



Berkley

Professional indemnity insurance

BPI 1:1

Terms and conditions apply from 2020

W. R. BERKLEY INSURANCE AG, svensk filial,
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W. R. BERKLEY INSURANCE AG, svensk filial,
is a branch office of W. R. Berkley Insurance AG authorised by the
Financial Market Authority, Liechtenstein.
Landstrasse 109, 9490 Vaduz, Liechtenstein.

INSURER

W.R. Berkley Insurance AG, svensk filial

Address: Holländargatan 17, 111 60 Stockholm

Registration number: 516410-2070

This is a wording from W. R. Berkley Insurance AG, svensk filial. Please study the wording carefully.

Insurance coverage is shown in the policy schedule and consists of

- **policy schedule with specifications and endorsements**
- **this wording**
- **general conditions (allmänna avtalsbestämmelser AAB)**
- **the Swedish Insurance Contracts Act (2005:104, FAL)**
- **Swedish law and legal usage**

The policy schedule including specifications and attached wordings prevail before non-mandatory rules of law. If the different parts of the insurance agreement include conflicting elements interpretative prerogative in order listed above, however, always so specific rules take precedence over general.

In the event that you wish to make a complaint, you can send your complaint to:

Complaints officer

W. R. Berkley Insurance AG, svensk filial

Holländargatan 17

111 60 Stockholm, Sweden

Claims are reported to:

skador@wrberkley.com

Phone: +46 (0) 8 410 337 00

Protection of your data

Please visit www.berkleyforsakring.se and read our privacy notice.

CONTENTS

1. What is covered	5
1.1 Insuring clause.....	5
1.2 Defence costs.....	5
1.3 Loss of or damage to documents	5
1.4 Joint venture/consortium.....	5
1.5 Self employed persons.....	6
1.6 Indemnity to employees, former employees and/or consultants	6
2. Claims conditions (very important).....	6
2.1 Important conditions.....	6
2.2 Discovery of a claim or circumstance	6
2.3 Notice	7
2.4 Admission of liability.....	7
2.5 Conduct of claims.....	7
2.6 Fraudulent claims.....	8
3. General conditions.....	8
3.1 Retroactive date	8
3.2 Subrogation.....	8
3.3 Insurance disputes.....	8
3.4 Claim settlements.....	8
3.5 Rights of third parties.....	8
3.6 Several liability notice.....	9
3.7 Non-disclosure.....	9
3.8 Data protection.....	10
3.9 Cancellation	10
3.10 Combined claims	10
4. What is not covered.....	11
4.1 Liability involving transport or property owned by the insured.....	11
4.2 Liability arising out of employment	11
4.3 Supply of goods.....	11
4.4 Fraud, dishonesty or criminal act.....	11
4.5 Controlling Interest.....	11
4.6 Liquidated damages.....	12

4.7 Nuclear risk	12
4.8 War and terrorism	12
4.9 Area of Activities	13
4.10 Jurisdiction	13
4.11 Fines, penalties, punitive, multiple or exemplary damages	13
4.12 Loss of documents - magnetic or electrical media	13
4.13 Pollution	13
4.14 Directors' and officers' liability	13
4.15 Other insurance	13
4.16 Previous claims and circumstances	14
4.17 Trading losses	14
4.18 Failure to arrange insurance and/or finance	14
4.19 Asbestos	14
4.20 Financial services	14
4.21 Pension trustee liability	14
4.22 Bodily injury and/or property damage	14
4.23 Sanctions	14
Definitions and interpretations	15

PROFESSIONAL INDEMNITY INSURANCE POLICY

“THIS IS A CLAIMS MADE AND CIRCUMSTANCE NOTIFIED INSURANCE - TO MAKE A CLAIM UNDER THIS POLICY, THE INSURED MUST COMPLY WITH THE CONDITIONS SET OUT AT SECTION 2 OF THE POLICY. FAILURE TO DO SO MAY AFFECT PAYMENT OF ANY CLAIM”.

The terms that appear in bold with their first letters in capitals are defined under the Definitions and Interpretations section of this Policy.

The Insured having made a written proposal to Insurers bearing the date shown in the Policy Schedule containing particulars and statements which are subject to the Non-Disclosure Clause 3.7 of this Policy, and in consideration of the Insured having agreed to pay the premium shown in the Policy Schedule, Insurers agree to indemnify the Insured, subject to the terms, conditions, exclusions and limitations of this Policy.

1. WHAT IS COVERED

The cover provided is subject to the terms, conditions, exclusions and limitations in this contract of insurance.

1.1 Insuring clause

Insurers shall indemnify the Insured, up to the Indemnity Limit, for the amount of any claim including claimant's costs and expenses first made against the Insured during the Policy Period in respect of any civil liability which arises out of the exercise and conduct of the Business.

