

*PrivateEdge®  
Management Liability Insurance  
Proposal*

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## *Important Notice*

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### **Claims-Made and Notified Insurance**

This policy, issued by American Home Assurance Company, contains coverage on a **claims-made and notified** basis. This means that this policy only covers Claims (as defined) first made against you during the Policy Period (as defined) and notified to the insurer in writing during the Policy Period. This policy does not provide cover for any Claims made against you during the Policy Period if at any time prior to the commencement of the Policy Period you became aware of facts which might give rise to those Claims being made against you.

Section 40(3) of the Insurance Contracts Act 1984 provides that where you gave notice in writing to the insurer of facts that might give rise to a Claim against you as soon as was reasonably practicable after you became aware of those facts but during the Policy Period, the insurer cannot refuse to pay a Claim which arises out of those facts, when made, because it was made after the Policy Period had expired.

This policy does not cover Claims arising out of, based upon or attributable to any:

- a) actual or alleged fact or circumstance, that prior to the Continuity Date, may reasonably have been expected by an Insured to give rise to a Claim; or
- b) as of the policy inception, prior or pending Claim or circumstance reported under any policy of which this policy is a renewal or replacement, or the same, continuous, repeated or related facts as those alleged in such prior or pending Claim or such circumstance.

### **Your Duty of Disclosure**

Section 21 of the Insurance Contracts Act 1984 provides that before you enter into a contract of general insurance with an insurer, you have a duty to disclose to the insurer every matter that you know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept the risk of the insurance and, if so, upon what terms. You have the same duty to disclose those matters to the insurer before you renew, extend, vary or reinstate a contract of general insurance.

However, your duty of disclosure does not require you to disclose matters:

- a) that diminish the risk to be undertaken by the insurer;
- b) that are of common knowledge;
- c) that your insurer knows or, in the ordinary course of its business, ought to know;
- d) as to which compliance with your duty is waived by the insurer.

This duty of disclosure continues after the proposal form has been completed up until the Policy Period commences.

### **Consequences of Non-Disclosure**

If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce its liability under the contract in respect of a Claim or may cancel the contract. If your non-disclosure is fraudulent, the insurer may also have the option of avoiding the contract from its beginning.

### **Subrogation**

This policy contains provisions which have the effect of excluding or limiting the insurer's liability in respect of a loss where you have prejudiced the insurer's rights of subrogation where you are a party to an agreement which excludes or limits insurer's rights to recover the loss from another party. You are hereby notified of the effect of these provisions.

## Details of Proposer

1. a) Policyholder \_\_\_\_\_  
 b) ABN \_\_\_\_\_  
 c) Dun and Bradstreet Number \_\_\_\_\_  
 d) If you intend to claim an Input Tax Credit for the premium paid for this policy, please specify the percentage of the premium you will be claiming: \_\_\_\_\_ %  
 e) Is this a "Pty Ltd" Company?  Y  N

2. Policyholder's main office

Street Address \_\_\_\_\_

Suburb \_\_\_\_\_

State \_\_\_\_\_

Postcode \_\_\_\_\_

Telephone \_\_\_\_\_

Facsimile \_\_\_\_\_

Website \_\_\_\_\_

Email Address \_\_\_\_\_

3. Has the Policyholder carried on business for more than 24 months?  Y  N
4. a) Is the Policyholder a subsidiary of another company?  Y  N  
 If "Yes", please state:  
 b) The parent company name in full: \_\_\_\_\_  
 c) The country of registration: \_\_\_\_\_

In the questions below a reference to "Company" means the Policyholder and all of its Subsidiaries. "Subsidiary" means any privately-held entity, other than a partnership or joint venture over which, either prior to or at the inception of the Policy Period, the Policyholder has the capacity to determine the outcome of decisions about the entity's financial and operating policies.

5. Please describe the industry/business activities of the Company:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Construction            | <input type="checkbox"/> Gambling Operations                      | <input type="checkbox"/> Jewelry/diamond merchants |
| <input type="checkbox"/> Warehousing             | <input type="checkbox"/> Licensed Hospitality Premises            |  |
| <input type="checkbox"/> Manufacturing           | <input type="checkbox"/> Underwriting Agency or Insurance Captive |  |
| <input type="checkbox"/> Finance Company         | <input type="checkbox"/> Health/Social Services/Medical Industry  |  |
| <input type="checkbox"/> Fund Manager            | <input type="checkbox"/> Food & Beverage Manufacturing            |  |
| <input type="checkbox"/> Publishing/Broadcasting | <input type="checkbox"/> Software Development                     |  |
| <input type="checkbox"/> Stockbroker             | <input type="checkbox"/> Timber/Hardware Merchants                |  |
| <input type="checkbox"/> Other                   | Please provide details... _____                                   |  |

6. State the Company's gross consolidated turnover:

- a) For the current financial year (estimated): \$ \_\_\_\_\_  
 b) For the prior financial year: \$ \_\_\_\_\_

## Claims Information

Enquiry should be made of all relevant staff before answering these questions.

