



# Directors & Officers Liability Insurance

## Your Award Winning Insurer



**IMPORTANT INFORMATION: PLEASE READ THE FOLLOWING INFORMATION BEFORE COMPLETING THIS PROPOSAL**

### Completing this Proposal Form

- Any references throughout this Proposal Form to “you”, “your” or “insured” are to be read as references to “the proposer”. Any reference to “we”, “us”, “our” or “BIA” are to be read as references to “Berkley Insurance Company (limited company incorporated in Delaware, USA) ABN 53 126 559 706 | AFSL 463129 t/as Berkley Insurance Australia”.
- Please answer all questions giving full and complete answers. If a question in the Proposal Form does not apply to the proposer, this should be marked as “Not Applicable” or “N/A”.
- If the space provided on the Proposal Form is insufficient, please use a separate signed dated sheet in order to provide a complete answer to any question.
- It is the duty of the proposer to provide all information that is requested in this Proposal Form as well as to disclose relevant facts. A relevant fact is a known fact or circumstances that may influence the evaluation of risk by the insurer. If you are uncertain about what a relevant fact is, please contact your broker.

### A. Your Duty of Disclosure

Before you enter into an insurance contract, you have a duty to tell us anything that you know, or could reasonably be expected to know, may affect our decision to insure you and on what terms.

You have this duty until we agree to insure you.

You have the same duty before you renew, extend, vary or reinstate an insurance contract.

You do not need to tell us anything that:

- reduces the risk we insure you for; or
- is common knowledge; or
- we know or should know as an insurer; or
- we waive your duty to tell us about.

#### If you do not tell us something

If you do not tell us anything you are required to, we may cancel your contract or reduce the amount we will pay you if you make a claim, or both.

If your failure to tell us is fraudulent, we may refuse to pay a claim and treat the contract as if it never existed.

## **B. Claims Made and Notified Policy**

This Proposal Form is for insurance issued on a 'claims made and notified' basis. This means that the policy responds to:

- (a) claims first made against the insured during the policy period and notified to us during the policy period, provided that the insured was not aware at any time before policy inception of facts, matters or circumstances which would have put a reasonable person in the insured's position on notice that a claim may be made against the insured; and
- (b) written notification of facts pursuant to section 40(3) of the *Insurance Contracts Act 1984*. If the insured chooses to tell us in writing about facts which might give rise to a claim against the insured as soon as reasonably practicable after the insured becomes aware of these facts but before insurance cover provided by the policy expires, then we are not relieved of liability under the policy for the claim, when made, by reason only that it was made after the expiration of the period of insurance cover provided by the policy.

After the policy expires, no new notification of facts may be made on the expired policy even though the event giving rise to the claim against you may have occurred during the policy period. An exception to this is where an extended reporting period applies to the policy. If an extended reporting period applies, then cover may be available for notifications of facts or claims made up to expiry of the extended reporting period.

When completing the proposal the insured is required to provide full details of all facts, matters and circumstances of which they are aware and which a reasonable person in the insured's position would consider may give rise to a claim. It is important that the insured make proper disclosure. Refer to the Duty of Disclosure above to understand the insured's disclosure obligations.

## **C. Retroactive Date**

This policy does not provide cover for claims arising from or in connection with an act, error, omission or event occurring or alleged to have occurred before the policy's retroactive date, where such a date is specified in the schedule.

## **D. Subrogation Agreements**

Where another person would be liable to compensate you for any loss or damage otherwise covered by the insurance, but you have agreed with that person either before or after the loss or damage occurred that you would not seek to recover any monies from that person, we will not cover you under the insurance for such loss or damage.

## **E. Privacy Statement**

We are a member of the W. R. Berkley Corporation, which we refer to as WRBC.

We take privacy seriously and are committed to handling and protecting your personal information in accordance with the Privacy Act 1988 (Cth) and Australian Privacy Principles (APPs). This Privacy Statement explains how we collect, hold, use and disclose your personal information and who we share it with. It should be read with our Privacy Policy which provides more information about our privacy practices.

