all questions giving full and complete answers.
- 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.
- Please ensure that the Proposal Form is properly signed and dated.

**BusinessGuard Proposal Form For Directors & Officers  
Liability and Company Reimbursement Insurance**

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**Proposer Details**

1. Name of Proposer:

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2. Address of Head Office:

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3. Country of Registration:

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4. Date of incorporation/formation:

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5. Contact Email Address: (Mail Outs/Invitations)

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6. (a) How long has the Proposer continually carried on business?

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(b) State the principal business activities of the Proposer and its subsidiaries?

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7. Limit(s) of Liability being requested:

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8. (a) Give a complete list of all subsidiary companies including country of registration and percentage owned by Proposer. Please use attachment.

(b) Does the Proposer have any subsidiary(ies) incorporated/formed in the United States of America?..... ☐Yes ☐No

(c) Is the Proposer requesting Directors and Officers insurance for each subsidiary listed in (a) above?..... ☐Yes ☐No

If "no" to question 8(c) please list those subsidiaries for which insurance is not being requested.

**N.B. Hereinafter the Proposer and its subsidiaries shall be known as the "Company."**

9. (a) Please provide total (consolidated) annual gross assets of the Company from the most recent year end report:
- (b) Please provide total (consolidated) annual revenues/turnover of the Company from the most recent year end report:
- (c) Please provide the total (consolidated) net worth of the Company for the past two years:
- (d) Please provide the total (consolidated) net income of the Company for the past two years:
10. During the last five years has:
- (a) the name of the Proposer changed?..... ☐Yes ☐No
- (b) any acquisition or merger taken place of the Proposer or any subsidiary occurred?..... ☐Yes ☐No
- (c) any subsidiary been sold or ceased trading?..... ☐Yes ☐No
- (d) the Company undergone a management buyout, leveraged buyout or other change in capital structure of the Parent Company changed?..... ☐Yes ☐No

If "yes" to any of the above please give details.

11. Does the Company or any director or officer have Directors & Officers Liability Insurance currently in force?..... ☐Yes ☐No

If "yes" please state:

- (a) Insurer: \_\_\_\_
- (b) Indemnity Limit:
- (c) Expiry Date:
- (d) Premium:
- (e) Retention(s):

12. Has the Company ever had any Insurer decline a proposal or cancel or refuse to renew a Directors & Officers Liability Insurance?..... ☐Yes ☐No

If "yes" please give details.

13. Is the Proposer:

(a) Privately Held? ..... ☐ Yes ☐ No

(b) Publicly Traded (equity or debt)? ..... ☐ Yes ☐ No

14. If "yes" to question 13(b) then please specify the following for the Proposer:

Each country listed	Each securities exchange/market per country	Type of listing (direct, ADR and level, OTC)	Percentage of all securities traded	Type of security

(a) Is the Proposer publicly listed on an Unlisted Securities Market? ..... ☐ Yes ☐ No

(b) Traded in any other way?..... ☐ Yes ☐ No

Please specify:

15. Are any subsidiaries publicly traded (equity or debt)?..... ☐ Yes ☐ No

16. If "yes" to question 15 then please specify the following for each such subsidiary:

Name of subsidiary	Country of formation or incorporation	Each country listed	Each securities exchange/market per country	Type of listing (direct, ADR and level, OTC)	Percentage of all securities traded and type of security

17. Please list for the Company:

(a) Total number of shareholders:

(b) Total number of shares issued:

(c) Total number of shares (percentage) held by each director and officer of the Company (both direct and beneficial):

(d) Total number of shares (percentage) held by institutional investors:

- (e) All security holders, holding a 5% or more ownership interest in the Proposer, or any subsidiary that is publicly traded, giving the holder's name and the percentage held:

<u>Holder</u>	<u>Entity</u>	<u>Percentage of Ownership</u>
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18. (a) Is the Proposer or any subsidiary considering any acquisition, tender offer, merger, buy-out or other change in equity structure?..... ☐Yes ☐No
- (b) Is the Proposer or any subsidiary aware of whether any other company or entity is considering an acquisition, tender offer, merger, buy-out or other change in equity structure of which the Proposer or any subsidiary would be a target?..... ☐Yes ☐No
- (c) Is the Proposer or any of its subsidiaries intending either a new public offering of securities (equity or debt), or a change in the listing status of its existing securities, within the next year?..... ☐Yes ☐No

If "yes" to any of the above, please provide specific details.

