

## Commercial Litigation Insurance: Proposal form, Scotland

### 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 AmTrust 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. **AmTrust will assume the information is provided on this basis unless you put AmTrust on express notice that it is not.**
3. The information should be provided in a reasonably clear and accessible way. **AmTrust will not have notice of details which are provided within documentation but not specifically brought to AmTrust'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 we may, at our sole discretion, modify or withdraw any outstanding quotation.
5. The full cover, terms, conditions, exclusions, and limitations are contained within AmTrust's Personal Injury ATE Insurance Policy.
6. In this proposal 'you/your' means the individual, company, partnership trust or association proposing for this insurance. 'AmTrust' means AmTrust Europe Limited.
7. 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. If any of the responses below are to be found in the documents supplied with the Proposal, then please state where they are to be found in the appropriate response.

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The completion and signature of this Proposal Form does not bind you or AmTrust 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 AmTrust to obtain the best information you have about the prospects of success of your claim, including any potential difficulties. This will enable AmTrust to make an informed assessment of your application for cover.

<b>A - Information about you</b>	
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?	

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### B - Information about your representatives

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

### C - Expenses estimates and cover sought: Please provide these summary details

Estimate of costs from outset to the end of trial	Incurred	Estimate	Total	Cover sought
Solicitors	£	£	£	N/A
Own outlay	£	£	£	£
Counsel	£	£	£	£
<b>Total own costs estimate</b>	£	£	£	N/A

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<b>Estimate of opponent's costs</b>				£
<b>Total cover sought</b>				£
<p>Have you provided an own costs budget to support the summary figures above?</p> <p>Please note that the provision of such a budget would be a subjectivity of any quote</p>				

<b>D - Information about your opponent</b>	
How many opponents are there?	
Name of each opponent	
Address of each opponent	
Legal status of each opponent	

<b>E - Information about your opponent's representatives</b>	
Firm name	
Address	
Solicitor's name	

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Supervisor/Partner's name	
Counsel/Advocate's name	
Chambers	
Expert's name	

### F - Information about your claim

#### F.1 - Claims/claim type and current stage

<p>What is the claim type? (e.g., breach of contract, professional negligence etc.?)</p> <p>If there is more than one claim type, please give details of each</p>	
<p>When did the cause (or causes) of action arise?</p>	
<p>When will the claim(s) become limitation barred?</p> <p>Are there any limitation issues?</p>	
<p>Has there been pre-action protocol correspondence?</p> <ul style="list-style-type: none"> <li>◆ Date of letter of claim?</li> <li>◆ Date of letter of response?</li> </ul> <p>If not please explain why (e.g., still collating information etc.)</p>	
<p>Have proceedings been issued?</p> <p>If so, please state:</p>	

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<ul style="list-style-type: none"> <li>◆ Court or Tribunal</li> <li>◆ Track allocation</li> <li>◆ Stage the claim has reached</li> </ul> <p>If not, please state which Court or Tribunal is it envisaged the claim will be issued?</p> <p>Please give the action heading and number or the proposed action heading and Court details</p>	
<p>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</p>	
<p>Is a Security for Costs application envisaged?</p>	
<p>Have dates been fixed for the Costs Management Conference or trial?</p>	
<p>What needs to be established to succeed on liability and on quantum for each head of claim?</p> <p>Please refer to relevant statute/case law</p>	
<p>Please provide details of any connected/parallel/overlapping litigation you are aware of whether you are involved in it or not</p>	
<p>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</p>	

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<b>F2 - Evidence</b>	
<p>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:</p> <ul style="list-style-type: none"> <li>◆ Documents</li> <li>◆ Witness evidence</li> <li>◆ Expert evidence</li> </ul>	
<p>What is the likely extent/importance of disclosure?</p>	
<p>Are there any key documents that support the claim?</p>	
<p>What will be the extent and importance of witness evidence including expert evidence?</p> <ul style="list-style-type: none"> <li>◆ Who are the anticipated witnesses?</li> <li>◆ Have draft statements been obtained?</li> </ul>	
<p>Do you have the necessary evidence to support the claim (liability and quantum)?</p> <p>If not what needs to be obtained and how could obtaining it prove problematic?</p>	
<p>Is any of the evidence unhelpful and or is there a reason to anticipate unhelpful evidence may emerge?</p>	
<b>F3 - Damages/quantum</b>	
<p>Assuming success on liability, what do you/your legal team consider to be:</p>	

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<ul style="list-style-type: none"> <li>◆ The maximum extent of the claim/damages achievable (putting it at its highest). How has that figure been arrived at?</li> <li>◆ The minimum extent (putting it at its lowest) of the claim/damages achievable. How has that figure been arrived at?</li> <li>◆ The likely achievable sum (or range) on this claim/s?</li> </ul> <p>Please allow for the effect of any counterclaim when providing these numbers</p>	
<p>Are you making any claim that would not result in a financial award? If so, please provide details</p>	
<p><b>F4 - Causation/remoteness/mitigation, contributory negligence etc.</b></p>	
<p>Please highlight any potential issues and what points (if any) has or do you anticipate your opponent may raise?</p>	
<p><b>F5 - Opponent's response</b></p>	
<p>Has the opponent provided any response to the claim/s?</p> <ul style="list-style-type: none"> <li>◆ Has a letter of response been received?</li> <li>◆ Has a defence been received?</li> <li>◆ Other?</li> </ul> <p>Please provide a brief synopsis of the defence position/anticipated position</p>	

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<b>F6 - Counterclaim</b>	
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?	
<b>F7 - Prospects</b>	
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:	
<ul style="list-style-type: none"> <li>◆ The maximum achievable amount?</li> <li>◆ At least the minimum amount?</li> </ul>	
<b>F8 - Settlement</b>	
What are your objectives and on what terms would 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	