7. In the Last 5 Years, have there been any claims made against the Company or its Directors or Employees which may have been covered under this policy if it were in force?  Y  N  
*If "Yes", please provide full details including the name of the claimant, the nature of the allegation and amounts paid for any judgments, settlements, claimants' costs and defence costs using a separate attachment.*
8. Has any Director or Officer of the Company ever had proceedings (civil or criminal) instigated against them alleging misconduct or breaches of the law in their capacity as a Director or Officer of a company?  Y  N  
*If "Yes", please provide full details including the nature of the allegations and the amount of any fines or penalties imposed using a separate attachment.*
9. In the Last 5 Years, has the Company suffered any Direct Financial Loss exceeding \$5,000 as a result of fraud or dishonesty committed by a staff member?  Y  N  
*If "Yes", please provide full details including the name of the staff member(s), how the loss occurred, the amount of the loss and what measures were taken to prevent any similar loss occurring in the future using a separate attachment.*
10. Are any of the Directors or Employees of the Company aware of;
- a) any facts which might give rise to a Claim being made against the Company or its Directors or Employees which may be covered under this policy if it commences?  Y  N  
*If "Yes", please provide full details using a separate attachment.*
- b) any facts which would cause a reasonable person to think that the Company might suffer a Direct Financial Loss as a result of Fraud or Dishonesty committed by a staff member?  Y  N  
*If "Yes", please provide full details using a separate attachment.*

## Details of Insurance

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11. a) Is this a proposal to renew an existing AIG PrivateEdge Management Liability Insurance Policy?  Y  N
- b) Is there a specific date you wish this policy to commence?  Y  N
- c) If "Yes", on what date?           /          /
12. What limit(s) of liability do you require quotations for?
- |                                      |                                       |
|--------------------------------------|---------------------------------------|
| <input type="checkbox"/> \$500,000   | <input type="checkbox"/> \$4 million  |
| <input type="checkbox"/> \$1 million | <input type="checkbox"/> \$5 million  |
| <input type="checkbox"/> \$2 million | <input type="checkbox"/> \$10 million |
| <input type="checkbox"/> \$3 million | <input type="checkbox"/> Other: _____ |
13. What Fidelity Cover sub-limit(s) do you require quotations for?
- |                                    |   |
|------------------------------------|---|
| <input type="checkbox"/> \$100,000 | <input type="checkbox"/> \$500,000          |
| <input type="checkbox"/> \$250,000 | <input type="checkbox"/> Cover not required |
14. a) Do you want the policy to provide cover for persons holding outside directorship positions?  Y  N  
*If "Yes", please complete Question 19.*
- b) Do you want the policy to provide cover for any business activities in the USA or Canada?  Y  N  
*If "Yes", please complete Question 20.*
- c) Do you want the policy to provide cover for claims arising out of the actual or alleged insolvency of the Company?  Y  N  
*If "Yes", please complete Question 21.*
15. Has an Insurer ever refused to insure, cancelled or refused to renew an insurance policy for the Company?  Y  N  
*If "Yes", please provide full details.*

## Optional Underwriting Questions

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Please Note: These questions are optional. However, a satisfactory response may allow us to reduce retentions and/or remove exclusions that would otherwise be applicable if the questions are not answered.

**16. Employment Liability - Human Resources Management**

Does the Company have written management guidelines for termination of employment?  Y  N

**17. Fidelity - Fraud Prevention Controls**

Does the Company segregate duties so that no one individual can control any of the following activities from commencement to completion without referral to others?

- a) Signing cheques, authorising payments or issuing funds transfer instructions above \$5,000  Y  N
- b) Refund of monies or return of goods above \$5,000  Y  N
- c) Reconciling bank statements  Y  N

## Stamp Duty Split

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18. For the purpose of calculating Stamp Duty please confirm the location of the Company's staff numbers as follows:

NSW	VIC	QLD	SA	WA	TAS	ACT	NT	Overseas

## Optional Coverage Questions

Please Note: You are only required to complete these questions if you have requested the Optional Cover under Question 14.