19. (a) Have any Directors and / or Executive Officers of the Proposer or of any publicly traded subsidiary of the Proposer resigned or been replaced in the past 12 months?..... ☐Yes ☐No

If "Yes," who, title and why?

- (b) Is the Company considering a replacement or addition of any Directors and Officers of the Proposer or of any publicly traded subsidiary of the Proposer?

If "Yes," who, title and why?

20. (a) Who is the company's external auditing firm?

(b) Has the Company changed its external auditing firm in the past three years?..... ☐Yes ☐No

If "yes," why and when?

21. Does the Company have any plans to remove or replace its external auditor in the next 12 months?..... ☐Yes ☐No

If "Yes," why and to whom?

22. (a) Have all revenue recognition practices of the Company been approved by your existing external auditor, without qualification?..... ☐Yes ☐No

If "no," please provide specific details.

(b) Have the Company's external auditors recommended changes to the revenue recognition or other significant accounting practices in the past 12 months?.....☐Yes ☐No

(c) Has the Company changed or considered changes to the revenue recognition or other significant accounting practices in the past 12 months? .....☐Yes ☐No

(d) Is the Company considering changes to the revenue recognition or other significant accounting practices?.....☐Yes ☐No

If "yes," to (b), (c) or (d) please provide specific details.

23. Does the Company or any of directors and/or officers thereof have any interests in any partnerships or Special Purpose Vehicles or Entities?.....☐Yes ☐No

If "yes," please provide details.

24. Has the Company ever restated its financial results? ..... ☐Yes ☐No

If "yes," please provide details.

25. Does the Company anticipate having to take a significant one time charge to earnings, or restate earnings, within the next 12 months? ..... ☐Yes ☐No

If "yes," please provide details.

If "yes" to question 25, it is agreed that the proposed policy shall not provide any coverage for loss in connection with any claim, investigation, proceeding or action alleging or arising from such event, unless an endorsement is added to the proposed policy specifically extending coverage to such arising.

26. Does the Company have specific written corporate policies with respect to directors', officers' and employees' ability to purchase or sell the Company's stock, including the ability to exercise stock options? ..... ☐Yes ☐No
27. Does the company has any pension and provident fund schemes or retirement schemes which are or were a defined benefit scheme? ..... ☐Yes ☐No

If yes, please complete the Pension Trustee Questionnaire.

#### **Cover for the United States of America**

**Please complete questions 28-35 if the Proposer is requesting any coverage for claims brought in the United States of America or claims made elsewhere arising out of the Company's operations in the United States of America.**

28. (a) Please provide the total gross assets of the Company in the United States of America:
- (b) Please provide the total revenues of the Company derived from its activities in the United States of America:
- (c) Total number of employees in the United States of America and three US states with the largest number of such employees:
29. Does the Company have any ownership interest of 50% or less in any entity located or incorporated in the United States of America? ..... ☐Yes ☐No

If "yes":

- (a) Please provide in an attachment the name of the entity, type of industry, whether public or private, and if publicly traded, type of securities (equity or debt) and the name of exchange or market on which such securities are traded:
- (b) Does the Company have any representation on the Board of Directors, or as an Executive Officer, on any entity listed in question 29(a) above?..... ☐Yes ☐No

If "yes" to 29(b), please provide name of entity, name of individual and position.

30. Does the Company treat stock options as an expenses in its financial statements?..... ☐Yes ☐No
31. Does the Proposer or any of its subsidiaries have any stock, shares or debentures issued in North America?.....☐Yes ☐No
- If "yes":

(i) Are such stocks, shares or debentures publicly traded?..... ☐Yes ☐No

If "Yes," then list:

Name of entity	Type of security (equity or bond)	Each securities exchange /market per country	Type of listing (direct, ADR and level, OTC)	Percentage traded as a total of all issued share capital

32. Does the Company have an internal Audit Committee pursuant to U.S. statutes, rules or regulations?..... ☐Yes ☐No

If "no," why?

