

# Proposal Form Management Liability



Arranged through ASR Underwriting Agencies Pty Ltd Underwritten by Certain Underwriters at Lloyd's

## IMPORTANT NOTES

PLEASE READ THESE GUIDANCE NOTES BEFORE COMPLETING THE PROPOSAL FORM. WHERE FURTHER INFORMATION IS REQUIRED PLEASE ATTACH IT TO THIS PROPOSAL FORM.

This proposal must be typed, or completed in ink and signed and dated by such person (Proposer/You/Your) who must be of legal capacity and authorised by the Proposer to seek a quotation for Liability Insurance and any additional coverage that may be provided by the Insurer. Please answer every question fully, and state "NIL" or "NONE" as applicable. Incomplete answers may not be accepted and can delay quotation.

Should there be insufficient room in the Proposal Form for full details, please attach further information on signed and dated sheets, wherever possible following the same format and paragraph number.

It is the duty of the Proposer to disclose all material facts to Insurers. Where this is omitted, the Insurers may avoid their obligation under the Policy.

For the purpose of the Proposal and for all purposes relating to any policy issued pursuant to this Proposal, a 'material fact' shall be deemed to be one that would be likely to influence an Insurer's judgement and acceptance of Your Proposal.

Upon acceptance of the Insurers' terms and conditions and payment of the premium, all information provided by the Proposer together with the guidance notes will be deemed to be incorporated in the contract between Insurers and the Proposer.

## Claims Made Policy

This Proposal Form is for a policy issued by ASR Underwriting Agencies Pty Ltd on a claims made and notified basis. This means that the policy only covers claims first made against You during the period of insurance and notified to ASR Underwriting Agencies Pty Ltd in writing during the period of insurance. The policy does not provide cover for any claims made against You during the period of insurance if at any time prior to the commencement of the period of insurance You were aware of facts which might give rise to those claims being made against You.

Section 40(3) of the *Insurance Contracts Act 1984* provides that where the Insured gives notice in writing to the Insurer during the period of insurance of facts that might give rise to a claim against the Insured, the Insurer cannot refuse to pay a claim which arises out of those facts, by reason only that the claim is made after the period of insurance has expired.

## Your Duty of Disclosure

Before You enter into an insurance policy, it is Your duty to disclose every matter that You know, or could reasonably be expected to know, to be relevant to the Insurer's decision whether to give You insurance cover and, if so, on what terms.

### Consequences of Non-Disclosure or Misrepresentation

If You breach Your duty of disclosure; the Insurer(s) may be able to refuse to pay a claim or to cancel Your policy. The same applies where You have made a misrepresentation, if fraudulent (ie. done deliberately for the purpose of obtaining insurance, or for obtaining it on favourable terms) the Insurer(s) may be able to 'avoid' Your policy. This means that the Insurer(s) can treat the policy as never having existed. Non-disclosure or misrepresentation in relation to one policy may affect Your ability to obtain other insurance in the future.

If You are unsure whether some information may be disclosable or not we suggest You call Your insurance broker and seek guidance.

Should there be any material change in the answers given to the questions contained in the Proposal Form prior to the inception of the Policy, the Proposer must notify the Underwriters and, at the sole discretion of the Underwriters, any outstanding quotations may be modified or withdrawn.

Upon acceptance of the Underwriter's terms and conditions and payment of the premium, all information provided by the Proposer, including this Proposal Form, addenda (if applicable) and the guidance notes will be deemed to be incorporated in the contract between the Underwriters and the Insured and shall be deemed the basis of the contract of insurance.

## Excess

The policy provides that You will be required to bear a specified amount of all claims and this is for each and every claim made against You including defence costs. We will let You know when the excess is payable.

## Privacy

We are committed to protecting Your privacy. We only use the personal information You provide to us to quote on and insure this risk. We only provide Your personal information to our Insurer(s) and Reinsurers (and their representatives) and those we appoint to assist us with claims under Your policy (ies). We do not trade, rent or sell Your information. Some or all of the Insurer(s) and Reinsurers may be overseas.

If You don't provide us with complete information, we cannot properly quote for Your insurance and we cannot insure You. You can check the information we hold about You at any time. For more information about our Privacy Policy, ask us for a copy. Copies of the Proposal Form should be retained for Your own records.

## Your Legal Liability

If you take out a Liability cover section, the financial risk of court awards through litigation is ever increasing and we recommend that You select a Limit of Liability that takes into account the future cost of claims including legal fees and costs of defence. Even higher limits are available than your current limit if required. Defence costs are included within the limit of liability, when you take out a Liability cover section.

## Waiver of Rights

If You have entered into an agreement with another party, which prevents your Insurer from taking recovery action for compensation from that party it may affect Your rights to cover under this Policy. Should You now be a party to such an agreement or be requested to enter such an agreement in the future, please advise your Broker in writing so we may notify the Insurer.