Our Privacy Policy is available at <https://berkleyinaus.com.au>. Alternatively, you can use the details in Contact Us at the end of this Privacy Statement to request a copy of our Privacy Policy.

### **Consent**

You agree to us collecting, holding, using and disclosing your personal information as set out in our Privacy Policy when you: (i) provide us with your personal information; or (ii) apply for, use or renew any of our products and services.

### **Personal information about others**

If you provide us with personal information about another person, then you must: (i) have their consent to do so; and (ii) tell them that you are disclosing their personal information to us and provide them with a copy of this Privacy Statement.

### How we collect your personal information

We collect your personal information directly from you, your agents and through others including the parties listed in our Privacy Policy. This includes our agents and service providers. We will use a variety of methods to collect your personal information from these parties, including written forms, telephone calls and electronic delivery.

### Not giving us your personal information

You may choose not to give us your personal information. However, this may affect our ability to provide you with any, some or all of the features of our products or services, including processing a claim.

### How we handle your personal information

We will use your personal information for the purposes we collected it. This usually includes: (i) providing you with assistance, a product or service you have requested; (ii) handling claims and complaints you have made; and (iii) facilitating our business functions and operations.

Your personal information may also be used for other purposes that are set out in our Privacy Policy.

We may disclose your personal information to other members of WRBC, agents or service providers (either yours or ours), other insurers, reinsurers, persons involved in a claim and other parties set out in our Privacy Policy. These disclosures will be for the same purposes described above or as otherwise permitted by law.

### Overseas Disclosure

Sometimes we need to provide your personal information to, or get personal information about you from, persons or organisations located overseas. We will do this for the same purposes as in the 'How we handle your personal information' section above.

The complete list of countries is contained in our Privacy Policy.

From time to time, we may need to disclose your personal information to, and collect your personal information from, persons and organisations located in countries that are not on the list.

### Marketing

Every now and then we might let you know – including via email, telephone or online - about news, products and services that we think may be of interest to you.

We will engage in marketing unless you tell us otherwise. We want you to be able to exercise your marketing preferences. Accordingly, you can contact us to update your marketing preferences by using the details in Contact Us below. Alternatively, you can simply follow the unsubscribe instructions in the relevant communication. More information about our marketing practices can be found in our Privacy Policy.

### Access, correction and complaints

You have the right to request access and correct your personal information held by us. Our Privacy Policy provides information about how you can: (i) access your personal information; (ii) ask us to correct your personal information; and (iii) complain about a breach of the APPs and how we will deal with such a complaint.

### Contact Us



[www.berkleyinaus.com.au](http://www.berkleyinaus.com.au)



02 9275 8566



[privacy@berkleyapac.com](mailto:privacy@berkleyapac.com)



Berkley Privacy Officer, PO Box Q296, QVB NSW 1230

## SECTION 1 – DETAILS OF THE PROPOSER

1. Name of Company and ABN (or ACN):

2. Principal address of the Head Office:

3. Country and state of registration:

4. Company web address:

5. Description of business carried out by the Company:

6. Company establishment date:

7. Type of Company (public, private, incorporated, etc):

8. If the Company is a subsidiary of another company, please state the name and address of the ultimate Holding Company:

9. Is the Company or any of its subsidiaries listed on any stock exchange, or is its stock traded in any way?

No ☐ Yes ☐ If yes, please provide full details:

10. Total Revenue for Last Complete Financial Year

\$\_\_\_\_\_ FYE\_\_\_\_ / \_\_\_\_

11. Total Assets for Last Complete Financial Year

\$\_\_\_\_\_ FYE\_\_\_\_ / \_\_\_\_

12. a) Number of shares issued:

b) Number of shareholders:

c) Name of any Director or Officer who controls or owns more than 5% of the share capital of the company:

d) Name of any shareholder or group of affiliated shareholders who control or own more than 10% of the share capital of the Company:

13. a) Is the Company considering a public offering of securities within the next 12 months?

