

## SOLICITORS EXCESS PROFESSIONAL INDEMNITY 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 of 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](http://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](http://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](mailto:australia@berkleyinaus.com.au)

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

**GENERAL DETAILS**

1. Please provide the following details:

- a) Name Of Firm, Company or Sole Practitioner:
- b) Date the firm/Company/Practice was established:
- c) Address(es) of the Firm, Company(ies) (specifying which Partner, Principal is responsible at each location):
- d) Website address:
- e) Email address:
- f) Name of any previous Entities requiring cover, and relationship to current Entity(ies), and the dates on which they ceased business:
- g) Name of service/administration company(ies):

2. a) Please provide the following details

Name of all Partners or Principals/Self	Age	Qualifications	Date Qualified	How long as Partner/Principal of this practice	How long as Partner/Principal of other businesses

b) Please list those past Partners, or Principals of the Firm or Company for whom cover is required and the date that they left the business: (if insufficient space please give full details by way of attachment)


3. Please give total numbers of Principals, Partners and Staff:

a) Partners/Principals/Directors	
b) Qualified Staff Solicitors	
c) Consultants	
d) Staff, other than Typists and Office Juniors	
e) Typists and Office Juniors	
f) Temporary Staff	
Total	

4. Do any of your activities require you to be Licensed under Chapter 7 of the Corporations Act 2001?

No  Yes

5. Please give an approximate **percentage** split of the disciplines within your firm:

Conveyancing	
Commercial	
Litigation	
Probate	
Family	
Common Law	
Criminal	
Intellectual Property	
Mergers and Acquisitions	
Migration Agent Work	
Other (please provide details below)	
Total	

Other:

6. Please state the gross income received for each of the last two financial years and an estimate for the next financial year:

	Last Financial Year	Current Financial Year	Coming Financial Year
Financial Year Ended	___ / ___	___ / ___	___ / ___
Australia			
Elsewhere			
Total			

7. Please give a **percentage split totalling 100%** of which state(s) generate the proposer's income.

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
8. Is the whole Firm currently accredited with any quality standards? No  Yes
9. Does the Firm offer advice and/or transact business over the internet? No  Yes   
If yes, are security checks regularly undertaken and appropriate disclaimers used? No  Yes
10. Does the Firm have clearly defined and documented procedures for the screening of all clients? No  Yes
11. Does the Firm use an engagement letter for each new matter which:
- a) Identifies the client? No  Yes
- b) Confirms instructions received? No  Yes
- c) Sets out the scope of the retainer? No  Yes
- d) States what is expected of the client? No  Yes
- e) Includes an outline of the proposed schedule for the new matter? No  Yes
- f) Complies with requirements regarding costs? No  Yes
12. Does the Firm have policies and procedures for communicating with clients which include:
- a) Keeping the client regularly updated of progress? No  Yes
- b) The requirement to confirm all significant advice in writing? No  Yes
13. Does the Firm have clear policies and procedures laid down for the allocation, delegation and supervision of work? No  Yes   
If yes, are the Principals/Directors aware of any circumstances where the policies and procedures have been ignored? No  Yes
14. Does the Firm have policy and established systems and procedures that emphasise the importance placed on researching, identifying, recording and complying with contractual, statutory and procedural time limits and ensure compliance with them? No  Yes
15. Does the Firm or Company perform work outside Australia, or work for clients who are outside Australia? No  Yes

If Yes, please give details (i.e. Work performed, countries involved and fee income of each):


16. a) Has your name ever been changed? No  Yes
- b) Has any other Practice or Business amalgamated or merged with you? No  Yes
- c) Have you purchased any other Practice or Business? No  Yes

If Yes, in any case, please give details:


17. Has any insurer ever:

- a) Declined to offer Insurance for this Firm or Company, or for any Partner or Principal? No  Yes
- b) Imposed any special terms on this Firm or Company or any Partner or Principal? No  Yes
- c) Cancelled or voided any Insurance held by this Firm or Company or any partner or Principal? No  Yes

18. Have you or any Partner/Principal or staff member ever been subject to disciplinary proceedings for misconduct in a professional respect? No  Yes

If Yes, please give details:


19. Outside Directorships

- a) List all the present Partners who hold or have held outside Directorships solely for the purpose of representing the Company for who coverage is required:

Name	Position	Company

- b) Provide details of any existing coverage carried by these Companies (Note: Annual Reports may be required for these companies)


20. a) During the past ten years, has any claim been made, or has liability for an error or breach of duty been alleged against the Firm, Company or Sole Practitioner or any of their predecessors in business of any prior Entity or any of their present or former Partners, Directors, Principals, Consultants, or Employees; or have any circumstances been notified to insurers which may result in a claim?

No  Yes  If yes, please provide the following details in respect of each matter:

Year of Notification	Name of Insurer (if any)	Name of Claimant	Nature of Problem	Amount Paid or Estimated Potential Liability	Is Matter Finalised or Outstanding?

b) Are any of the Partners, Directors, Principals or Employees AFTER FULL INQUIRY, aware of any circumstances which may give rise to a claim against the Firm, Company or Sole Practitioner, its predecessors in business or any past or present Partner, Director, Principal, Consultant, or Employee?

No  Yes  If yes, please give full details by way of attachment if necessary:


21. a) Does the Firm/Company currently insure above the compulsory scheme?

No  Yes

b) If the answer to (a) is Yes, please supply the following data:

Amount of Cover

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When lapsed or expiry date:

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Last Annual Premium:

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Name of Insurer and Broker:

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22. What amount of indemnity is required?

(i)

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(ii)

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23. The answers you have provided to the above questions will usually provide sufficient information for a proper consideration of the proposal. However, if there are any matters which are material to the risk to which this Proposal relates, you should disclose such matters to us in the space below, or on a separate sheet if necessary.




## DECLARATION

I declare that I am authorised to complete this Proposal Form (Proposal) on behalf of the Company 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 and 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

**Sydney**

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