If "yes,"

(a) Does the Audit Committee meet more than four times a year?.. ☐Yes ☐No

(b) Has any member of the audit committee resigned or been replaced within the past two years?  
..... ☐Yes ☐No

If "yes" to question 32(b), who and why?

33. Is the company required to follow U.S. Generally Accepted Accounting Principles (GAAP)?..... ☐Yes ☐No

If "Yes," are the company's financial statements generally in accordance with US GAAP?..... ☐Yes ☐No

34. Is the Company or any director or officer of the Company presently, or has the company or any director or officer of the Company been in the past 5 years, the subject of a U.S. Securities and Exchange Commission (SEC) enforcement action or a U.S. Internal Revenue Service (IRS) enforcement action?..... ☐Yes ☐No

If "yes," please provide details.

35. Is the SEC or IRS investigating or requesting information from the Company of any of the Company's directors, officers or employees?..... ☐Yes ☐No

If "yes," please provide details.



The following questions are to be completed by all applicants.

## Claims Information

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36. Has there been or is there now pending any claim(s) or actions against or investigation(s) of: (i) the Company thereof; and/or (ii) any person proposed for insurance in his or her capacity as a director or officers of any Company?..... ☐Yes ☐No

A. If "yes," please provide details.

37. The directors or officers of the company, the General Counsel (or equivalent person) of the company and the risk manager of the company have no knowledge or information of any act, error or omission which could reasonably give rise to a claim, investigation or action under the proposed policy, except as follows: (Attach complete details.)..... ☐Yes ☐No

If the directors or officers, the General Counsel (or equivalent position) or the risk manager of the company have no such knowledge or information state "None":

**It is agreed that with respect to Questions 36 and 37 above, that if such claim, proceeding, action, knowledge, information or involvement exists, then such claim, proceeding or action and any claim or action arising from such claim, proceeding, action, knowledge, information or involvement is excluded from the proposed coverage.**

## Documentation

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38. Provide copies of the following for the Company.
- (a) Latest annual report.
  - (b) Latest audited financials
  - (c) Latest interim financials available
  - (d) Copy (certified by organization's Secretary) of the indemnification provisions of the charter and the by-laws. Also attach a copy of organization's indemnification agreement.
  - (e) Latest CPA management letter along with Proposer's responses to any recommendations made therein.

**If the Company has any securities (equity or debt) listed or traded in the United States of America, then:**

- (f) Latest 10K report filed with the Securities and Exchange Commission (SEC) (or similar state or foreign agency).
- (g) All registration statements filed with the SEC (or similar state or foreign agency) within the last twelve months.

- (h) Copies of financial statements certified by the CEO and CFO. All proxy statements and notices of annual meeting of stockholders within the last 12 months

**It is agreed that the Proposer will file with the Insurer, as soon as it becomes available, a copy of each registration statement and annual or interim report which the Proposer or any subsidiary may from time to time file with any local or foreign governmental, regulatory body or agency that regulates securities (including but not limited to the US Securities and Exchange Commission).**

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**SIGNING THIS PROPOSAL DOES NOT BIND THE PROPOSER TO COMPLETE THIS INSURANCE.**

## **Declaration**

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I declare on behalf of all insureds, after inquiry, that the statements and particulars in this supplemental proposal are true and no material facts have been misstated or suppressed. I agree that this proposal forms, any attachment, any information submitted therewith and any and all other information supplied or requested, shall form the basis of any Contract of Insurance effected thereon. I further undertake to inform Insurers of any material alteration to any information, statements, representations or facts presented in this proposal form occurring after the date this proposal form is signed and before the inception date of the proposed policy.

A material fact is one which would influence the acceptance or assessment of the risk.

All written statements and materials furnished to the insurer in conjunction with this application are hereby incorporated by reference into this application and made a part hereof.

**Signing this proposal does not bind the proposer to complete this insurance.**

Signed .....

Title .....  
CEO or Chairman of the Board of Directors  
(authorised signatory of the insured)

Company .....

Date .....

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