

# PROPOSAL FORM FOR PROSPECTUS LIABILITY INSURANCE

## Completing the Proposal Form

- Please read the “Statutory Notice” before completing this proposal form.
- Please answer all questions in full leaving no blank spaces.
- If you have insufficient space to complete any of your answers, please attach a separate signed and dated sheet and identify the question number concerned.
- It is agreed that the whenever used in this proposal form, the term Applicant shall mean the Principal Organisation and all its Subsidiaries, as defined in the Chubb Prospectus Liability Coverage Section (“the policy”).
- The headings in this proposal are solely for convenience.
- It is agreed that whenever used in this proposal form the definition of the terms ‘Claims’, ‘Policy Period’, ‘Offering Prospectus’ or ‘Defence Costs’ are in accordance with the policy.

The Prospectus Liability policy is written on a claims made basis. The policy covers only Claims first made during the Policy Period or any Extended Reporting Period. The limit of liability to pay damages or settlements will be reduced and may be exhausted by the payment of Defence Costs.

*PLEASE READ THE ENTIRE POLICY AND THE PROPOSAL FORM CAREFULLY.*

## 1. GENERAL INFORMATION

- (a) Name of Applicant: \_\_\_\_\_
- (b) Applicant’s Address: \_\_\_\_\_
- (c) Applicant’s web address: \_\_\_\_\_
- (d) Nature of Applicant’s Activities: \_\_\_\_\_
- (e) How long has the Applicant continuously carried on business? \_\_\_\_\_
- (f) Names and dates under which the Applicant’s business was formerly carried on: \_\_\_\_\_

## 2. OWNERSHIP

(a) Is the Applicant a:

Private Company?  Yes  No

Public Company?  Yes  No

Other (Specify) \_\_\_\_\_

(b) Are any of the Applicant's securities publicly traded?  Yes  No

If yes, which type of securities are publicly traded?

Equity

Debt

Both

Provide details.

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(c) Is the Applicant listed on an Australian stock exchange?  Yes  No

(d) Is the Applicant listed on any foreign stock exchanges?  Yes  No

If yes to question 2.(c) or 2.(d), give details of the stock symbol for the Applicant and/or any of its subsidiaries so listed and identify the exchange on which their securities are listed: \_\_\_\_\_

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(e) Provide the name and ownership percentage of any shareholder directly or beneficially owning 5% or more of the issued shares of any Applicant: \_\_\_\_\_

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(f) Has any Applicant issued any securities convertible into shares?  Yes  No

If yes, provide details:

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### 3. MATERIAL CHANGES

(a) Other than as described in the Offering Prospectus attached to and forming part of this proposal, is the Applicant or any individual proposed for coverage currently involved in any discussions or aware of any proposals relating to any actual or potential:

(i) acquisitions of, tender offers for or mergers with any other organisation?  Yes  No

If yes, please attach details.

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(ii) public offering of securities?  Yes  No

If yes, please attach details including a copy of the Offering Prospectus.

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(b) Whether or not such discussions or proposals have been made public, is the Applicant or any individual proposed for coverage currently involved in any discussions or aware of any proposals relating to any actual or potential scheme of company arrangement or material change in any arrangement with creditors under any law anywhere in the world?  Yes  No

If yes, please provide details:

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(c) Please provide details of any change to the list of serving directors and officers in the Applicant's most recent annual report and accounts:

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#### 4. PUBLIC COMPANY

If the Applicant is a public company please respond to the following questions:

(i) Has the Applicant replaced its external audit firm at any time during the last 3 years?  
If yes, please attach details:  Yes  No

(ii) Have the Applicant's revenue recognition or other accounting practices been approved by its external audit firm?

Yes  No

Please attach details of any qualifications made by and any changes recommended by such external audit firm.

(iii) Has the Applicant changed or is it considering changes to its revenue recognition or other accounting practices?

Yes  No

If yes, please attach details.

#### 5. U.S./CANADA OPERATIONS

(a) Does the Applicant conduct business in the U.S.A and/or Canada?  Yes  No

If yes, please provide:

(i) Total assets of the Applicant's subsidiaries or operations in:

(a) the U.S.A: \_\_\_\_\_

(b) Canada: \_\_\_\_\_

(ii) Total Revenue derived from subsidiaries or operations in:

(a) the U.S.A: \_\_\_\_\_

(b) Canada: \_\_\_\_\_

- (b) Has the Applicant issued any securities, including but not limited to shares, debt instruments, commercial paper or American Depository Receipts, in the U.S.A?  Yes  No

If yes, please complete Schedule A – U.S.A Securities Exposure Supplementary Proposal.

