

## Duty of Disclosure

### 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 that you know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept the risk of insurance and, if so, on 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 its business, ought to know;
- as to which compliance with your duty is waived by the insurer.

### 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.

### Claims Made Policy

This declaration is for a 'claims made and notified' policy of insurance.

This means that the Insuring Clause responds to:

- claims first made against you during the policy period and notified to the insurer during the policy period, provided that you were not aware at any time prior to the policy inception of circumstances which would have put a reasonable person in your position on notice that a claim may be made against him/her; and
- written notification of facts pursuant to Section 40(3) of the Insurance Contracts Act 1984. The facts that you may decide to notify, are those which might give rise to a claim against you. Such notification must be given as soon as reasonably practicable after you become aware of the facts and prior to the policy's period of cover has expired. If you give written notification of such facts the policy will respond even though a claim arising from those facts is made against you after the policy has expired. For your information, Section 40(3) of the Insurance Contracts Act 1984 is set out below:

*"S40(3) Where the insured gave notice in writing to the insurer of facts that might give rise to a claim against the insured as soon as was reasonably practicable after the insured became aware of those facts but before the insurance cover provided by the contract expired, the insurer is not relieved of liability under the contract in respect of the claim when made by reason only that it was made after the expiration of the period of insurance cover provided by the contract."*

When the policy period expires, no new notification of facts can be made on the expired policy even though the event giving rise to the claim against you may have occurred during the policy period.

You will not be entitled to indemnity under your new policy in respect of any claim resulting from an act, error or omission occurring or committed by you prior to the retroactive date, where one is specified in the policy terms offered to you.

### Subrogation

The policy contains a provision that has the effect of excluding or limited the insurer's liability in respect of a claim where the insured had foregone, excluded or limited a right of recovery or contribution.

### Non-Renewable Policy

For the purposes of section 58 of the *Insurance Contracts Act 1984*, if a policy is issued, this policy is non-renewable and will expire at the conclusion of the policy period. Should the insured require coverage beyond the expiry of the policy period, the insured must complete a new proposal form and the insurer may provide a new contract, the terms and conditions of which will be negotiated at the time.

# Directors & Officers Liability Insurance Proposal Form

## Guidelines to help you complete this Proposal Form

1. Failure to disclose all material information that is likely to influence the acceptance of the risk or the terms applied could invalidate the insurance. If you are in any doubt as to whether any information is material, it should be disclosed.
2. Where the space provided is insufficient for your replies, please provide these separately and attach to this Proposal Form.
3. Reference to Proposer in this Proposal Form means:
  - the Association and all subsidiaries; and
  - the officer bearers of the Association and all subsidiaries.
4. Reference to "North America" in this Proposal Form means the USA and Canada and their respective territories and possessions.

### 1. Details of the Proposer

a. Name of Company	Country of registration
b. Name of Subsidiaries	Country of registration

- c. Principal address .....
- .....
- d. Location of all other offices.....
- .....
- .....
- e. Website address .....
- f. Date Proposer established.....

### 2. Business of the Company and its subsidiaries

Please state the nature of the business of the Company and its subsidiaries.

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### 3. Type of organisation

What type of organisation is the Company? (tick as applicable)

Public company       Proprietary company       Company limited by guarantee

Not-for-profit       Other

(please specify): .....

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<b>4. Details of ultimate holding company</b>				
Is the Company a subsidiary of another company? <span style="float: right;">Yes <input type="checkbox"/> No <input type="checkbox"/></span>				
If Yes, please advise:				
Name of ultimate holding company	Country of registration	Website address		
<b>5. Details of previous name</b>				
Has the Company previously carried on business under any other name(s)? <span style="float: right;">Yes <input type="checkbox"/> No <input type="checkbox"/></span>				
If Yes, please provide details. ....				
<b>6. Details of stock exchange listing</b>				
Is the Company or its subsidiaries listed on any stock exchange? <span style="float: right;">Yes <input type="checkbox"/> No <input type="checkbox"/></span>				
If Yes, state which exchange(s). .... Ticker symbol .....				
<b>7. Details of employees, locations, revenue and assets</b>				
Please state Company's and its subsidiaries' employees, locations, revenue and assets as follows:	Number of employees	Number of locations	Total revenue derived from	Total assets
In Australia				
Elsewhere excluding North America				
In North America				
Total				
<b>8. Details of North American operations or representation</b>				
Does the Company or its subsidiaries:				
a. conduct business, have representation, own assets in or derive revenue from North America? (representation includes subsidiary companies, local offices, local representation or by any person or concern holding a power of attorney on behalf of the Company or its subsidiaries) <span style="float: right;">Yes <input type="checkbox"/> No <input type="checkbox"/></span>				
If Yes,				
i. please give details below:				
Name of company(ies)/ business(es)	Type of representation (branch/subsidiary/ joint venture/ associated company)	Location	Nature of business	
ii. Does the Company or its subsidiaries have any manufacturing facilities in North America? <span style="float: right;">Yes <input type="checkbox"/> No <input type="checkbox"/></span>				