### 19. Outside Directorship Cover

a) Full Name of the Outside Entity: \_\_\_\_\_

b) Type of Entity:

Public Company     Private Company     Not-For-Profit

*Please Note: This policy provides automatic cover to those Insured Persons who hold outside directorship positions with private companies and not-for-profit companies.*

c) Is solvency cover required for this outside directorship position?     Y     N

*If "Yes" please enclose financial statements.*

### 20. USA/Canada Cover

Please state whether the Company has any of the following in the USA or Canada:

a) Any past present or prospective Employees; or     Y     N

b) Any past, present or prospective capital or debt raising; or     Y     N

c) Any assets?     Y     N

*If "Yes" to any of the above questions please provide full details using a separate attachment.*

### 21. Insolvency Cover

Do you have financial statements for the Company which have been audited or reviewed by an external accountant in the last 12 Months?     Y     N

*If "No", we are unable to provide cover for claims arising out of the actual or alleged insolvency of the Company. If "Yes", please complete the following questions based on the Policyholder's latest audited/ reviewed Financial Statements:*

a) What is the balance date for the financial statements?    \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

b) Current assets:    \$ \_\_\_\_\_

c) Non-current assets:    \$ \_\_\_\_\_

d) Intangible assets:    \$ \_\_\_\_\_

e) Current liabilities:    \$ \_\_\_\_\_

f) Non-current liabilities:    \$ \_\_\_\_\_

g) Total borrowings:    \$ \_\_\_\_\_

h) Did the Company make a profit after tax in the last financial year?     Y     N

i) Has there been any change in the financial position or capital structure of the Company or is there any matter that is not shown in the latest financial statements that may materially affect the financial position set out in those documents?     Y     N

*If "Yes", please provide full details using a separate attachment.*

j) Is any director or officer of the Company aware of any facts or circumstances which may affect the ability of the Company to meet its debts as and when they fall due?     Y     N

*If "Yes", please provide full details using a separate attachment.*

Please Note: If you require solvency cover for an entity that falls within the definition of Subsidiary, but for which the financials are not consolidated into the Policyholder's financial statements, then you need to submit the financials for any such entity separately.

## *Declaration*

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Please Note: Signing the Declaration does not bind the proposer or the Insurer to complete this insurance.

I declare that I have made all necessary inquiries into the accuracy of the responses given in this proposal and confirm that the statements and particulars given in this proposal are true and complete and that no material facts have been omitted, misstated or suppressed. I agree that should any of the information given by me alter between the date of this proposal and the inception date of the insurance to which this proposal relates, I will give immediate notice thereof to the insurer.

I acknowledge receipt of the **Important Notice** contained in this proposal and that I have read and understood the content of that Notice.

**I confirm that I am authorised by the Company and its Directors to complete, sign and submit this proposal on behalf of the Company and its Directors.**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Summary of Significant Changes

Old (03-03) vs New (03-06)

	What's New?	Comments	
Cover (Insuring Clauses)	<i>Special Excess Limit (for Non-Executive Directors)</i>	\$1,000,000 per Non-Executive Director (capped at an amount equivalent to the Limit of Liability).	This is a protected limit over and above the Limit of Liability for the undemnified Loss of any Non-Executive Director. It works as a top-up limit and can even apply to 'Related Claims' involving one or more Insured Persons.
	<i>Controlling Shareholder</i>	Controlling shareholders who are also Executives are considered solely in their Executive capacity for cover for a Wrongful Act.	New Cover which waters-down the "Major Shareholders" Exclusion.
	<i>OH&amp;S Defence Costs</i>	Defence and Investigation Costs are available to Insured Persons (under "Insured Persons" & "Reimbursement" Cover) up to the Limit of Liability. A sub-limit of \$500,000 applies for "Company Liability" ('entity') Cover.	The old policy offered Defence Costs up to the Limit of Liability for "Directors & Officers Liability" and sub-limited "Company Reimbursement" and "Company Liability" Cover.
Extensions	<i>Pecuniary Penalties</i>	\$250,000 sub-limit for pecuniary penalties awarded against an Executive in Australia or New Zealand, payable unless legally prohibited.	New cover.
	<i>Pollution Defence Costs</i>	Defence Costs and Investigation Costs are payable up to the Limit of Liability for Insured Persons. \$500,000 sub-limit for "Reimbursement" Cover.	New Cover.
	<i>Publicity</i>	\$25,000 sub-limit for a publicity campaign to prevent or mitigate damage to an Executive's reputation arising from a covered or potentially covered Claim against that Executive.	New Cover. This Extension complements any Defence Costs or Investigation Costs payable in respect of a covered Claim or Investigation.
Definitions	<i>"Executive Liability"</i>	"Executive Liability" includes liability for any Wrongful Act of any Executive or Employee of any Company plus liability arising solely from an Insured Person's status as an Executive or Employee of a Company.	Employees are now included alongside Executives. This Definition also contemplates that a Claim may arise solely from an Insured Person's status as an Executive or Employee.
	<i>"Management Liability"</i>	Includes Executive Liability, Outside Directorship Liability and Employment Liability.	Key definition. The Management Liability definition is referred to throughout the Covers and is central to the operation of the policy.
	<i>"Subsidiary"</i>	Includes entities over which the Policyholder has control.	'Associated Companies' needed to be specified by Endorsement under the old policy.
Conditions	<i>Circumstances</i>	The Policyholder has the right to notify any circumstances which may reasonably be expected to give rise to a Claim.	The old policy did not contain a deeming/circumstance provision.