1.2 Defence costs

Insurers shall also indemnify the Insured for Defence Costs where such costs have been incurred with Insurers' prior written consent. Such Defence Costs shall not be in addition to the Indemnity Limit and shall be the subject of any Excess.

1.3 Loss of or damage to documents

In the event of physical loss of or damage to Documents suffered during the Policy Period, the Insured is indemnified for any claim or costs and expenses reasonably incurred in replacing, restoring or reconstituting any Documents which are the property of the Insured or are in the Insured's care, custody or control.

The maximum amount payable by Insurers under this clause shall be SEK 500 000 in the aggregate. An Excess of SEK 10 000 each and every claim shall apply unless a lower Excess is specified in the Policy Schedule in which case that Excess shall apply.

1.4 Joint venture/consortium

The Insured is indemnified for any claim first made against the Insured during the Policy Period which the Insured may become legally liable to pay, whether jointly or severally, which arises out of the exercise and conduct of the Business whilst a member

of a joint venture or consortium where such joint venture or consortium together with the turnover/fees of the joint venture or consortium (not just the Insured's proportion) has been declared to and agreed by Insurers, whether or not the joint venture or consortium is conducted through a separate legal entity.

1.5 Self employed persons

The Insured is indemnified for any claim for civil liability first made against the Insured during the Policy Period which the Insured may become legally liable to pay, arising out of the use of self-employed or contract hire persons in the exercise and conduct of the Business. The use of individual persons need not be disclosed to Insurers, but details of payments to such persons must be declared to Insurers at renewal of this Policy.

For the purpose of this Policy such persons are deemed to be employees of the Insured.

1.6 Indemnity to employees, former employees and/or consultants

Employees or former employees of the Insured are indemnified for any claim for civil liability first made against them during the Policy Period which arises out of the exercise and conduct of the Business.

Former partners, former directors or former employees of the Insured who have continued as consultants to the Insured and any persons who were formerly consultants to the Insured are indemnified in respect of any claim for civil liability first made against them during the Policy Period which arises out of the exercise and conduct of the Business.

2. CLAIMS CONDITIONS

This section of the Policy explains the Insured's responsibilities when making a claim under the Policy. If the conditions listed below are not followed, then a claim may not be paid, may be reduced or may be treated as invalid.

2.1 Important conditions

All conditions set out below (Clauses 2.2 – 2.6 inclusive) are important conditions to the operation of this Policy. This means that the Insured has to follow these conditions in their entirety if a claim is to be considered valid under the Policy. Failure to follow these conditions may result in the claim being refused or reduced.

2.2 Discovery of a claim or circumstance

2.2.1

If during the Policy Period the Insured receives notice of any claim that is subject to indemnity under this Policy other than any claim provided for in Clause 2.2.2, the Insured shall give notice (in accordance with Clause 2.3) to Insurers as soon as practicable.

2.2.2

If during the Policy Period the Insured receives a Letter Of Claim, the Insured shall give notice (in accordance with Clause 2.3) to Insurers as soon as practicable and in any event within 12 months from receipt of such Letter Of Claim.

2.2.3

If during the Policy Period the Insured becomes aware of any Circumstance, the Insured shall give notice (in accordance with Clause 2.3) to Insurers of such Circumstance as soon as practicable.

Insurers agree that any Circumstance notified to them during the Policy Period which subsequently gives rise to a claim after expiry of this Policy shall be deemed to be a claim first made during the Policy Period.

2.3 Notice

If the Insured wants to make a claim under this Policy, the Insured should provide written notice to the Insurers to the contact details at Item 12 in the Policy Schedule. If it is not in writing, it will not be a valid notification under Clause 2.2.

2.4 Admission of liability

In the event of any claim or Circumstance, the Insured shall not admit liability or make any admission, offer, promise, or payment without Insurers' prior written consent.

2.5 Conduct of claims

Following notification of any claim or Circumstance, Insurers shall be entitled to take over and conduct in the name of the Insured the investigation, defence or settlement of any such matter. The Insured shall Co-operate and provide all such assistance as Insurers may reasonably require.

2.6 Fraudulent claims

If any claim is made by or on behalf of the Insured which is in any respect unfounded, false, fraudulent or intentionally exaggerated, or if any false declaration or statement is made in support of a claim (whether or not the claim is itself genuine), then Insurers will invoke their rights under the Swedish Insurance Contracts Act (FAL) to refuse to pay part of or the whole of the claim and may recover from the Insured any sums already paid for which Insurers are not liable in respect of the claim. Insurers may also, subject to the provisions of Swedish Insurance Contracts Act (FAL), by notice terminate the Policy if the Insured is in material breach of the insurance contract. If Insurers terminate the Policy, the Insured will not have any cover under the Policy following the day that the termination takes effect, and will not be entitled to any return of premium.