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b. have any subsidiaries in North America which are not wholly owned? <span style="float: right;">Yes <input type="checkbox"/> No <input type="checkbox"/></span>		
If Yes, state: Name of subsidiary	Percentage owned	Identity of minority shareholders
c. have any stock, shares, American Depository Receipts, debentures or any other debt or equity in North America? <span style="float: right;">Yes <input type="checkbox"/> No <input type="checkbox"/></span>		
If Yes, please provide details. ....		
.....		
.....		
d. have any employee stock ownership plans in North America? <span style="float: right;">Yes <input type="checkbox"/> No <input type="checkbox"/></span>		
If Yes, please provide details. ....		
.....		
.....		
e. have any plans to conduct business, have representation, acquire assets in or derive revenue from North America? <span style="float: right;">Yes <input type="checkbox"/> No <input type="checkbox"/></span>		
If Yes, please provide details. ....		
.....		
.....		
<b>9. Ownership information</b>		
a. Please state the total number of shareholders of the Company		
b. Please provide details of any shareholder that owns directly or beneficially 10% or more of the voting or convertible shares of the Company or any subsidiary.		
Name of shareholder	Company in which shares are held	Percentage held
c. Please provide details of voting shares of the Company or any subsidiary held directly or beneficially by the directors and executive officers.		
Name of director/ executive officer	Company in which shares are held	Percentage held

# Directors & Officers Liability Insurance Proposal Form

10. Directors' and officers' details					
a. Please provide details of the composition of the board of directors of the Company. If this information is fully contained in the most recent annual report and accounts of the Company then indicate here accordingly. Refer annual report <input type="checkbox"/>					
Name	Position held (Chairperson, director, CEO, MD CFO)	Executive or non-executive	Date appointed	Qualifications	Age
b. Has any former or current director or officer of the Company or its subsidiaries (current or past) ever been declared bankrupt? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please provide details.					
Name of director/ officer			Date declared bankrupt		
c. Has any former or current director or officer of the Company or its subsidiaries (current or past) ever been a director or officer of an organisation placed in receivership, liquidation or provisional liquidation? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please provide details.					
Name of director/ officer	Name of organisation	Details of receivership/ liquidation		Date	
11. Corporate governance					
Do any former auditors of the Company have positions on its board? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please provide details. .....					
12. Outside directorships					
Do any of the directors, officers or employees of the Company or its subsidiaries hold or have they held (at the specific request of the Proposer) any outside directorships or positions of equivalent status in any outside entities (whether for or not for profit)? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please provide details for each outside entity for which Outside Directorship cover is required.					
Name of appointee	Outside Entity	Country of registration	Details of any Directors & Officers Insurance provided by the Outside Entity		
			Policy held?	If Yes, Policy number	