Broker

Contact Name

Phone

Fax

Email

## Information

1. Full Name of the Company

2. Address of the Registered Office of the Company

3. Company Website Address

4a) Was the Company incorporated in Australia with limited liability, more than 24 months ago?

yes  no

4b) Is the Company (please tick ONE option from i - vi below):

- i Private
- ii Not-for-Profit association or registered charity
- iii Publicly listed on any stock exchange or securities market
- iv a Strata Company
- v a Limited Liability Partnership (LLP)
- vi Other (please give details below)

4c) Can the Company be described as, or is involved in, any of the following activities:

yes  no

- |                                      |                                   |                          |
|--------------------------------------|-----------------------------------|--------------------------|
| aviation                             | healthcare                        | hedge fund manager       |
| contract management services         | nursing homes / hospitals         | insurance or reinsurance |
| information technology               | pharmaceuticals                   | investment company       |
| oil, gas, mining, mineral extraction | tobacco                           | investment management    |
| forestry                             | utility (electricity, gas, water) | investment trust         |
| recruitment                          | bank                              | merchant bank            |
| advertising                          | credit union                      | mortgage company         |
| broadcasting                         | financial institution             | mortgage lender          |
| media                                | fund manager                      | savings, loans           |
| publishing                           | hedge fund                        | stockbroker              |
|                                      |                                   | venture capitalist       |

*If, none of the above, describe the nature of the Company's operations &/or industry involved in:*

4d) Does the Company have any Employees or Locations or Assets or Shares or Funds or Subsidiary Companies domiciled or incorporated in the United States and/or earn Gross Receipts in the United States of America in excess of 30% of total Gross Receipts?

yes  no

4e) In the last two consecutive years, has the Company published reports and accounts in the two latest consecutive financial years, which show:

- i unqualified reports by independent auditors or accountants
- ii net profit (i.e. after tax, interest, etc)
- iii any and all of its debts can be paid as they fall due
- iv no litigation or disputes or contingent or extraordinary liabilities
- v positive net worth (i.e. both balance sheets show that assets exceed liabilities)

yes  no

*If, no to any of 4e) i - v above please provide further details:*

4f) Please state

Gross Total Revenue

Gross Total Assets

Total Employees (excluding volunteers)

5. After full and reasonable investigation, does the Proposer and Directors and Officers and the Company and the employees and the trustees and the committee members have any knowledge of the following:

- a) any intention for the Company to be acquired by, or merged with, any other entity, or for there to be any other material change in the ownership of the Company (including but not limited to, a management buy-out or an offering of its share capital or securities)?
- b) any event of the sort referred to in question 5a) having taken place in the last 24 months?
- c) any claims, or circumstances which may give rise to a claim, or any disciplinary proceedings or any complaints having been threatened or intimated or made (successfully or otherwise) against the Directors or Officers or the Company or the employees or the trustees or committee members or the Proposer in respect of the legal liabilities or loss to which this Proposal Form relates?

yes  no

*If Yes, please provide details:*

## Information

6. Is insurance sought for claims in respect of:

6a) Legal liabilities which fall within the legal jurisdiction of the United States of America? yes  no

6b) Employee benefit and pension plans? (If 'Yes' then answer question 7) yes  no

6c) Employment Practices Liability Entity Cover? (If 'Yes' then answer question 8) yes  no

**7. Only answer if the answer to 6b) is Yes:**

Can the Proposer confirm that all employee benefit and pension plans have no more than 5% of their investments in the shares or other securities of the Company and that these plans are adequately funded and are neither in deficit or 'run-off' and are approved without qualification by an appropriate independent third party? yes  no

**8. Only answer if the answer to 6c) is Yes:**

a) Does the Company have written procedures, contracts of employment, personnel files, and employee handbook? yes  no

b) Does the Company minute all grievance and disciplinary hearings? yes  no

c) Does the Company expect there to be any redundancies or other reductions amongst its employees in the next 24 months? yes  no

d) Has there been more than 10% of the employees of the Company resign, or made redundant, or dismissed during the last 24 months? yes  no

e) Does the Company plan to make any amendments to the employee benefits package in the next 24 months nor has done so during the last 24 months? yes  no

f) Does the Company pay an average annual gross salary of more than AUD500,000 to any full-time employee? yes  no

9. Does any person or entity hold (beneficially or otherwise) more than twenty five percent (25%) of the issued share capital of the Company? yes  no

If Yes, please provide details of the shareholder(s) and percent shares owned:

10. Please select which of the following Limits of Indemnity are sought for quotation:

AU\$1,000,000  AU\$2,000,000  AU\$5,000,000  AU\$10,000,000  Other

## Declaration

The Proposer declares and warrants that after full and reasonable enquiry and investigation and to the best of his/her knowledge and belief all statements and particulars contained in this Proposal Form and (if applicable) any addenda hereto are true and that no information whatsoever has been withheld which might increase the risk of the Underwriters or influence the acceptance of this Proposal Form and that should the above particulars alter in any way confirms that he/she will advise the Underwriters as soon as is practicable.

The Proposer further declares and warrants that he/she has been duly authorized by the Directors and Officers and the Company to act as their agent in respect of all matters of any nature or kind relating to or affecting this Proposal Form and the Policy.

The Proposer understands that failure to disclose any material facts which would be likely to influence the acceptance and assessment of the Proposal Form may result in the Underwriters refusing to provide indemnity or voiding the Policy in every respect.

The Proposer hereby agrees and accepts that this Proposal Form and (if applicable) addenda hereto shall be the basis of the contract of insurance if entered into.

The Underwriters are hereby authorized, at their absolute discretion, to make any investigation and enquiry in connection with regard to this Proposal Form as they deem necessary.

FOR AN ON BEHALF OF (Name of Company)

SIGNATURE

Dated

NAME OF SIGNATORY

Position \*

\* Should be the Chairman, Managing Director or Chief Executive of the Company