



# Management Liability

## 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. Full Name of the Organisation     |                                          |                                         |                                         |                                         |
| 2. Trading Names                     |                                          |                                         |                                         |                                         |
| 3. Type of Organisation              | <input type="checkbox"/> Private Company | <input type="checkbox"/> Public Company | <input type="checkbox"/> Trust          | <input type="checkbox"/> Not for Profit |
|                                      | <input type="checkbox"/> Partnership     | <input type="checkbox"/> Sole Trader    | <input type="checkbox"/> Other(specify) |                                         |
| 4. ABN                               |                                          |                                         |                                         |                                         |
| 5. Principal Address                 |                                          |                                         |                                         |                                         |
| 6. Website Address                   |                                          |                                         |                                         |                                         |
| 7. Contact Person and E-mail address |                                          |                                         |                                         |                                         |
| 8. Country of Registration           |                                          |                                         |                                         |                                         |
| 9. Date of Incorporation             |                                          |                                         |                                         |                                         |

## SECTION 2 - DESCRIPTION OF OPERATIONS

10. Describe the Company's business activities:

|  |
|--|
|  |
|--|

11. Does the Company have an Australian Financial Services Licence? No ☐ Yes ☐ - AFSL#\_\_\_\_\_

12. Does the Company use, intend to use or supply Labour Hire? No ☐ Yes ☐

If yes, do you ensure that the correct licenses are held under Labour Hire Legislation? No ☐ Yes ☐

13. Does the Company have any overseas operations? No ☐ Yes ☐

If yes, please provide full details including the country, nature of work undertaken and income derived:

|  |
|--|
|  |
|--|

## SECTION 3 - FINANCIAL INFORMATION

|                             |                                          |    |
|-----------------------------|------------------------------------------|----|
| 14. Annual turnover/revenue | Last Year (Actual) FYE_____/ 20_____     | \$ |
|                             | Current Year (Estimate) FYE_____/ 20____ | \$ |
| 15. Total Assets            |                                          |    |

16. 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 ☐

17. Have there been (in the last 24 months) or are there proposed, any changes to the capital structure of the Company? No ☐ Yes ☐

**If you answered "YES" above, please provide full details. The policy contains an Insolvency Exclusion, however, We may consider removing this on receipt and review of the last annual financial statements.**

#### SECTION 4 - EMPLOYEE INFORMATION

18. Number of Directors

19. Please confirm all of your Directors have applied for and been allocated Director ID numbers No ☐ Yes ☐

20. How many Directors have left the Company in the last 12 months?

21. Number of Employees in each state:

| ACT                  | NSW                  | NT                   | QLD                  | SA                   | TAS                  | VIC                  | WA                   | O/S                  |
|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |

22. How many employees earn over \$100,000?

23. How many Employees have left the Company in the last 12 months?

24. Has the Company had any terminations or redundancies in the last 12 months? No ☐ Yes ☐

25. Does the Company anticipate any terminations or redundancies in the next 12 months? No ☐ Yes ☐

If you answered yes to question 24 or 25 please provide details

26. Does the company have written employment procedures (e.g. Employee Handbook) that are provided to each employee? No ☐ Yes ☐

27. Does the Company only use labour hire companies which are appropriately licensed under applicable Labour Hire Legislation? No ☐ Yes ☐

#### SECTION 5 - FRAUD CONTROLS

28. Is there an annual audit of the Company's accounts? No ☐ Yes ☐

29. Is there an annual independent count of physical stock against inventory records (where the count is performed by a person who is not the same person performing the inventory check)? No ☐ Yes ☐

30. Is dual authorisation required on all payments (including but not limited to cheques, EFT, refunds)? No ☐ Yes ☐

31. Does the Company segregate duties so that the same person cannot control any of the following activities from commencement to completion without referral to others (ie. Financial Controller,

- a) Signing cheques, preparing cheque requisitions or reconciling bank statements No ☐ Yes ☐
- b) issuing funds transfer instructions above \$5,000 No ☐ Yes ☐
- c) Refund of monies or return of goods above \$5,000 No ☐ Yes ☐