## Changes (Continued)

		What's Different	Comments
Cover (Insuring Clauses)	<i>Fidelity</i>	Cover now applies to Dishonest Acts committed after the earlier of (i) the date from which the Company has maintained uninterrupted fidelity insurance (or equivalent cover) or (ii) the Continuity Date.	The old policy applied to Dishonest Acts committed after the Continuity Date.
	<i>Bilateral Discovery Period</i>	An automatic 30 day Discovery Period is offered in the case of Claims, with no additional premium payable, as an alternative to the 12 month Discovery Period.	As a general guideline, in the event of a Transaction, a Discovery Period of up to 84 months may be requested.
Extensions	<i>Crisis Loss</i>	\$50,000 sub-limit for a Crisis Event. Coverage now also includes a Crisis Event arising from any criminal or fraud investigation or the death of any Executive.	The sub-limit has increased from \$25,000 to \$50,000 and the Crisis Event triggers have been improved.
	<i>Investigation Costs</i>	"Investigation Costs" now apply in preparing for and attending an Investigation.	This extension applies regardless of any "Management Liability." There is no sub-limit of liability for Insured Persons.
	<i>New Companies</i>	Revised Extension automatically covers any privately-held entity (excluding a partnership or joint venture) over which the Policyholder obtains control, during the Policy Period. Provided that the new subsidiary company's revenues are less than the Policyholders.	The old policy required the subsidiary to have less than 10% of revenues and employees compared to the Company, conduct the substantially the same business and be under management control.
Definitions	<i>"Employment Liability"</i>	Claims against Employees are included in this broad definition which applies in connection with recruitment, employment and termination liability.	The old policy did not cover claims against Employees and the defined term "Employment Practice Breach" included limitations.
	<i>"Executive"</i>	Replaces "Director" and "Officer" definitions. "Executive" includes duly elected or appointed directors or trustees, executive officers or senior managers, and other persons holding an equivalent position.	"Executive" includes a broad class of directors and officers with management duties.
	<i>"Investigation"</i>	Broad definition applies to an investigation, examination or inquiry by a regulator, government authority or official trade body into the affairs of a Company or conduct of an Insured Person or Outside Director.	No requirement for (i) the Insured Person to be legally compelled to attend or (ii) an allegation of a Wrongful Act.
	<i>"Outside Entity"</i>	Cover is automatically provided to not-for-profit entities and privately-held corporations. Other entities can be included by endorsement.	The old policy required Outside Entities to be specifically listed.
	<i>Benefits</i>	This Exclusion combines the old "Minimum Employment Obligations", "Government Benefits", "Redundancy" and "Unfair Contract of Employment" Exclusions.	This Exclusion now only applies to a Claim "for" such Benefits.
Exclusions	<i>Conduct</i>	This Exclusion combines the old "Illegal Profits" and "Intentional Acts" Exclusions.	The language reflects section 199B of the Corporations Act.
	<i>Known Facts/Circumstances</i>	This Exclusion only applies to a fact or circumstance that, prior to the Continuity Date, may reasonably have been expected by an Insured to give rise to a Claim.	No limitation that Continuity Cover is only provided in accordance with the provisions of the policy in force when the Insureds first became aware of the facts.

See Also:



American Home Assurance Company ABN 67 007 483 267 AFSL 230903, trading as AIG Australia. The description of coverage contained in this document is a summary only. The coverage and any claims made are subject to terms, conditions, limitations and exclusions outlined in the policy of insurance. In the event of any conflict between the descriptions of coverage in this document and the policy of insurance, the provisions contained in the policy of insurance will govern. For more information or to see a specimen copy of the policy wording, please visit the Broker Zone at [www.aig.com.au](http://www.aig.com.au). This document is accurate as at January 2006.

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