

## Commercial Litigation Insurance Proposal Form

### IMPORTANT NOTICE

1. You must complete this Proposal Form and have the information verified by your Solicitor. All questions must be answered to enable a quotation to be given. Answer questions to the best of your knowledge, information and belief. The form must be signed and dated by both you and your Solicitor.
2. Before an insurance contract is entered into you must provide information to an insurer about your case. The information in this form and in material provided in support of it (either with or following it), should be provided after you have made reasonable searches and enquiries. This will include enquiries of third parties where possible or, if you are not an individual from persons within your organisation. **An insurer will assume the information is provided on this basis unless you put them on express notice that it is not.**
3. The information should be provided in a reasonably clear and accessible way. **An insurer will not have notice of details which are provided within documentation but not specifically brought to the the relevant insurer's attention.**
4. You must notify us in the event that there is any material change in the answers given to the questions contained in this Proposal Form. In such circumstances they may, at their sole discretion, modify or withdraw any outstanding quotation.
5. **We will endeavour to access insurers that are regulated within the Australian Market or via Lloyd's of London. If we are unable to secure insurance in the Australian market and/or you choose to deal with an Unauthorised Foreign Insurer (UFI), we will provide you with a declaration and ask that you acknowledge the fact that the Insurer is neither an insurer regulated by APRA or a member of the Lloyd's market.**
6. The full cover, terms, conditions, exclusions and limitations are contained within the relevant insurer's Commercial Litigation Insurance Policy.
7. In this proposal "you/your" means the individual, company, partnership trust or association proposing for this insurance.
8. You should retain for your records a copy of the completed Proposal Form and details of any additional information provided.

**Please complete and sign this Proposal Form and return it to us together with a copy of the information requested at Section I.**

**The completion and signature of this Proposal Form does not bind you or the insurer to enter into a contract of insurance.**

Please take time to read and understand this note before completing this proposal form:

When completing this form (and in providing any subsequent information) please be aware the purpose of asking these questions is to enable the insurer to obtain the best information you have about the prospects of success of your claim, including any potential difficulties. This will enable the insurer to make an informed assessment of your application for cover.

## Contents

### A: Information about you

How many Applicants for cover are there?	
Name of each Applicant	
Address of each Applicant	
Legal status of each Applicant	
Are you/will you be the Claimant or Defendant's?	

### B: Information about your representatives

Firm name	
Date of instruction	
Address	
Solicitor's name	
Supervisor/Partner's name	
Counsel's name	
Chambers	
Expert's name	

### C: Costs estimates and cover sought

Please provide these summary of estimates for both own and Opponent's costs.

Estimate of costs from outset to the end of trial	Incurred	Estimated	Total	Cover sought
Solicitors \$ \$			\$	N/A
[A] Own disbursements \$ \$			\$	\$ [A]
[B] Counsel \$ \$			\$	\$ [B]
Total own costs estimate \$ \$			\$	N/A
[C] Estimate of Opponent's costs \$ \$			\$	\$ [C]
Total cover sought (total [C] plus [A] and [B] as relevant)				£

Have you provided an own costs budget to support the summary figures above? Please note that the provision of such a budget would be a subjectivity of any quote.

Has the Opponent filed a costs budget with the Court? If so, please provide a copy.

Do you know how your Opponent is funding their costs?

How will you fund your costs?

Have you made or do you envisage making an application for third party funding? If so please provide details of the funding arrangements

Please provide details of any existing or prospective CFAs:		Date or envisaged	% paid	% conditional	% success fee/uplift
		Y/N			
	Solicitors				
	Counsel				

### D: Information about your Opponent

How many Opponents are there?	
Name of each Opponent	
Address of each Opponent	
Legal status of each Opponent	

### E: Information about your Opponent's representatives

Firm name Address Solicitor's name/are there or do you anticipate there may be more than one firm instructed for your Opponent(s)?	
Supervisor/Partner's name Counsel's name	
Chambers	
Expert's name	

F: Information about your claim

F.1 Claims/claim types and current stage

What is the claim type?

If there is more than one claim type,

please

give details of each.

Very briefly, (1 or 2 sentences) what is the claim about? How does it arise?

When did the cause (or causes) of action arise?

When will the claim(s) become limitation barred?

Are there any limitation issues?

Has there been pre-action protocol correspondence?

Date of letter of claim?

Date of letter of response?

If not please explain why (e.g. still collating information etc.)

Have proceedings been issued?

If so, please state the:

- Court or Tribunal,
- Track allocation,
- Stage the claim has reached

If not, please state which Court or Tribunal is it envisaged the claim will be issued?

Please give the action heading and number or the proposed action heading and Court details.