**6. OTHER INSURANCE**

- (a) Has the Applicant ever been refused directors' & officers' liability and company reimbursement insurance or had a similar policy cancelled?  Yes  No

If yes, please attach details.

- (b) Does the Applicant currently have directors' & officers' liability and company reimbursement insurance?  Yes  No

(i) If yes, please provide the following details:

Insurer	Limits	Deductible	Policy Period
_____	_____	\$ _____	_____

**7. PRIOR KNOWLEDGE/WARRANTY**

- (a) Has the Applicant or any person proposed for coverage given notice under the provisions of any prior or current directors' & officers' liability and company reimbursement insurance policy, public offering policy or similar insurance of facts or circumstances which might give rise to a claim being made against any such person?  Yes  No

If yes, please attach details.

- (b) Have any loss payments been made on behalf of any Applicant or any person proposed for coverage under any directors' & officers' liability and company reimbursement insurance policy, public offering policy or similar insurance?  Yes  No

If yes, please attach details.

- (c) Has there been or is there now pending against any director or officer of the Applicant a claim against him or her in his or her capacity as such?  Yes  No

If yes, please attach details.

It is agreed that any such claim is excluded from the proposed coverage.

- (d) Is any person proposed for coverage cognizant of any facts or circumstances which:
- (i) he or she has reason to suppose might afford valid grounds for any future claim(s) such as would fall within the scope of the proposed coverage?  Yes  No
  - (ii) indicate the probability of any such claim(s)?  Yes  No

If yes to either of the above questions, please attach details.

It is agreed that if such facts or circumstances exist, any claim, action or proceeding arising therefrom is excluded from the proposed coverage.

**8. FALSE INFORMATION**

Any person who, knowingly and with intent to defraud any insurance company or other person, files a proposal for insurance containing any false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime.

**9. REQUESTED LIMIT:** \_\_\_\_\_

**10. STAMP DUTY**

Please state the total number of employees located in the following states and overseas:

NSW	VIC	ACT	QLD	SA	WA	TAS	NT	O/S

**11. GST**

Note: It is Chubb's intention to apply GST to the total premium amount on all policies, irrespective of whether there is either revenue generated overseas or there are overseas employees.

- (a) What is the Applicant's Australian Business Number? \_\_\_\_\_
- (b) Does the Applicant intend to claim an Input Tax Credit for the premium of the proposed policy if provided?  Yes  No
- (c) If yes, to what extent is an Input Tax Credit being claimed by any and which Applicants? (e.g. answer – full claim or %)?  
\_\_\_\_\_

**12. ADDITIONAL INFORMATION**

Please enclose with this proposal form:

- (a) The last two Audited Annual Reports.
- (b) The last two Interim Statements (if applicable).
- (c) A copy of the Offering Prospectus for which cover is required, including any USA SEC Registration Statements.
- (d) A copy of the Due Diligence Committee's report(s).
- (e) If applicable, all Offering Prospectus', including USA SEC Registration Statements, issued by the Applicant in the previous 5 years and any amendments thereto.
- (f) If cover is required for Underwriters, a copy of the Underwriting Agreement, including all indemnities, representations and warranties given by the Applicant.
- (g) If cover is requested for any other additional insureds, signed and dated declarations by each such additional insured.

**13. DECLARATION AND SIGNATURE**

The undersigned authorised officers of the Applicant declare that to the best of their knowledge and belief the statements set forth herein and all attachments and schedules hereto are true and immediate notice will be given should any of the above information alter between the date of this proposal and the proposed date of inception of the insurance. Although the signing of the proposal does not bind the undersigned, on behalf of the Applicant and its directors and officers, to effect insurance, the undersigned agree that this proposal and all attachments and schedules hereto and the said statements herein shall be the basis of and will be incorporated in the policy should one be issued.

The undersigned, on behalf of the Applicant and its directors and officers, acknowledge that the Statutory Notice contained herein has been read and understood.

This proposal must be signed by the Applicant's Chairman of the Board, Managing Director or Chief Executive Director.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name of signatory:

## STATUTORY NOTICE

### **A YOUR DUTY OF DISCLOSURE - CONTRACTS OF GENERAL INSURANCE**

Before you enter into a contract of general insurance with an Insurer, you have a duty, under the Insurance Contracts Act 1984 (Cth), 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, 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 any 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 their 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 their 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.