3. GENERAL CONDITIONS

The following general conditions apply to this Policy:

3.1 Retroactive date

Where a retroactive date is specified in the Policy Schedule, this Policy shall not indemnify the Insured for any claim notified to Insurers which arises out of the exercise and conduct of the Business prior to the said retroactive date.

3.2 Subrogation

If any payment is made by Insurers, the Insured grants to Insurers all rights of recovery against any parties from whom a recovery may be made and the Insured shall take all reasonable steps to preserve such rights. However, Insurers agree to waive any rights of recovery against any employee of the Insured or former employee, self-employed person or consultant of the Insured unless liability has resulted, in whole or part, from any act or omission on the part of such person which is dishonest, fraudulent, criminal or malicious.

3.3 Insurance disputes

This Policy is governed by the laws of Sweden.

Any dispute or difference between the Insured and Insurers arising from this Policy shall be referred for determination to the court of Stockholm, Sweden

3.4 Claim settlements

Insurers may at any time pay to the Insured in connection with any claim or claims the Indemnity Limit (less any sums already paid including Defence Costs) or any lesser sum for which such claim or claims can be settled and upon such payment Insurers shall not be under any further liability in respect of such claim or claims.

3.5 Rights of third parties

For the avoidance of doubt:

3.5.1

this Policy is not intended to confer any enforceable rights upon any third party, whether or not an interest of such third party is acknowledged by Insurers;

3.5.2

the parties to this Policy shall be entitled to rescind or vary this Policy without the consent of any third party, whether or not an interest of such third party is acknowledged by Insurers;

3.5.3

in the event of proceedings by a third party against Insurers for the enforcement of any provision of this Policy, Insurers shall have available to them any defence or set off which would have been available if the proceedings had been brought by the Insured.

3.6 Several liability notice

The subscribing Insurers' obligations under insurances to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing Insurers are not responsible for the subscription of any co-subscribing Insurer who for any reason whatsoever does not satisfy all or part of its obligations.

3.7 Non-disclosure

In deciding to accept this cover and in setting the terms and premium, Insurers have relied on the information the Insured has given including but not limited to underwriting information and application forms. The Insured must take care when answering any questions the Insurers ask by ensuring that all information provided is accurate and complete.

If Insurers establish that the Insured by fraud provided Insurers with false or misleading information the Policy will be deemed invalid.

If Insurers establish that the Insured otherwise deliberately or carelessly acted in breach of its duty to provide information, it could adversely affect the Insured's Policy and any claim. For example, Insurers may:

- **refuse to pay all claims. Insurers will only do this if Insurers provided the Insured with insurance cover which Insurers would not otherwise have offered;**
- **amend the terms of this Policy;**
- **reduce the amount Insurers pay on a claim in the proportion the premium the Insured has paid bears to the premium Insurers would have charged the Insured; or**
- **cancel this Policy in accordance with the right to cancel below.**

Insurers or the Insured's Insurance Broker will write to the Insured if Insurers:

- **cancel this Policy; or**
- **need to amend the terms of this Policy.**

If the Insured becomes aware that information given to Insurers is inaccurate, the Insured must inform their Insurance Broker as soon as practicable.

If the Insured becomes aware of any information that is different to that already given to Insurers during the Policy Period, the Insured must inform their Insurance Broker as soon as practicable.

3.8 Data protection

It is understood by the Insured that any information provided to Insurers regarding the Insured will be processed by Insurers in compliance with the provisions of the applicable data protection laws as amended from time to time for the purpose of providing insurance and handling claims, if any, which may necessitate providing such information to third parties. Please review the Insurers' privacy notice which is available online (www.berkley.com).

3.9 Cancellation

Insurers may cancel this Policy by giving the Insured notice in writing as prescribed by the Swedish Insurance Contracts Act (FAL). The Insurers will only do this for a valid reason including but not limited to the following:

- (i) Non-payment of Premium;
- (ii) a change in risk occurring which means that Insurers can no longer provide the Insured with indemnity; or
- (iii) a material breach of the insurance contract on the part of the Insured.

The Insured may cancel this Policy by giving notice to Insurers subject to the cancellation rights under the Insurance Contracts Act (FAL).

If this Policy is cancelled at the Insured's request, provided the Insured has not notified a claim or Circumstance, the Insured will be entitled to a refund of any premium paid, subject to a deduction for any time for which the Insured has been covered and a deduction for any additional cancellation charge as specified in the Policy Schedule, to cover the administrative costs of providing the insurance. This will be calculated on a proportional basis.

