

IT 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 Cover

Section 2 – Professional Indemnity of this policy is issued on a ‘claims made and notified’ basis. This means that this section of 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 for claims made and notified cover 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

Where cover is provided on a claims made and notified basis, 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



02 9275 8566



privacy@berkleyapac.com



Berkley Privacy Officer, PO Box Q296, QVB NSW 1230

SECTION 1 – GENERAL DETAILS

1. Please provide the following details:

Name of proposer(s) to be covered	ABN	Date established

2. Main address of the proposer and any other addresses:

Principal address:

Other addresses:

Email address:

Website address:

3. Individual, partner, principal, director, consultants' details:

Name	Age	Qualifications	Date(s) Qualified	Length of Service	
				This practice	Previous practice

Please attach CV where the proposer has been established less than 3 years and/or where any individual has no relevant qualifications.

4. Number of employees split between the following:

Principals/Directors	Qualified Staff	Administrative	Contractors	Total
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

5. Is the proposer connected or associated (financially or otherwise) with any other entity?

No ☐ Yes ☐ If yes, is cover required for any work undertaken for any associated entity?

No ☐ Yes ☐ If yes, please provide full details including nature of the work undertaken and income derived:

6. During the past 6 years has the proposer's name been changed, has any other business been purchased and/or has any merger or consolidation taken place?

No ☐ Yes ☐ If yes, please provide details:

7. After full enquiry is the proposer aware of any fraud, dishonesty, bankruptcy or administration order applicable to any past or present principal, partner, director or employee?

No ☐ Yes ☐ If yes, please provide details:

8. After full enquiry has any principal, partner, director or employee been charged with or convicted of any criminal offence in the past 10 years?

No ☐ Yes ☐ If yes, please provide details:

SECTION 2 – THE BUSINESS: WORK UNDERTAKEN

1. Please provide the proposer's total revenue (turnover) in each of the financial years derived from clients based in:

	Last Financial Year					Current Financial Year					Coming Financial Year				
Financial Year Ended			/					/					/		
Australia & New Zealand															
USA/Canada															
UK/Europe															
Elsewhere:															
Total															

2. Please provide precise details of the nature of the activities of the business, including the primary purpose of any hardware or software/systems provided, sold or licensed including details of any advice provided

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3. Please provide a breakdown of any work performed **outside** Australia, or work performed for clients overseas

Project	Turnover	Country Where Work Performed	Country where clients are located

3. Please provide a **percentage split totalling 100** of the state(s) from which the proposer's income is generated:

NSW	VIC	QLD	SA	WA	TAS	NT	ACT	O/S

If income is generated in NSW, please answer the following additional questions:

- a. Is the proposer a Capital Gains Tax small business entity (within the meaning of section 152-10(1AA) of the *Income Tax Assessment Act 1997* (Cth))? No ☐ Yes ☐
- b. Is the proposer a small business individual, partnership, company and/or trust, which is carrying on a business, and the business has an aggregated turnover of less than \$2,000,000? (Aggregated turnover is your Australia wide annual turnover plus the annual turnovers of any business entities that are your affiliates or are connected with you).
No ☐ Yes ☐
4. Please provide a breakdown of your Revenue by the following major industry segments that most effectively describe the proposer's business focus:

Type of Client	Percentage of Revenue
Government	
Finance and Banking	
Commercial/Industrial	
Other	
Total	

5. Please provide full description of the activities undertaken by the proposer.

Activity	Percentage (%)	Activity	Percentage (%)
Application Software Development/Contract Programming		IT Project Management	
Billing Services		IT Recruitment and Placement Services	
Data Communication Services (ISP)		Maintenance Services	
Data Processing/Warehousing Services/Bureau Services		Managed Services	
Digital Marketing Services		Network Services	
Education and Training		Physical Security Services (CCTV / Access Control)	
Hardware Sales (Own Developed or Exclusive Importer)		Pre-Packaged Third Party Software Sales (reseller)	
Hardware Sales (Reseller)		Pre-Packaged Software Sales (Own Developed or Exclusive Importer)	
Help Desk Services		Telecommunication Services	
Integration Services		Website/Data Hosting	
Internet / Web Based Cyber Security Provider		Website Design / Development	
IT General Consultancy			
Other (please describe)			
Total			100

6. Are any of your products or services intended for use in the following:

- | | |
|--|--|
| a. industrial control systems and/or SCADA systems and/or robotic? | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| b. motor vehicles, aviation, radar, aircraft, watercraft, military installations and/or warfare equipment? | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| c. any surgical/medical application or equipment? | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| d. any pollution control system? | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| e. any artificial intelligency application or system? | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| f. any gambling / wagering system? | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| g. the provision of any adult content / pornographic material? | No <input type="checkbox"/> Yes <input type="checkbox"/> |

7. Do you provide these services to any of the following customer bases?

- | | |
|---|--|
| a. Banking Financial institutions | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| b. Public/private utilities or energy providers | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| c. Online exchanges and trading platforms | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| d. Airport Systems | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| e. Mining and/or natural resource production | No <input type="checkbox"/> Yes <input type="checkbox"/> |

8. Are any of your products or services prototypes, experimental or single product items?

No Yes - If yes, please provide details:

9. Are you involved in any of the following activities?

- | | |
|---|--|
| a. Cyber security assessment | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| b. Cyber penetration testing | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| c. Cyber response and containment | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| d. Cyber security consulting (not include resale of antivirus software) | No <input type="checkbox"/> Yes <input type="checkbox"/> |

If Yes to any of the above, do you provide these services to any of the following customer bases:

- | | |
|---|--|
| a. Banking Financial institutions | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| b. Public/private utilities or energy providers | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| c. Online exchanges and trading platforms | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| d. Airport Systems | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| e. Mining and/or natural resource production | No <input type="checkbox"/> Yes <input type="checkbox"/> |

10. Do you anticipate any substantial changes in their activities or any major new operations during the next 12 months?

No Yes - If yes, please provide details:

11. Please provide a brief description and contract value for the three (3) largest contracts undertaken over the past five (5) years

Brief Description	Contract Value (\$)

12. Does any contract or client represent more than 50% of the proposer's annual work or fees?

No Yes - If yes, please provide details:

13. Do you engage consultants, sub-contractors or agents?

No ☐ Yes ☐ If yes,

a) Do you insist such consultants, sub-contractors or agents carry their own professional indemnity insurance?