### **B CLAIMS MADE DURING THE PERIOD OF INSURANCE**

This policy provides cover on a "claims made" basis, which means that claims first advised to you (or made against you) during the period of insurance are covered, irrespective of when the incident causing the claim occurred. When you give notice in writing to us of facts that might give rise to a claim against you and you give that notice as soon as reasonably practicable after you become aware of those facts but before the cover provided by your insurance contract with us expires, we cannot refuse to cover you by reason only of the fact that the claim against you is actually made after that expiry date.

### **C SUBROGATION**

You may prejudice your rights with regard to a claim if, without prior agreement from the Insurer, you make agreement with a third party that will prevent the Insurer from recovering the loss from that, or another party.

Your policy contains provisions that either exclude the Insurer from liability, or reduce their liability, if you have entered into any agreements that exclude your rights to recover damages from another party in relation to any loss, damage or destruction which would allow you to sustain a claim under this policy.

## **OTHER IMPORTANT INFORMATION**

### **D UTMOST GOOD FAITH**

Every insurance contract is subject to the doctrine of utmost good faith which requires that parties to the contract should act toward each other with the utmost good faith. Failure to do so on your part may prejudice any claim or the continuation of cover provided by the Insurer.

### **E NOT A RENEWABLE CONTRACT**

Cover under this policy will terminate at expiry of the Period of Insurance specified in your policy document. If you wish to effect similar insurance for a subsequent period, it will be necessary for you to complete a new proposal form prior to the termination of the current policy so that terms of insurance and quotation/s can then be developed for your consideration.

### **F CHANGE OF RISK OR CIRCUMSTANCES**

It is vital that you should advise us of any departure from your "normal" form of business (i.e. that which has already been conveyed to the Insurer). For example, acquisitions, changes in location or new overseas activities.

## Schedule A

### U.S.A Securities Exposure Supplementary Proposal

1. Does the Applicant have any type of American Depository Receipt (ADR) program or facility?  Yes  No

If yes:

(a) Identify the type of program or facility, eg Level 1, 2 or 3:

(b) is such program or facility:

(i) unsponsored?  Yes  No

(ii) sponsored?  Yes  No

If sponsored, who is the sponsor?

(c) when and where did the last offering take place?

(d) which advisers were used for the offering?

Underwriters:

Depository:

Custodian:

Legal Counsel:

Other:

(e) On which exchange are the American Depository Shares (ADS) traded?

(f) Provide details of trading activity of ADS for the previous 6 month period:

(g) What is the ratio of ADR to the Applicant's local shares?

(h) How many ADR are on issue?

(i) What is the program's total capitalisation?

(j) List any shareholder that owns more than 5% of ADR:

(k) What forms does the Applicant file with the U.S.A Securities and Exchange Commission (SEC)?

(l) When were the requisite SEC forms last filed with the SEC? Please attach copies of all such forms.

(m) What are the most recent daily, weekly or monthly prices for the ADS?

(n) What are the 52-week high and low prices for the ADS?

2. (a) Other than ADR, has the Applicant issued any securities in the U.S.A? Please note securities mean debt and equity securities including but not limited to common stock, commercial paper programs and any other debt offering.  Yes  No
- (b) If the answer to question 2(a) is yes, are any such securities traded on any exchange or over the counter market in the U.S.A?  Yes  No

If yes, for each such facility or program please provide the following information:

- (i) Exchange or over the counter market on which traded;
  - (ii) Date trading commenced;
  - (iii) Advisers used for the offering;
  - (iv) Shareholders/investors owning more than 5% of such securities;
  - (v) Whether the offering was made through private placement, including, without limitation, a 144A private placement;
  - (vi) List all forms the Applicant files with the SEC. Please attach copies of the most recent filings made with the SEC;
  - (vii) Most recent daily, weekly and monthly prices for such securities; and
  - (viii) 52-week high and low prices for such securities.
3. Where applicable, for every Applicant seeking coverage, please attach a copy of the following:
- (i) The most recent Annual Report (including financial statements);
  - (ii) The most recent report filed with the SEC on Form 10-K and 10-Q;
  - (iii) All reports filed with the U.S.A Securities and Exchange Commission on Form 8-K or Schedule 13D (with respect to any equity securities of such Applicant) during the preceding twelve (12) months;
  - (iv) The most recent proxy statement and (if different) the most recent definitive proxy statement filed with the SEC; and
  - (v) The most recent letter on internal controls provided by the Applicant's external auditor together with management's response.