<b>13. Mergers, acquisitions, and capital raisings</b>	
a. Has the Company or its subsidiaries acquired, sold, disposed of or merged with any company, subsidiary or business during the last 3 years?	Yes <input type="checkbox"/> No <input type="checkbox"/>
b. Has the Company or its subsidiaries been the subject of any takeover bid during the last 3 years?	Yes <input type="checkbox"/> No <input type="checkbox"/>
c. Has the Company or its subsidiaries undergone any corporate restructuring, lay-offs or reductions in workforce in the last 3 years?	Yes <input type="checkbox"/> No <input type="checkbox"/>
d. Has the Company or its subsidiaries made any offer for the raising of capital by debt or equity or issued any prospectus in the last three years?	Yes <input type="checkbox"/> No <input type="checkbox"/>
e. Does the Proposer have any plans to acquire, sell, dispose of or merge with any company or business in the next 12 months?	Yes <input type="checkbox"/> No <input type="checkbox"/>
f. Is the Proposer aware of any proposals relating to the takeover of the Company or its subsidiaries by another company in the next 12 months?	Yes <input type="checkbox"/> No <input type="checkbox"/>
g. Does the Proposer anticipate a new public offering of its securities in the next 12 months?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If Yes to any of the above, please provide details.....	
.....	
.....	
.....	
.....	
<b>14. Financial position</b>	
a. Since the last annual report and accounts was issued, has there been any significant change in the financial position, capital structure or operation of the Company or its subsidiaries which might materially affect the financial position in that annual report?	Yes <input type="checkbox"/> No <input type="checkbox"/>
b. Are any of the directors or officers aware of facts or circumstances that might affect the ability of the Company or its subsidiaries to meet all its debts as and when they fall due?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If Yes to a or b, please provide details.....	
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.....	
.....	
<b>15. Environmental protection</b>	
a. Does the Proposer have an environmental management system in place?	Yes <input type="checkbox"/> No <input type="checkbox"/>
b. Does the Proposer have an EPA licence and/or a Trade Waste Agreement?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If Yes to a or b, please provide details.....	
.....	
.....	

# Directors & Officers Liability Insurance Proposal Form

## 16. Claim history

- a. Has any claim ever been made or civil, criminal or regulatory proceedings brought against any director or officer in their capacity as such (whether in relation to the activities of the Company, its past or current subsidiaries or any other company in which the directors or officers hold or have held office)? Yes  No
- b. Has any director or officer ever received a notice to attend an official investigation, examination, inquiry or other proceedings ordered or commissioned by an official body or institution in connection with the affairs of the Company, its current and past subsidiaries or any other company in which the directors or officers hold or have held office? Yes  No
- c. Has the Company or its current or past subsidiaries ever been liable to pay costs and expenses incurred by a shareholder in pursuing a claim against a director or officer pursuant to an order of a court? Yes  No
- d. Has there been or is there now pending any prosecution of the Company or its current or past subsidiaries under any Commonwealth, State or foreign legislation, regulation or by-law including but not limited to the Corporations Law or the Trade Practices Act? Yes  No

If Yes to a, b, c or d, please provide details.

Date of claim or proceeding	Details of each claim, proceedings or investigation including name of claimant, nature of allegation, details of determinations or judgments and any monetary damages, defence costs, settlements, fines or penalties	Cost (if any) incurred (whether insured or not)	
		Amount Paid	Estimated amount outstanding

What action has been taken to prevent a recurrence of the situation that gave rise to each claim, proceeding or investigation?

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## 17. Known circumstances

**After enquiry**, are any of the directors or officers of the Company or its subsidiaries aware of any act, omission, conduct, fact, event, circumstance or matter:

- a. which might reasonably be expected to give rise to a claim or lead to civil or criminal proceedings against any director or officer? Yes  No
- b. which might reasonably be expected to result in an official investigation, examination, inquiry or other proceedings ordered or commissioned by an official body or institution in connection with the affairs of the Company, its current or past subsidiaries Yes  No
- c. which has been or should have been the subject of any written notice given under any policy or coverage part of which this proposed Directors and Officers insurance is to be a direct or indirect renewal or replacement? Yes  No

If Yes to a, b or c, please provide details.

# Directors & Officers Liability Insurance Proposal Form

Fact, circumstance or situation	Current status	Date first became aware	Insurer to whom notified	Date of notification to Insurer

**It is agreed that if such facts, circumstances or situations exist, whether or not disclosed, any claim arising from them is excluded from this proposed coverage.**

### 18. Details of Directors and Officers Liability Insurance coverage requested

Limit of Liability	\$	\$	\$
Excess	\$	\$	\$

### 19. Current insurance

a. Does the Proposer currently hold any Directors and Officers Liability Insurance? Yes  No

If Yes, please provide details

Insurer .....