Do you envisage any pre action applications (with or without notice) or any interim applications, including applications that include any third party? Please give details.

Is a Security for Costs application

envisaged? Have dates been fixed for the

Costs

Management Conference or trial

What needs to be established to succeed on liability and on quantum for each head of claim?

Please refer to relevant statute/case law.

Please provide details of any connected/parallel/overlapping litigation you are aware of whether you are involved in it or not.

Have you been involved (in a personal or other capacity) in any litigation, arbitration or Tribunal proceedings during the past 10 years? If so, please provide brief details.

## F.2. Evidence

What evidence will be required to establish each claim and how will it be provided? Please provide brief comments on the importance of each of the following

Documents

Witness evidence

Expert evidence

What is the likely extent/importance of disclosure?

Are there any key documents that support the claim?

What will be the extent and importance of witness evidence including expert evidence?

Who are the anticipated witnesses?

Have draft statements been obtained?

Do you have the necessary evidence to support the claim (liability and quantum)?

If not what needs to be obtained? Could obtaining it prove problematic?

Is any of the evidence unhelpful? Is there a reason to anticipate unhelpful evidence may emerge?

## F.3 Damages/Quantum

Assuming success on liability, what do you/your legal team consider to be,

- The maximum extent of the claim/ damages achievable (putting it at its highest). How has that figure been arrived at?
- The minimum extent (putting it at its lowest) of the claim/damages achievable. How has that figure been arrived at?
- The likely achievable sum (or range) on the claim(s)?

Please allow for the effect of any counterclaim when providing these numbers.

Are you making any claim that would not result in a financial award?  
If so, please provide details.

#### F.4 Causation/remoteness, mitigation, contributory negligence etc.

Please highlight any potential issues.

What points (if any) has or do you anticipate your Opponent may raise?

#### F.5 Opponent's response

Has the Opponent provided any response to the claim(s)/letter of response or defence/other position statement been received?

- Please provide a brief synopsis of the defence position/anticipated position.

#### F.6 Counterclaim

Is there a counterclaim or is a counterclaim envisaged?

If so is this a case where success on the claim will mean the counterclaim will fail and vice versa or what is the position?

#### F.7 Prospects

Liability – what is your Solicitor’s assessment of the likelihood of you succeeding in establishing liability on each separate head of claim and overall?

Quantum – with reference to the responses at F.3, what is your Solicitor’s assessment of the prospects of you being awarded:

(a) The maximum achievable amount, and (b)

At

least the minimum amount?

F.8 Settlement

What are your objectives and on what terms might you be prepared to settle?

Do you consider prospects for settlement are reasonable?

Provide details of any offers of settlement made by you.

Provide details of any offers of settlement made by your Opponent.

Would you be prepared to agree to mediate

with

your Opponent? If not, why not?

F.9 Costs awards

Provide details of any costs orders made in the litigation/dispute to date. Have any costs been awarded in favour of the Opponent?

Assuming ‘success’ on all or part of the claim, is there any reason to think a costs award in your favour may be reduced or that there may be a split award of costs?

(E.g. if a head of claim does not succeed or does not succeed against one or more of the Opponents etc.)

F.10 Enforcement prospects

What steps have you taken to ascertain the financial standing of your Opponent to ensure that any award of damages or costs you may achieve will be met?



Please provide details of any assets of the Opponent you have identified as likely to be available for the purpose of enforcement.

If your Opponent is or may be insured, please provide details of the information you have.

If enforcement against a property is envisaged, please provide a short summary schedule/table of the information you have on the property/properties including likely available equity.

G: Other

Do you have any other legal expenses insurance available to cover your costs and those of your Opponent or any other parties in this litigation?

Have you checked your position?

Have you approached any other insurer or broker in relation to this claim?

Every claim is different. Are you or your solicitor aware of any aspect of your claim and its prospects of success and or the likelihood of your making a claim under any policy, that has not been brought to our attention in the responses that you have provided above?  
If 'Yes' please provide us with details.

Do you or your solicitor consider that any further information is required for a meaningful assessment of your claim at this time?

If 'Yes' please provide us with details.

