

CONTRACT REVIEW SERVICE

Our Philosophy

DUAL Australia Pty Ltd is pleased to provide our 'Contract Review Service' as an additional service offered in conjunction with the Professional Indemnity/Information Technology policies.

This valuable service provides our Insureds the benefit of 4 contract reviews during the Policy Period. This service is provided by our legally qualified Financial Lines claims team and involves a comprehensive review of the following client agreements:

- Contractual agreements used by the Insured
- Contractual service agreements issued by third parties prior to the Insured's engagement.

The service provided by our in house Financial Lines claims team includes as follows:

1. **Review the contract** to identify liabilities and exposures imposed on the Insured which MAY NOT BE covered by DUAL Australia Professional Indemnity/Information Technology Policy. These are likely to include contractual warranties and indemnities, hold harmless clauses and insurance clauses.
2. **Prepare a brief report:**
 - Identifying whether the liabilities and exposures are covered by the DUAL Australia Professional Indemnity/Information Technology Policy;
 - Suggesting appropriate changes to the contract to assist to bring it within the cover provided by DUAL Australia or other courses of action for the Insured.
3. **Provide a 15 minute telephone consultation** with the Insured to discuss the report and answer any questions about it.

Case Studies

Why Contract Review is an essential part to your business:

The following are some real case studies of where the Insured has been able to save on a significant exposure following the issues identified by DUAL through the contract review service.

Scenario 1 - Intellectual Property infringement in the United States

Saving the Insured from a \$1.5M exposure

Insured: Information Technology company with 30 employees and an annual revenue of \$6 million.

Scenario: A main part of the Insured's business is entering into contracts with Companies to install new software. The Insured was about to enter into a contract with an Australian company with much of the work to be undertaken on a mining rig in the United States

The Contract was governed by the laws of the United States of America. Claims brought in a court of law within the United States of America would be excluded under the Professional Indemnity policy.

Outcome: The Insured was concerned that if it did not obtain the necessary licensing rights to the software it could be sued for an intellectual property right infringement.

A review of the contract by DUAL identified the risk of claims arising in the United States of America. Accordingly the Insured's policy was extended to cover these types of claims saving the client millions of dollars in damages. 12 months later, a claim for damages of \$1.5M was issued against the Insured for breach of intellectual property. The claim was issued in the United States and further to the changes made following the contract review, this claim was now covered under the policy.

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Case Studies

Scenario 2 - Negligence claim against an architect

Saving the Insured from a \$300,000 exposure

Insured: Architectural firm with 10 employees and an annual revenue of \$5 million.

Scenario: The Insured architectural firm entered into contract to design an office building. Two years after the building is completed, a balcony collapsed causing serious injury to 10 people. A court found three parties including the Insured were responsible for faulty design.

A review of the contract prior to work beginning highlighted that the Insured indemnified the building owner for all losses caused by the building owner. DUAL recommended that the clause be deleted from the contract.

Outcome: The court when assessing damages found each of the three parties equally liable. A review of the contract that recommended deleting the indemnity clause saved the Insured the amount of \$300,000 that it would have had to pay the building owner as part its share of the court assessed damages.

Scenario 3 - Negligence claim against an engineer

Saving the Insured from a \$250,000 exposure

Insured: Engineering Company which employees 3 people with an annual turnover of \$2 million.

Scenario: The Insured Engineering Company was short staffed and hired a subcontractor to assist on a job with company B. Due to the subcontractor's gross negligence, a fire broke out in Company B's warehouse causing \$250,000 worth of damage.

Outcome: The Insured's Professional Indemnity policy excluded coverage in relation to the losses occurring as a result of it's consultants, subcontractors and agents. The contract review had previously identified this issue and the Insured then extended its Professional Indemnity cover to include it's subcontractors.

Scenario 4 - Breach of Contract Claim against Recruitment Company

Risk Mitigation

Insured: Recruitment Company Pty Ltd with 18 employees and an annual review of \$8 million

Scenario: The Insured won a tender to provide recruitment services to Bank ABC. The contract was worth \$10 million over 5 years. Three years into the contract the relationship between the parties soured. Bank ABC received offers from other recruitment companies with more competitive rates. Bank ABC's lawyers reviewed the contract and found that the Recruitment Company Pty Ltd had not complied with the insurance terms of the contract. This was an essential breach of the contract entitling Bank ABC to terminate the contract.

Outcome: If a contract review was undertaken, advice as to its insurance obligations under the contract would have been highlighted. This would ensure that the Insured complies with its insurance obligations under the contract or alternatively allow the Insured the opportunity to seek amendments to the contract.

Testimonials

What our clients and intermediaries are saying about our Contract Review Service

"Great job - AGAIN. How do you get it sorted out so quickly"
Grahame Vile, Director, BCRC (NSW) Pty Ltd

"It's easy to give good feedback when the services provided are top quality"
Harry Lauren, Director, Centro Chambers Insurance Brokers

"I appreciate your advice. It has helped me focus on the provisions I have in the Professional Indemnity Insurance policy. I have now been able to re-negotiate the insurance cover (on my contract)"
Gillian McFee, Gillian McFee and Associates Pty Ltd

"Thanks very much for your feedback, very helpful"
Luke Corbett, Ripe Intelligence