No ☐ Yes ☐

b) Is the Company or its Directors aware of any proposition by any company or person to acquire the Company or merge with the Company?

No ☐ Yes ☐

If yes please provide full details:

14. Have any Directors resigned or left the company in the last 12 months?

No ☐ Yes ☐

If yes please provide details:

15. Are there any facts or circumstances which may affect the ability of the Company to meet its debts as and when they fall due?

No ☐ Yes ☐ If yes, please provide details:

16. Has the Company ever conducted any business in the United States of America or Canada?

No ☐ Yes ☐ If yes, please provide the following:

a) Assets held in the United States or America or Canada:

b) Revenue derived from the United States of America or Canada:

c) Names of subsidiary companies in the United States of America or Canada:

17. Does the Company currently hold Directors' & Officers' Liability Insurance?

No ☐ Yes ☐ If yes, please provide the following:

a) Insurer:

b) Limit of Liability:

c) Deductible:

d) Expiry Date:

18. What Directors & Officers Liability Insurance Limit is sought?

19. Has the Company or its Directors ever been declined or has such insurance ever been cancelled, renewal refused or any special terms imposed (other than general market increases)?

No ☐ Yes ☐ If yes, please provide details:

20. After Inquiry, is the Company or any past or present director, officer, company secretary or employee of the Company, aware of any fact, circumstance, act or omission which may give rise to a claim?

No ☐ Yes ☐ If yes, please provide full details:

21. After Inquiry, have any claims ever been made or notified, fines or penalties imposed, prosecution commenced, or inquiry instigated, against the Company or any past or present director, officer, company secretary or employee of the Company?

No ☐ Yes ☐ If yes, please provide full details:

22. If the answer is **Yes** to Question 20 or 21 in this Section, please provide a detailed description of the steps or changes the proposer have made to prevent similar claims from occurring. Please attach a separate piece of paper if necessary.

If the answer is **No** to Question 20 and 21, please state N/A.

23. Please provide the **number of Company employees** based in the following locations:

NSW	VIC	QLD	SA	WA	TAS	NT	ACT	O/S



## DECLARATION

This Declaration must be completed and signed on behalf of all persons making the application for insurance.

I declare that:

- I am authorised by each of the persons making the application for insurance to complete and sign this Proposal Form.
- after making inquiries, all facts, information and statements given in this Proposal Form and any supporting documents attached or otherwise supplied ("**representations**") are true, correct, accurate and complete.
- no material representations have been omitted, misstated, withheld or suppressed which may affect the decision to accept the application for insurance or the terms and conditions on which any insurance is offered or provided.
- I undertake that, should there be any change to the representations after they have been provided to BIA, then I will immediately inform BIA about these changes before the relevant policy is entered into.
- I understand that BIA relies on the representations in forming its decision to offer any policy and that (except where otherwise indicated) BIA will treat the representations as being made by all persons to be insured.
- I understand that no insurance is in place until such time as BIA has confirmed acceptance of the application for insurance, and that if the application for insurance is accepted, the insurance cover will be subject to the terms, conditions and exclusions of the policy.
- I consent to BIA collecting, using, holding and disclosing personal information in accordance with the Privacy Statement contained in this Proposal Form, and that if I have provided or will provide information to BIA about any other individuals, I am authorised to disclose the other individual's personal information to BIA and also to give the previously mentioned consent on both my and their behalf.
- I acknowledge receipt of the Important Information contained in this Proposal Form and that I have read and understood the content of them.

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Date

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Name of authorised individual/partner/principal/director

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Signature of authorised individual/partner/principal/director

**Sydney**  
Tel. (02) 9275 8500  
sydney@berkleyinaus.com.au

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