Limit .....

Excess .....

Policy Period .....

b. Has any insurer, in respect of the risks to which this Proposal Form relates, ever:

i. declined a proposal, refused renewal or terminated an insurance? Yes  No

ii. required an increased premium or imposed special conditions? Yes  No

iii. declined an insurance claim by the Proposer or reduced its liability to pay an insurance claim in full (other than by application of an Excess)? Yes  No

If Yes to i, ii or iii, please provide details .....

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### Supporting information

Please enclose the following documents in support of this Proposal Form:

- The Proposer's latest full consolidated annual report and accounts. (If consolidated accounts are not available, enclose annual report and accounts for each company.)
- The Proposer's latest interim statement (if applicable)
- Business plan or "buyout" documentation if the Proposer was formed in the last 3 years
- A copy of any prospectus, offer document or information memorandum issued by the Proposer in the last 12 months
- The latest full consolidated annual report and accounts for each Outside Entity in respect of which Outside Directorship cover is sought. (If consolidated accounts are not available, enclose annual report and accounts for each company.)
- The latest full annual report and accounts of the Proposer's ultimate holding company (if applicable).

## Declaration

I/We the undersigned duly authorised person(s) declare that:

- i. I am/we are authorised by each of the Proposers to sign this Supplementary Proposal; and
- ii. the above statements are correct, true and complete; and
- iii. no information material to this Supplementary Proposal has been withheld; and
- iv. I/we have read the **important facts** which you have put before me/us and I/we understand the advice given in relation to the **duty of disclosure**; and
- v. I/we have diligently made all necessary and detailed enquiries in order to comply with the **duty of disclosure**; and
- vi. I/we understand that no insurance is in force until such time as the insurer has confirmed acceptance of the proposed insurance; and
- vii. I/We undertake to inform the insurer of any material alteration to these facts occurring before completion of the contract of insurance; and
- viii. I/we acknowledge that the Insurer relies on the information and representations in this Supplementary Proposal and otherwise made by me/us in relation to this insurance.

Signed ..... Signed .....

Title ..... Title .....

Date ..... Date .....

**NB: To be signed by the Chairman and one other Executive Officer**

We recommend that you keep a record, including copies of letters and this Proposal Form, of all information supplied to us for the purpose of entering into this contract.

## Stamp Duty Declaration

Please provide a breakdown in the number of employees by location as follows.

NSW	VIC	QLD	SA	WA	TAS	ACT	NT	Overseas

## PRIVACY STATEMENT

### PURPOSE OF COLLECTION

Coverforce Underwriting Pty Ltd (**Coverforce**) collects personal information (*this is information or an opinion about an individual whose identity is apparent or can be reasonably ascertained and which relates to a natural living person*) for the purposes of providing insurance intermediary services to you. This includes the following activities:

1. Evaluating your proposal for insurance; and
2. Evaluating any request for a change to your insurance; and
3. Providing, administering and managing the insurance intermediary services and insurance product/s provided, following acceptance of your proposal; and
4. Assisting with the management of claims made in relation to any insurance you have arranged with Coverforce.

The personal information collected can be used or disclosed by us to underwriters, from whom we seek terms or policy changes on your behalf. It can also be used or disclosed by us for a secondary purpose related to those noted above, but only if you would reasonably expect us to use or disclose the information for this secondary purpose. However, for sensitive information, the secondary purpose must be related to those purposes noted above.

### DISCLOSURE

Coverforce may disclose your personal information, when necessary and in connection with the purposes listed above, to the following:

1. Insurers whom we approach on your behalf to seek terms or, if your proposal for insurance has come to us via another intermediary, to that intermediary.
2. Government bodies.
3. Loss assessors.
4. Claims investigators.
5. Claims reference providers.
6. Other services providers.
7. Medical and health professionals (life risk only).
8. Legal and other professional advisers.

### CONSEQUENCES IF INFORMATION IS NOT PROVIDED

If you do not provide us with the information we need we, or underwriters to whom we would normally send you proposal, will be unable to consider your proposal for insurance cover and or administer your policy and or assist with the management of any claim under your policy.

### ACCESS

You can request access to your personal information by contacting our Privacy Officer on +61 2 8814 7777.