

Product Liability Insurance

Conceptual Presentation

Date: July 10, 2013

Agenda

- About BrokersLink
- Our Local Consultancy & Services
- Product Liability – Vietnam Legal Regulations
- Product Liability – Your Risks & Exposures and Insurance Solution
- Q & A
- Our Contact Details

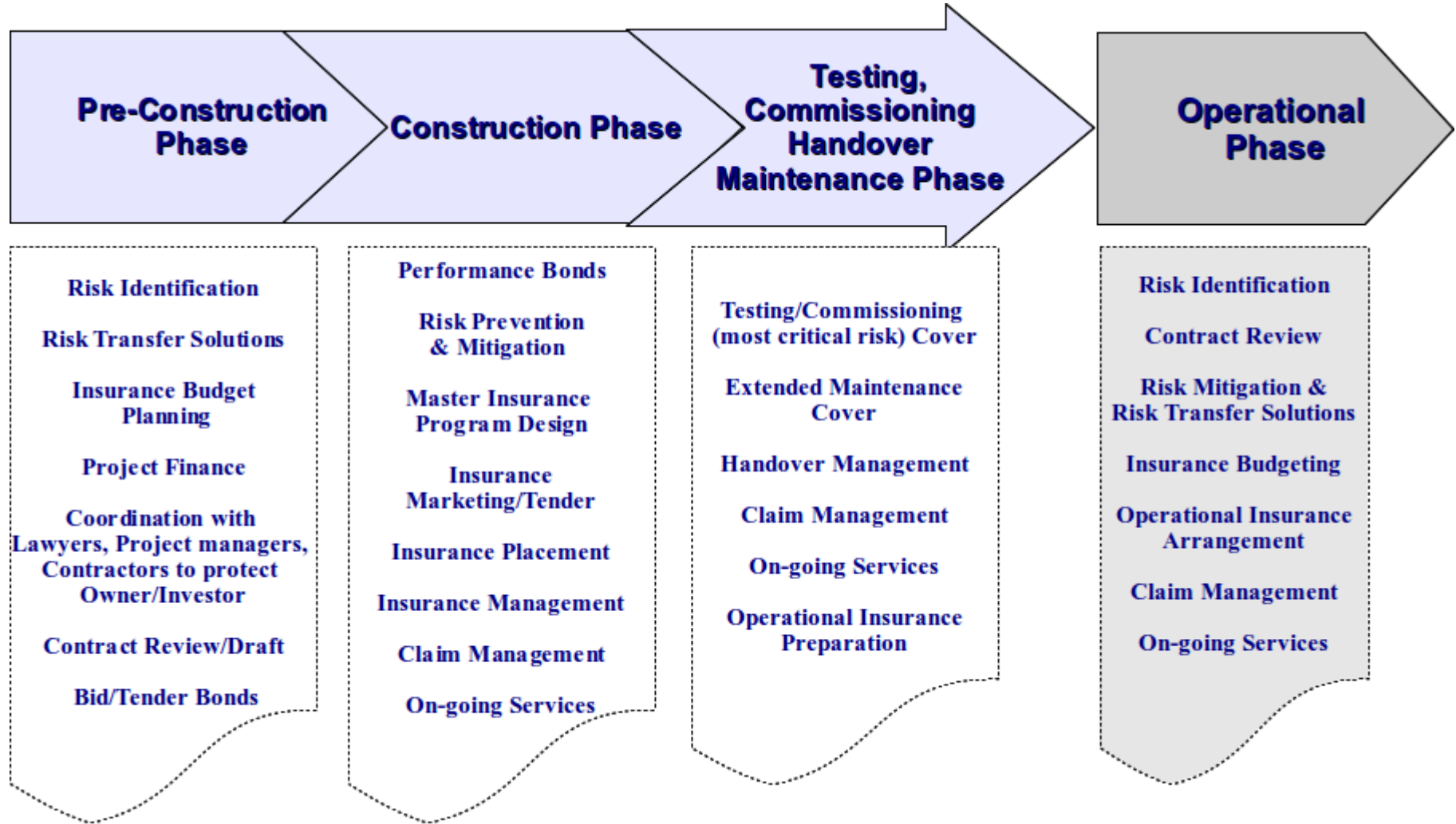
About BrokersLink

- BrokersLink is a **UK based company** (London), governed by a multinational **Board of Directors**, supported by a distinguished and experienced **CEO**, fully dedicated to the management and development of the alliance.
- BrokersLink is one of the **largest global alliances** of independent insurance brokers/consultants and related specialized service providers.
- BrokersLink has become a **premier platform for multinational companies** with 260 offices in more than **60 countries** around the world, placing more than **14 billion USD** of premium in the market place.
- BrokersLink offers **comprehensive insurance brokerage and risk management services**, employee benefits, risk engineering, claims management, business continuity planning, disaster recovery, and captive feasibility management services.
- BrokersLink is a **client oriented alliance**. We are committed towards **excellence, customer service, global know-how**, and **local market knowledge**.