No ☐ Yes ☐

b) Do you enter into any hold-harmless agreements or waive any legal rights or entitlement you may have against such consultants, sub-contractors or agents?

No ☐ Yes ☐

14. Is the proposer a member of a consortium or has the proposer entered into a joint venture agreement?

No ☐ Yes ☐ If yes, please provide details:

15. Does the proposer undertake any Underground digging or trenching?

No ☐ Yes ☐ If yes, please provide details:

16. Does the proposer conduct any hot work (welding etc) away from their Principal address?

No ☐ Yes ☐ If yes, please provide details:

SECTION 3 – THE BUSINESS: RISK MANAGEMENT

1. Is the proposer a member of any Association or accredited to any quality systems such as the ISO9000?

No ☐ Yes ☐ If yes, please provide details:

2. If the proposer is a sole practitioner, please provide details of arrangements to maintain service and standards in the event of sickness or holiday?

3. Does the proposer have written procedures or checklists for the services performed?

No Yes If yes, please provide details:

4. Does the proposer agree a signed specification with customers before the commencement of a project?

No Yes If yes, please provide details:

5. Does the proposer have a formal customer acceptance procedure?

No Yes If yes, please provide details:

6. Does the proposer require customers to sign an acceptance letter at the completion of an assignment?

No ☐ Yes ☐ If yes, please provide details:

7. What records are kept by the proposer of telephone conversations and attendance at meetings?

8. What are the proposer's procedures, such as letters of engagement, to ensure that a client's requirements are clearly identified and can be met?

9. Does the proposer always obtain satisfactory written references when engaging employees?

No Yes If yes, please provide details:

10. Prior to providing any contractual indemnity to anyone in respect of intellectual property licensed or sold or shared, does the proposer ensure that you have sole legal rights to such intellectual property licensed/sold/shared?

No ☐ Yes ☐

11. Does the proposer have all employees, consultants and sub-contractors assign you their intellectual property rights?

No ☐ Yes ☐ If yes, please provide a copy of the standard agreement.

12. Do you ever negotiate contracts in which you do not exclude liability for consequential damages?

No Yes If yes, please provide details:

13. Do you ever negotiate contracts in which you do not limit your liability for consequential damages?

No Yes If yes, please provide details:

14. Are all staff trained in security and privacy matters such as phishing/social engineering?

No ☐ Yes ☐

15. Do all computers and servers on your network have vendor-defined critical (or similar) security updates/patches applied within 30 days of release by the vendor?

No ☐ Yes ☐

SECTION 4 – CLAIMS INFORMATION

1. After full enquiry has the proposer sustained any loss through the fraud or dishonesty of any person?

No ☐ Yes ☐ If yes, please provide details (please attach a separate piece of paper if necessary):

2. After full enquiry, has any claim been made against the proposer's business or any principal, partner, director, or employee whilst in this or any other business?

No ☐ Yes ☐ If yes, please provide details (please attach a separate piece of paper if necessary):

Date matter notified	Insurer	Claimant (or potential claimant)	Brief description	Amount paid including legal costs	Estimate of liability if not paid	Finalised or open

3. After full enquiry is the proposer aware of any circumstance or incident which has or could result in any claim being made against the proposer's business, or any principal, partner, director, or employee whilst in this or any other business?

No ☐ Yes ☐ If yes, please provide details:

4. After full enquiry has any principal, partner, director or employee been subject to any disciplinary proceedings or actions for misconduct in a professional respect whilst in this or any other business?

No ☐ Yes ☐ If yes, please provide details:

5. If the answer is **Yes** to any of the questions 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 any of the questions in this Section, please state N/A.

SECTION 5 – INSURANCE COVERAGE

1. Does the proposer currently have Information Technology Liability Insurance in force for the activities for which cover is being sought?

No ☐ Yes ☐ If yes, please advise the following details:

Insurer:	
Limit:	
Excess:	
Renewal date:	
Number of years cover has been continuously in force:	

2. Has any proposal for similar insurance made on behalf of the proposer's business, any predecessor of the business, or any principal, partner or director 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:

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SECTION 6 – INSURANCE REQUIRED

Please indicate the Limit of Indemnity you would prefer

Professional Indemnity		Public / Products Liability	
\$1,000,000	<input type="checkbox"/>	\$5,000,000	<input type="checkbox"/>
\$2,000,000	<input type="checkbox"/>	\$10,000,000	<input type="checkbox"/>
\$5,000,000	<input type="checkbox"/>	\$20,000,000	<input type="checkbox"/>
\$10,000,000	<input type="checkbox"/>	\$50,000,000	<input type="checkbox"/>
Other (specify)		Other (specify)	

Please indicate the excess you would prefer

\$1,000	<input type="checkbox"/>
\$2,000	<input type="checkbox"/>
\$5,000	<input type="checkbox"/>
Other (specify)	

SECTION 7 – 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.

Date

Name of authorised individual/partner/principal/director

Signature of authorised individual/partner/principal/director

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