## H: Available Documents

	X	Comments
Signed proposal	<input type="checkbox"/>	
Your Solicitor's opinion together with a case summary	<input type="checkbox"/>	
Counsel's opinion	<input type="checkbox"/>	
Particulars of Claim	<input type="checkbox"/>	
Defence response	<input type="checkbox"/>	
Any other statements of case served	<input type="checkbox"/>	
Court orders to date	<input type="checkbox"/>	
Costs budget	<input type="checkbox"/>	
Copies of any costs estimates that have been provided and/or filed with the Court	<input type="checkbox"/>	
CFA with your representatives	<input type="checkbox"/>	
Expert reports (including your Opponents' if available)	<input type="checkbox"/>	
Any report of any credit agency or similar in respect of the financial standing of your Opponent and any other evidence of the Opponent's financial position.	<input type="checkbox"/>	

## PRIVACY AND DATA PROTECTION NOTICE

### 1. Data Protection

Any and all information supplied by you or on your behalf on or in connection with this Proposal Form and/or collected by VIE Legal Insurance Pty Ltd in connection with this Proposal Form (which information may include personal information, as defined by the Privacy Act 1988 (the Act) and sensitive information, which is also defined by the Act and includes medical history and criminal convictions) will be held and used for some or all of the following purposes:

- processing your application form;
- administration (including claims handling);
- risk assessment;
- research and statistical purposes;
- marketing purposes; and
- crime prevention

Your personal details will only be disclosed to third parties if it is necessary for the entering into and/or performance of your contract of insurance.

By signing this Application Form you agree to your information being used in this way.

Where applicable we may rely on employee and related bodies corporate exemptions that are available to us under the Privacy Act when using or disclosing personal information.

We may deal with third parties, such as service providers or business partners overseas. As a result, your personal information may be disclosed to a recipient in a foreign country, including but not limited to the United Kingdom, the Republic of Ireland and the United States of America.

We have an obligation ("the Obligation") to take reasonable steps, in the circumstances, before disclosing personal information to an overseas recipient to ensure that the overseas recipient does not breach privacy laws in relation to that information.

If you consent to the disclosure of your personal information to an overseas recipient:

- the Obligation does not apply; and
- we will not be accountable and you will not be able to seek redress against us under the Privacy Act if the overseas recipient handles your personal information in breach of the APPs. You might not be able to seek redress for breach of privacy laws, if applicable, against the overseas recipient depending on the overseas jurisdiction.

By supplying personal information to us, you consent to the disclosure of your personal information to an overseas recipient and agree that the Obligation does not apply. You acknowledge, and agree to, the risk associated with the disclosure of your personal information to overseas recipients.

Should you wish to receive a copy of the information we hold on you, please contact us at the address shown below:

VIE Legal Insurance Pty Ltd  
Level 35  
One International Towers  
100 Barangaroo Avenue  
Sydney  
NSW 2000

Should you wish to make a complaint about a breach of your privacy, you can refer to the matter to the Australian Privacy Commissioner at the details shown below:

Telephone: 1300 363 992  
Fax: +642 9284 9666  
Mail: GPO Box 5218 Sydney NSW 2001  
Email: enquiries@oaic.gov.au

We take your privacy very seriously and will investigate any complaints made to the Australian Privacy Commissioner.

#### DECLARATION

I declare that:

(i) I have read the Data Protection Notice above, and understand that my data will be used as explained in that notice. I also understand and agree that the provision of any sensitive personal data is conditional for the policy to be provided, and for the processing of any claims.

(ii) the contents of this proposal form are, to the best of my knowledge and belief, true and complete and that in presenting this proposal and supporting documentation and information I/we declare that I/we have taken reasonable care that we have not made a misrepresentation and that the information provided represents a fair presentation of this risk, and I/we also confirm I/we have full authority to make this application.

(iii) I will provide the relevant insurer with any additional information they require in order to consider my proposal for Commercial Litigation Insurance on condition that it is treated in confidence. I confirm that I and/or my legal representatives will meet (whether in person or by telephone) with the relevant insurer to discuss my proposal should they request us to do so.

Client

Signed: Name:

Status: Date:

(iv) In addition to the above, I confirm that my firm (named at 'B' above)  
(1) acts for the Applicant(s) for cover named at 'A' above,  
(2) has completed all the necessary client identification and know your client diligence and source of funds diligence (including relevant sanction searches) in line with UK, USA, and other applicable anti- money laundering legislation, to the requisite regulatory level, in relation to each Applicant, and is content with the outcome of that diligence,  
(3) agrees that insurers presented with this application may rely on the confirmation in point 2,  
(4) will provide relevant copy documents and information to relevant insurers upon request.  
and that I am authorised to make this declaration on behalf of my firm.

Legal Representative for the Applicant(s) for cover named at 'A' above.

Signed: Name:

Date:

Vie Legal Insurance Pty Ltd

VIE Legal Insurance Pty Ltd, whose registered office is at L24, 3 Int'l Towers, 300 Barangaroo Avenue, Sydney, NSW 2000 (AFS Representative Number 1263727) is an Authorised Representative of United Insurance Group Pty Ltd ("UIG") (Licence Number 327131).UIG are authorised and regulated by ASIC.