32. Is there controlled access to all locations / computer terminals? No ☐ Yes ☐

33. Does the Company maintain a master list of authorised suppliers? No ☐ Yes ☐

34. Does the Company verify new customer or supplier bank account information (including name, address and bank account number) prior to initiating any financial transaction with such supplier or customer? No ☐ Yes ☐

35. Does the Company have call-back procedures with customers or suppliers to authenticate any fund transfer instructions greater than \$50,000 prior to transfer? No ☐ Yes ☐

36. Upon receipt of any email requests to change supplier or customer bank account details (including account number, email address, contact information, bank routing number), do you:

- a) Have direct call-back procedures in place (i.e. other than responding via email) to the contact phone number in place prior to receipt of the change request? No ☐ Yes ☐
- b) Require internal dual signoff from a supervisor or authorised person prior to initiating the change request? No ☐ Yes ☐

|     |                                                                                                                                                                              |                                                          |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| 37. | Has the Company's safety management system been reviewed by an independent third party and received AS/NZ 4801 certification?                                                | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| 38. | Does the Company have effective hazard and incident reporting procedures?                                                                                                    | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| 39. | Does the Company have procedures in place to identify and notify officers on duty under WH&S laws?                                                                           | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| 40. | Does the Company have a system that recognises contractors, volunteers, work experience and labour-hire employees as workers?                                                | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| 41. | Does the Company have an audit programme of its safety management system to ensure it remains effective and up to date in managing health and safety risks in the workplace? | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| 42. | Please provide further details of any information that is relevant to your WH&S obligations:                                                                                 |                                                          |

|     |                                                                                   |                                                          |
|-----|-----------------------------------------------------------------------------------|----------------------------------------------------------|
| 43. | Does the Company have a website?                                                  | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| a)  | If yes, please provide the website address(es)                                    | www.                                                     |
|     |                                                                                   | www.                                                     |
|     |                                                                                   | www.                                                     |
| 44. | Does the Company have a privacy policy posted on all of its websites?             | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| 45. | Does the Company review and approve all content prior to it being uploaded to the | No <input type="checkbox"/> Yes <input type="checkbox"/> |
| 46. | Does the Company's website contain a blog or chatroom?                            | No <input type="checkbox"/> Yes <input type="checkbox"/> |

47. Do any of the Company's directors or employees act as a director, officer or equivalent for any Outside Entities (any entity that is not the Company or its Subsidiaries) at the written request of the Company?

No ☐ Yes ☐ If yes, please provide full details in the table below:

| INSURED PERSON | COMPANY NAME | DATE APPOINTED | OWN ML OR D&O COVER |
|----------------|--------------|----------------|---------------------|
|                |              |                |                     |
|                |              |                |                     |
|                |              |                |                     |

## SECTION 9 - LOSS & INSURANCE HISTORY

**Please consult your insurance broker if you are unsure how to answer these questions or what the proposed insurance policy covers.**

**Please note you are required to note all relevant matters in this section, even if they have previously been advised to Us.**

48. Has the Company or any person proposed for cover suffered any loss which could have been covered under the proposed policy? No ☐ Yes ☐
49. Is the Company or any person proposed for cover aware of any facts, circumstances, acts or omissions which may give rise to any future claims under the proposed policy? No ☐ Yes ☐
50. During the last three years, has the Company or any person proposed for cover been the subject of any complaint, suit, inquiry or notice of a hearing from any State, Territory or federal regulatory body, or any other party? No ☐ Yes ☐
51. Has the Company or any person proposed for cover ever been refused, had cancelled or non-renewed any similar insurance cover? No ☐ Yes ☐

If you have answered Yes to the above, please provide full details:

52. 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 10 - INDEMNITY LIMIT

Does the Company currently buy Management Liability Insurance?

Current limit:

Current Insurer:

Please indicate the limit of indemnity required:

|                                                          |
|----------------------------------------------------------|
| No <input type="checkbox"/> Yes <input type="checkbox"/> |
| \$                                                       |
|                                                          |
| \$                                                       |

## SECTION 11 - 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

**Melbourne**  
Tel. (03) 8622 2000  
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**Brisbane**  
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