Our Consultancy & Services

- **Business Risk and Insurance Consulting**
- **Insurance Assessment and Risk Exposure Analysis**
- **Risks Strategy, Insurance Placement and Management**
- **MNCs' Regional/Global Program Coordination**
- **Services Placement of Specialized Insurance Products**
- **Claims Consulting and Settlement**
- **Loss Prevention Services**
- **Other Financial Risk Transfer Mechanism**
- **On-going Advisory & Support Services**

Our Local Consultancy & Services



Our Consultancy & Services

Advantages and benefits to our Customers:-

- Risk Analyses/Consultancy/Advise**
- Insurance Program Design/Placement**
- Claims Handling Services**
- Loss Prevention Services**
- Expertise and Experienced**
- Professionally Qualified**
- Professional Indemnity Insurance**
- Network and Market Access**
- Good Supplier Relationships**

Product Liability – Vietnam Legal Regulations

VIETNAM LEGAL FRAMEWORK:

- **Ordinance on Goods Quality Amended in 1999**
(ceased from 01/07/2008)
- **Decree 179/2004/NĐ-CP dated 21/10/2004**
(ceased from 01/02/2009)
- **Civil Code No. 33/2005/QH11** passed on 14/06/2005, by the XI National Assembly of the Socialist Republic of Vietnam, at its 7th session.
- **Law on Products and Goods Quality No.05/2007/QH12**, passed on 21/11/2007, by the XII National Assembly of the Socialist Republic of Vietnam, at its 2nd session with effect from 01/07/2008.
- **Law on Protection of Consumers' Interested No.59/2010/QH12**, passed on 17/11/2010, by the XII National Assembly of the Socialist Republic of Vietnam, at its 8th session with effect from 01/07/2011.

Product Liability – Vietnam Legal Regulations

Vietnam Law on Products and Goods Quality:-

Article 10- Obligation of Producers

Article 14-Obligations of exporters

Article 32- Conditions for ensuring exported goods' quality

Article 59- Principles of Compensation

Article 60- Damage to be compensated due to goods' poor quality

Article 61- Compensation liabilities

1. Producers and importers shall pay compensation to sellers or consumers when their goods cause harms to the latter due to their failure to ensure the goods' quality.....
2. Sellers shall pay compensation to purchasers or consumers for damage caused by their failure to ensure the goods' quality.....

Vietnam Law on Protection of Consumer's Interests

Article 21- Obligations of warranty for goods, spare parts, accessories

Article 22- Obligations of revoking products

Article 23- Obligations of compensation for the damage caused by product's defect

1. Business individual, organization has the obligation to compensate damages caused by their defective product with regard to lives, health, and assets of consumers, even in case traders do not know or have no fault in causing defect...

Product Liability - Your Risks & Exposures

PRODUCT LIABILITY FOR EXPORTERS

- **There Are Some Dangerous Pitfalls for Exporting**
- **You Have Three Main Areas Of Liability**
- **How Your Business Can Be Affected**
- **Can A Foreign Judgement Be Enforced Against You In Vietnam?**
- **Product Liability Insurance – The Solutions for Exporters**

Product Liability - Your Risks & Exposures

There are Some Dangerous Pitfalls!

Your Liability Spreading

The laws of those countries where you sell your goods hold you responsible for any loss, damage or injury caused by any of your products. In short, your legal liability travels with every product you sell.

Your Liability Increasing

Today, the liability of exporters has increased worldwide. Everywhere, consumers are becoming more aware of their rights and are quicker to exercise those rights by filing product liability suits against exporters, manufacturers, processors.

Financial Burden Increasing

Just one claim could put a severe financial strain on your business - and could even lead to the collapse of the company. In fact, merely the cost of defending an "unsubstantiated" claim against you can cost several million dollars.

Product Liability - Your Risks & Exposures

You Have Three Main Areas of Liability

Negligence

This liability arises where there is a failure on your part to exercise reasonable care in the manufacture of a product. The injured party may seek to prove that you knew, or should have known that a hazard existed and took either no action, or insufficient action to minimize or eliminate the risk. Liability in negligence can arise from the provision of inadequate or misleading instructions, or from failing to explore the consequences of wear & tear over the potential "life" of a product.

