

INFORMATION TECHNOLOGY LIABILITY PROPOSAL FORM

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

When completing the proposal you are obliged to report and provide full details of all circumstances of which you are aware and which a reasonable person in your position would consider may give rise to a claim.

It is important that you make proper disclosure (see Duty of Disclosure, below) so that your cover under any new policy with us is not compromised. Pursuant to the Insurance Contracts Act your duty to disclose all relevant information is set out below.

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 that 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 Professional Indemnity Insurance on a “Claims made and Notified” basis. This means that the policy covers you for claims made against you and notified to the insurer during the period of cover. It does not provide cover for:

- claims arising from an event which occurred before the policy’s “retroactive date” where such a date is specified in the schedule;
- claims made after the period of cover expires (even where the event giving rise to the claim occurred during the period of cover);
- claims made, threatened or intimated before the period of cover commenced;
- claims arising from facts or circumstances of which you first became aware before commencement of the policy and which you knew or ought reasonably to have known, had the potential to give rise to a claim under the policy or any previous policy;

- claims arising from circumstances noted on the proposal form or any previous proposal form.

By operation of section 40(3) of the *Insurance Contracts Act 1984* (Cth), where the insured gives notice in writing to the insurer of facts that might give rise to a claim against the insured as soon as reasonably practicable after the insured became aware of those facts but before the insurance cover provided by the contract expired, the insurer is not relieved of liability under the contract in respect of the claim, when made, by reason only that it was made after the expiration of the period of insurance cover provided by the contract.

C. 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, the Insurer will not cover you under the insurance for such loss or damage.

D. Privacy Statement

Berkley Insurance Australia handles your personal information in a responsible manner and in accordance with the Australian Privacy Principles and the Privacy Act 1988 (Cth).

Consent

By requesting us to provide you with insurance and insurance related services, you consent to the collection, use and disclosure of personal information you have provided to us for the purposes set out in our Privacy Policy.

How we collect your personal information

Generally we collect personal information from you or your agents. Personal information may also be collected by us from our agents and service providers; other insurers and insurance reference bureaus; third parties who may claim under your policies; service providers who assist us in investigating, processing and settling claims; third parties who may be arranging cover for a group that you are part of; statutory, regulatory and law enforcement bodies and from publicly available sources.

Why we collect personal information

The personal information we collect enables us to provide our products and services. This may include processing and settling claims; offering products and services that may be of interest to you and conducting market research for products and services that may be relevant to you.

You can choose not to receive product or service offering from us by calling (02) 92758500 Eastern Standard Time 9am to 5pm Monday to Friday inclusive. For further information, you can access our Privacy Policy at www.berkleyinaus.com.au

Who we disclose your personal information to

Your personal information may be disclosed to other parties with whom we have business arrangements for purposes set out in the paragraph above. These parties may include insurers, intermediaries, reinsurers, related companies, our advisers and parties involved in claims assessment, processing, investigation and settlement. Where required by law, we may also disclose information to government, law enforcement, dispute resolution and statutory or regulatory bodies.

Personal information about others

Where you provide personal information about others, you represent to us that you have made them aware that you will do so, the types of third parties we may disclose it to together with the purposes we and our third parties use it for, how they can access such information and how complaints can be made

Where you provide sensitive information about others, you represent to us that you have obtained their consent. If you have not, and will not do so, you must tell us before you provide the sensitive information.

Overseas Disclosure

Your personal information may be disclosed to other companies in the Berkley group, reinsurers and service providers that may be located in Australia and overseas. The countries this information may be disclosed may vary from time to time but may include the United States of America and other countries where the Berkley group has a presence.

Any information disclosed may only be used for the purposes detailed above.

Accessing your personal information and dealing with complaints

You may request access to the personal information we hold about you by calling us at any time.

Our Privacy Policy details how you can make a complaint about a breach of the privacy principles as set out in the Privacy Act 1988 (Cth) and our complaints process.

Our Privacy Policy is available at www.berkleyinaus.com.au

Contact Details

Berkley Insurance Australia

Level 7, 321 Kent Street

SYDNEY NSW 2000

Ph: 02 9275 8500

Fax: 02 9261 2773

Email: australia@berkleyinaus.com.au

Web site: www.berkleyinaus.com.au

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

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. If fees/income are declared as being derived from clients based "Elsewhere" please provide details including territories involved and income derived.

- a) Please provide details of the precise 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 **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 full description of the activities undertaken by the proposer.

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

5. 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	

6. Are any of the proposer's products/services:

Intended for use in industrial control systems and/or SCADA systems and/or robotic?	No <input type="checkbox"/> Yes <input type="checkbox"/>
Intended for use in motor vehicles, aviation, radar, aircraft, watercraft, military installations and/or warfare equipment?	No <input type="checkbox"/> Yes <input type="checkbox"/>
Intended for use in any surgical/medical application or equipment?	No <input type="checkbox"/> Yes <input type="checkbox"/>
Intended for use in any pollution control system?	No <input type="checkbox"/> Yes <input type="checkbox"/>
Intended for use in any artificial intelligence application or system?	No <input type="checkbox"/> Yes <input type="checkbox"/>
Intended for use in any gambling/wagering system?	No <input type="checkbox"/> Yes <input type="checkbox"/>
Intended for use in the provision of any adult content/pornographic material?	No <input type="checkbox"/> Yes <input type="checkbox"/>
Prototype, experimental or single product items?	No <input type="checkbox"/> Yes <input type="checkbox"/>
If "Yes" to any of the above, please provide us with full details on a separate sheet.	

7. Is the proposer aware of any change in activity/structure that will occur in the coming financial year?

No Yes If yes, please provide details.

8. 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 (\$)

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

No Yes If yes, please provide details:

10. a) If the proposer engage consultants, sub-contractors or agents, do you insist they carry their own professional indemnity insurance? No Yes
- b) Does the proposer enter into any hold-harmless agreements or otherwise waive any legal rights or entitlement which you may have against such consultants, sub-contractors or agents? No Yes

11. 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:

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

No Yes If yes, please provide details:

13. 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. Does the proposer ever negotiate contracts in which they:

(i) Do not exclude liability for consequential damages?

No Yes

(ii) Do not include a limitation of liability for consequential damages?

No Yes

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

No Yes

14. 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:

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 proposers 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:

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)	<input type="text"/>	Other (specify)	<input type="text"/>

Please indicate the excess you would prefer

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

SECTION 7 – DECLARATION

I declare that I am authorised to complete this Proposal Form (Proposal) on behalf of the Proposer and that to the best of my knowledge and belief the statements and particulars in this Proposal are true and correct and no material facts have been omitted or misrepresented. I undertake to inform Berkley Insurance Australia (BIA) of any change to any material fact which occurs before any insurance based on this Proposal is entered into (up to an including the policy inception date).

By completing and signing this Proposal you acknowledge, accept and agree that in underwriting and issuing a policy (including replacement policies) BIA does and will rely on all disclosures, proposals, declarations and representations made by you to BIA.

___ / ___ / 20___

Date

Name of authorised individual/partner/principal/director

Signature of authorised individual/partner/principal/director