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<p>Would you be prepared to agree to mediate with your opponent? If not, why?</p>	
<p><b>F9 - Costs awards</b></p>	
<p>Provide details of any awards of expenses in the litigation/dispute to date</p> <p>Have any costs been awarded in favour of the opponent?</p>	
<p>Assuming 'success' on all or part of the claim, is there any reason to think an award of expenses costs award in your favour is likely to be reduced or that it is there is likely to be a split award of expenses? (e.g., if a head of claim does not succeed or does not succeed against one or more of the opponents etc.)</p>	
<p><b>F10 - Enforcement prospects</b></p>	
<p>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?</p>	
<p>Please provide details of any assets of the opponent you have identified as likely to be available for the purpose of enforcement of any award in your favour</p>	
<p>If your opponent is or may be insured, please provide details of the information you have</p>	
<p>If enforcement against a property is envisaged, please provide a short summary schedule/table of the information you have on the</p>	

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property/properties including likely available equity	
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<b>G – Funding/expenses</b>	
What funding arrangements do you have in place with your representatives, e.g. SFA, private retainer?	
How is your opponent funding their legal expenses?	
<p>What do you estimate your expenses and outlays (including any uplift under your SFA) will be to the conclusion of proof?</p> <p>Please provide a step-by-step breakdown including any expenses and outlays you have already incurred</p>	
How do you propose to fund these expenses?	
What do you estimate your opponent's legal expenses to be the conclusion of the proof?	
<p>Do you have any other legal expenses insurance available to cover your expenses and those of your opponent or any other parties in this litigation?</p> <p>Have you checked your position?</p>	
Have you approached any other insurer or broker in relation to this claim?	

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Has your Solicitor advised you about funding this litigation and, if so, what advice have you received?	
Has your Solicitor advised that you are likely to face a motion of caution for expenses?	

### H - Other

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 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 details	

### I - Available documents

	x	Comments
Signed proposal		
Your Solicitor's opinion together with a case summary		
Counsel/Advocate's opinion		

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Summons/initial writ		
Defence response		
Any other statements of case served		
Court orders to date		
Cost's budget  Copies of any cost estimates that have been provided and/or filed with the Court		
SFA with your representatives		
Expert reports (including your opponents' if available)		
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		

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### Privacy and data protection notice

#### Data protection

Arc Legal Group (the Data Controller) are committed to protecting and respecting your privacy in accordance with the current Data Protection Legislation (Legislation). Below is a summary of the main ways in which we process your personal data, for more information please visit our website at [www.arclegal.co.uk](http://www.arclegal.co.uk).

#### How we use your personal data and who we share it with

We may use the personal data we hold about you for the purposes of providing insurance, handling Claims and any other related purposes (this may include underwriting decisions made via automated means), for offering renewal, research, or statistical purposes and to provide you with information, products, or services that you request from us or which we feel may interest you. We will also use your data to safeguard against fraud and money laundering and to meet our general legal or regulatory obligations.

#### Sensitive personal data

Some of the personal information, such as information relating to health or criminal convictions, may be required by us for the specific purposes of underwriting or as part of the claims handling process. The provision of such data is conditional for us to be able to provide insurance or manage a claim. Such data will only be used for the specific purposes set out in our notice.

#### Disclosure of your personal data

We may disclose your personal data to third parties involved in providing products or services to us, or to service providers who perform services on our behalf. These include our group companies, affinity partners, brokers, agents, third party administrators, re-insurers, other insurance intermediaries, insurance reference bureaus, credit agencies, medical service providers, fraud detection agencies, loss adjusters, external law firms, external auditors and accountants, regulatory authorities, and as may be required by law.

#### International transfers of data

We may transfer your personal data to destinations outside the European Economic Area (EEA). Where we transfer your personal data outside of the EEA, we will ensure that it is treated securely and in accordance with the Legislation.

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### Your rights

You have the right to ask us not to process your data for marketing purposes, to see a copy of the personal information we hold about you, to have your data deleted (subject to certain exemptions), to have any inaccurate or misleading data corrected or deleted, to ask us to provide a copy of your data to any controller and to lodge a complaint with the local data protection authority.

### Retention

Your data will not be retained for longer than is necessary and will be managed in accordance with our data retention policy. In most cases the retention period will be for a period of seven (7) years following the expiry of the insurance contract, or our business relationship with you, unless we are required to retain the data for a longer period due to business, legal or regulatory requirements.

If you have any questions concerning our use of your personal data, please contact The Data Protection Officer, Arc Legal Group – please see website for full address details.

## Declaration

I declare that:

- ◆ I have read the Data Protection Notice above and understand that my personal 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.
- ◆ 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.
- ◆ I will provide any additional information required 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 with Arc Legal Group and AmTrust to discuss my Proposal should they request us to do so.

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<b>Client</b>	
Signed	
Name	
Status	
Date	
<ul style="list-style-type: none"> <li>◆ In addition to the above, I confirm that my firm (named at 'B' above):           <ul style="list-style-type: none"> <li>▪ Acts for the Applicant(s) for cover named at 'A' above</li> <li>▪ 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</li> <li>▪ Agrees that Arc Legal Group and AmTrust Europe Limited may rely on the same,</li> <li>▪ Will provide relevant copy documents and information to Arc Legal Group and AmTrust Europe Limited upon request</li> <li>▪ That I am authorised to make this declaration on behalf of my firm.</li> </ul> </li> </ul>	
<b>Legal Representative for the Applicant(s) for cover named at 'A' above.</b>	
Signed	
Name	
Status	
Date	

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Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority.

These details can be checked on the Financial Services Register by visiting [www.fca.org.uk](http://www.fca.org.uk).

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