Breach of Warranty

When a product is sold, there is an implied warranty that the product is "fit and suitable" for the purpose for which it was manufactured. If the product does not meet this standard, the manufacturer may be liable for the breach of this warranty.

Strict Liability

This is a concept of automatic responsibility whereby, for instance, a manufacturer or distributor will be liable for damages without a claimant having to first prove negligence. This means that a claimant may only have to show that:-

- What happened was a result of the condition of the product;
- The product's condition was unreasonably hazardous;
- The condition existed when the product left the manufacturer's control

This is the most usual type of claim and it is particularly difficult to contest, because you must prove that your product was not the cause of the loss or injury, or was not unusually hazardous. More often than not the injury is caused by using the product thereby creating the problem "**guilty until proven innocent**"

Product Liability - Your Risks & Exposures

How Your Business Can Be Affected!

Wherever in the world you do business or where your products are used, a claim results in the likelihood of financial loss through:-

- Personal injury and/or Damage to property caused by your product;
- Consequential losses may also arise including:-
 - ◆ *Lost income*
 - ◆ *Lost productivity*
 - ◆ *Loss of market*
 - ◆ *Punitive damages*
 - ◆ *Negative Publicity*

Can A Foreign Judgement Be Enforced Against You In Vietnam?

The simple answer is YES. Particularly as a result of Vietnam's accession to WTO in early 2007 there are mechanisms in-place that allow foreign legal judgements against Vietnamese exporters to be recognized and enforced in accordance with the laws and regulations of Vietnam.

Product Liability - Your Risks & Exposures

Product Liability Insurance – A Passport to Overseas Markets:

- **Product liability is a major passport for your products penetrating into the overseas market. Many overseas importers will not approve for products being sold without product liability insurance for these products. Due to the legal requirements for product safety are increasingly strict, the importers are nowadays maintaining requirements for the exporters/suppliers to be responsible for their products.**
- **Thus, product liability not only provide financial protection but open opportunities for exporters/suppliers to sell more their products to overseas market as well.**
- **Why we have to accept the failure to secure a goods order or confront a serious claim with a potentially huge amount of indemnity! Whilst, we can afford the insurance premium/cost as this cost is not so expensive and controllable!**

Product Liability - Your Risks & Exposures

Typical Insurance Requirements for Suppliers:

Wal – Mart: <http://corporate.walmart.com/suppliers/references-resources/insurance-requirements>

We require all approved product suppliers to carry product liability insurance. This type of insurance addresses legal costs or other liabilities that could result from claims or lawsuits related to your product. Should Walmart decide to carry your product, you will be asked to provide documentation that you have adequate insurance.

Lowe's: <http://www.lowes.com/>

Following are some key Lowe's requirements for suppliers to consider:

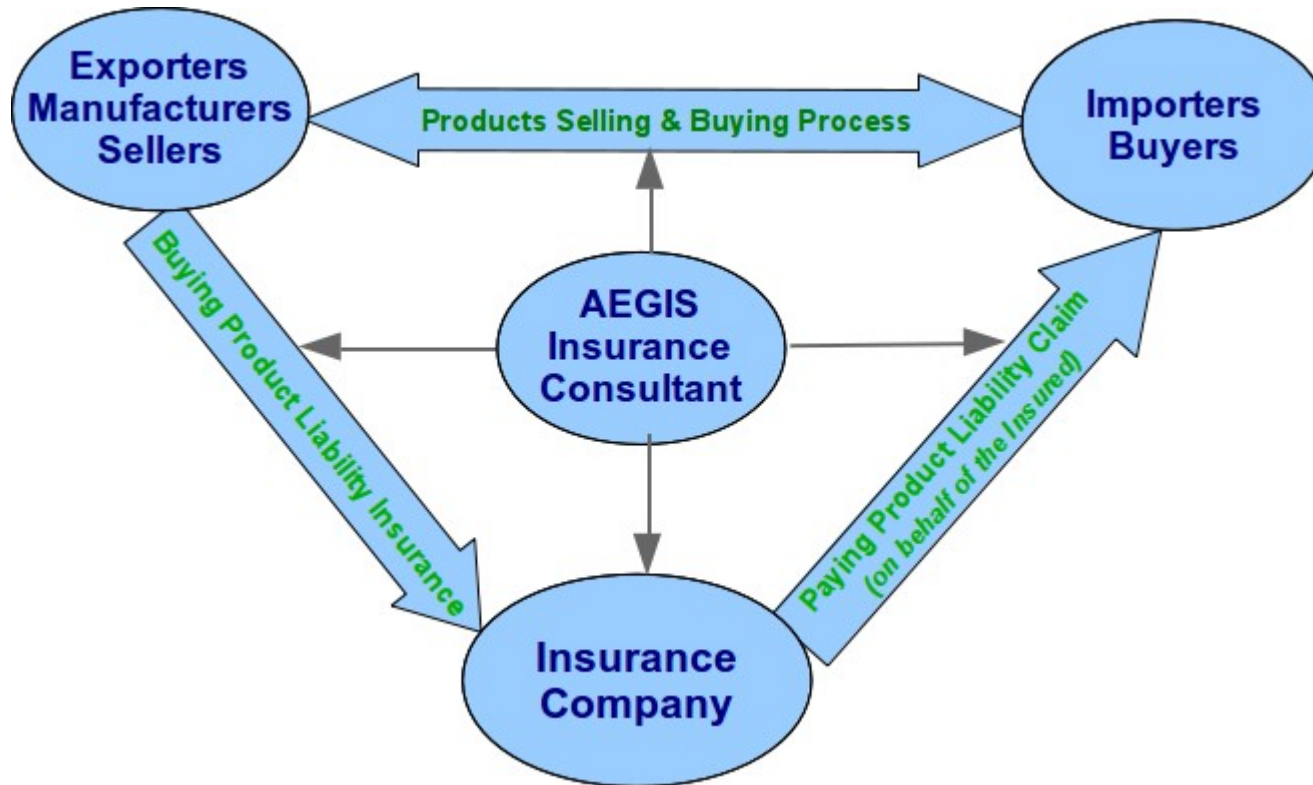
- The ability to sign a legally binding contract with Lowe's.
- Financial resources or the ability to raise adequate capital to properly fulfill Lowe's requirements.
- Proper levels of insurance to conduct business with Lowe's.
- Electronic communication of business documents between your company and Lowe's.

Insurance Requirements:

Supplier agrees that during the term of this Agreement and for a period of no less than 5 years thereafter it will keep in force and effect at its sole cost and expense (and shall cause each of its agents, independent contractors and subcontractors performing any services hereunder to maintain) Commercial General Liability and Product Liability Insurance, including Contractual Liability Insurance with minimum primary policy limits of not less than one million dollars (**\$1,000,000**) per occurrence; and with minimum excess or umbrella policy limits of not less than two million dollars (**\$2,000,000**) per occurrence insuring against personal injury, bodily injury and property damage. All insurers shall be admitted carriers in the United States, and licensed to do business in each state in which Buyer and/or its affiliates operate stores.

All insurers shall have an A. M. Best rating of at least an A-. The Buyer Indemnified Parties shall be named as Additional Insured under Supplier's policies, and the policies shall contain a provision that there will be no cancellation, reduction, or non-renewal in coverage without first giving Buyer thirty (30) days' prior written notice.

Insurance Solution for Product Liability



Product Liability Insurance Process

Insurance Solution for Product Liability

Product Liability Insurance – Coverage Summary:

This insurance is designed to indemnify the Insured against all sums that the Insured shall become legally liable to pay as damages consequent upon accidental body injury or illness to Third Parties and loss of or damage to the property of third parties caused by an alleged defects of the Insured's products arising during the period of insurance and caused in the course of the insured's business.

In addition to paying for the costs and expenses incurred with the written consent of the insurance company, the policy also cover the cost of defense litigation of such claims.

With particular Exporter's Product Liability Insurance, you are protected against actions brought to court by a member of the public, or by a retailer or distributor seeking recompensation for loss, injury or damage caused by your products. The policy is designed around your particular exporting needs, and it helps you protect your markets by transferring your risk to Insurers at a known-cost you can budget. You may be covered worldwide against the followings:-

- Legal expenses
- Investigative work necessary to verify the cause of the injury
- Suits brought against you or your company before a court of law
- Suits brought against you under a North American court of law
- Defined product recall expenses (optional cover)
- Additional cover for your Vendors is available

Product Liability - Insurance Certificate

POLICY SCHEDULE / INSURANCE CERTIFICATE

Policy No:

Type of Insurance	:	PRODUCTS LIABILITY INSURANCE
Insured	:	The Insured Company and/or their subsidiary companies and/or Vendors/Contractors of every tier, or for which the Insured has responsibility for providing insurance, as now existing or as hereinafter may be constituted, and/or other entities named or described in the policy for their joint and several interests and liabilities.
Additional Insured	:	To be advised.
Correspondent Address	:	To be advised.
Business Practice	:	The Insured Company's business and all other related activities incidental to the Insured's business.
Period of Cover	:	12 months From: To: (both dates inclusive).
Scope of Cover	:	Covering the legal liability of the insured to the third parties for:- - Bodily Injury to any person - Loss of or damage to third party's property Occurring during the period of insurance as a result of any defects in or harmful nature of any goods or products supplied by the insured in connection with the Insured's business.
Claim Trigger	:	Occurrence Basis
Territorial Limit & Jurisdiction	:	World-wide, including USA/Canada
Limit of Indemnity	:	<u>US\$1,000,000</u> any one occurrence and <u>US\$2,000,000</u> in the aggregate any insurance period
Estimated Turnover	:	For US/Canada Market : US\$..... For domestic Market : US\$..... For other Market: US\$

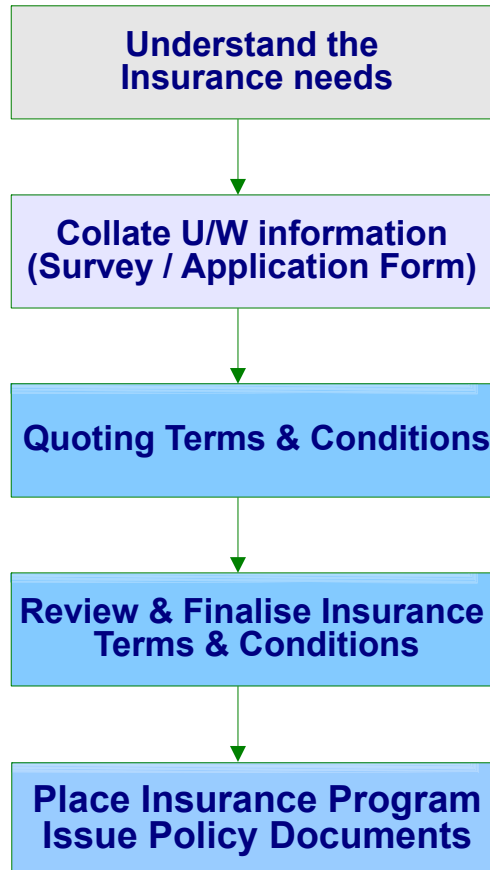
Product Liability - Insurance Certificate

POLICY SCHEDULE / INSURANCE CERTIFICATE (Continued)

Policy No:

Type of Insurance	:	PRODUCT LIABILITY INSURANCE
Wording	:	Insurers' Standard Policy Wording
Extension Covers	:	<ul style="list-style-type: none"> 1- Premium Adjustment Clause 2- Premium Warranty Clause, (30 days) 3- Product Safety Standard Warranty 4- Vendors' Liability Extension 5- Waiver of Subrogation
Major Exclusions	:	<ul style="list-style-type: none"> 1- Contractual Liabilities unless implied by laws 2- Damage to Products 3- Fines & Penalties 4- Known Defects 5- Pollution & Seepage 6- Product Recall Liability (except wherever is extended to covered herein) 7- Radioactivity 8- Sanctions, Embargo and Prohibited Transactions Clause 9- Terrorism & War Risks 10- Workmen's Compensation and Employer's Liability
Special Endorsement	:	Upon request, the Insurer undertakes to notify the Insured's Beneficiary and/or Buyer prior to the cancellation of the policy by giving 30 days prior notice and also to advise the Insured's Beneficiary and/or Buyer of any other material changes which are proposed to be made in the terms of the insurance.
Deductible/Excess	:	US\$ any one occurrence
Annual Rate / Premium	:	% / US\$

Product Liability Insurance - Commercial Process



Insurance Underwriting Information Required

- Proposal Form (*use standard from*)
- Product Brochures
- Quality Control / Test Reports (*in-house? External?*)
- What Standards of Manufacturing?
- Your Standards Meet with Global/Export Country's Requirements?
- User Manuals, Instructions?
- Websites
- How Much Your Sales? Where Sold To?
- Claims History (3 – 5 years)

Product Liability Insurance

Q & A

Our Contact Details

Tran Van Luat (Mr)

Cell phone: +84-913-805-096

e-mail: tranvanluat@aegisrs.com

Au Quang Hien (Mr)

Cell phone: +84-913-805-091

e-mail: auquanghien@aegisrs.com

Tel: +84-8-3514-7970

Fax: +84-8-3514-7971

Address: Floor 16, Saigon Tower, 29 Le Duan Boulevard, District 1, Saigon-HCMC, Vietnam.

Please contact us or visit our websites for further information

www.aegisrs.com | www.brokerslink.org