If Insurers have accepted any claim or Circumstance, then no refund of premium will be allowed. If the Insured wishes to cancel and cover has not yet commenced, the Insured will be entitled to a full refund of the premium paid.

3.10 Combined claims

Where the same original cause gives rise to an entitlement on the part of the Insured to indemnity under Clauses 1.1 to 1.6 under this Policy, the maximum amount payable by Insurers under Clauses 1.1 to 1.6 shall not exceed the Indemnity Limit.

4. WHAT IS NOT COVERED

This Policy shall not indemnify the Insured in respect of any liability for, or directly or indirectly arising out of, or in any way involving:

4.1 Liability involving transport or property owned by the insured

The ownership, possession or use by or on behalf of the Insured of any aircraft, watercraft, hovercraft, motor vehicle or trailer or any buildings, structures, premises or land or that part of any building leased, occupied or rented by the Insured or any property of the Insured.

4.2 Liability arising out of employment

Any injury, disease, illness (including mental stress) or death of any employee under a contract of service with the Insured or any claim arising out of any dispute between the Insured and any present or former employee or any person who has been offered employment with the Insured.

4.3 Supply of goods

The manufacture, construction, alteration, repair, servicing or treating of any goods or products sold, distributed or supplied including the sale and/or supply of hardware and/or software by the Insured.

4.4 Fraud, dishonesty or criminal act

Any act, error or omission of any partner or director of the Insured which is dishonest, fraudulent, criminal or malicious, and/or any claim where any person has committed a dishonest, fraudulent, criminal or malicious act after discovery by the Insured of reasonable cause for suspicion that such act has been committed.

Further, no indemnity will be provided to any person committing or condoning such dishonest, fraudulent, criminal or malicious act or omission and any monies which but for such fraudulent, criminal or malicious act or omission would be due from the Insured to the person committing such act, or any monies held by the Insured and belonging to such person, shall be deducted from any amount payable under this Policy.

4.5 Controlling interest

Any claim made against the Insured by either:

4.5.1

any entity in which the Insured exercises a controlling interest; or

4.5.2

any entity exercising a controlling interest over the Insured by virtue of having a financial or executive interest in the operation of the Insured;

unless such claim is made against the Insured for an indemnity or contribution in respect of a claim made by an independent party against the said entities detailed in Clause 4.5.1 or 4.5.2 and arises out of the exercise and conduct of the Business.

4.6 Liquidated damages

Any claim in respect of liquidated damages or penalties due to liability assumed by the Insured under any contract or agreement where such liability would not have existed in the absence of such contract or agreement.

4.7 Nuclear risks

Any of the following:

4.7.1

Ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;

4.7.2

the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

4.8 War and terrorism

Any of the following:

4.8.1

war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, riot, civil commotion;

4.8.2

usurped power;

4.8.3

confiscation or nationalisation or requisition or destruction or damage or loss of property by or under the order of any government or public or local authority;

4.8.4

any act or acts of terrorism, force or violence for political, religious or other ends directed towards the overthrowing or influencing of the government, or for the purpose of putting the public in fear, by any person or persons acting alone or together or on behalf of or in connection with any organisation;

4.8.5

any action taken in controlling, preventing, suppressing or in any way relating to Clauses 4.8.1 and/or 4.8.2 and/or 4.8.4 above.

The burden of proving that a claim does not fall within this clause shall be upon the Insured.

4.9 Area of activities

Any work or activities undertaken by the Insured outside the Geographical Limits.

4.10 Jurisdiction

Any claim brought (or the enforcement of any judgment or award entered against the Insured) in the courts of the United States of America and/or Canada or their Dominions or Protectorates

4.11 Fines, penalties, punitive, multiple or exemplary damages

Fines, penalties, punitive, multiple or exemplary damages, other than in respect of defamation, libel or slander where such have been identified separately within any judgment or award.

4.12 Loss of documents - magnetic or electrical media

The physical loss of or damage to Documents which are stored on magnetic or electrical media unless such Documents are duplicated on magnetic or electrical media with the intention that in the event of loss or damage the duplicate can be used as the basis for restoring the Documents to their original status and provided always that such duplicates are securely stored in a separate location to the original Documents.

4.13 Pollution

Any claims arising out Pollution including but not limited to pollution conditions, environmental damage, clean-up costs and remediation costs.

4.14 Directors' and officers' liability

Any claim arising from being a director, officer or trustee of the Insured (as opposed to those duties and functions carried out in furtherance of the Business) or from the acceptance of any directorship or trusteeship in any other company not forming part of the Insured.

4.15 Other insurance

Any claim where the Insured is entitled to indemnity under any other insurance except in respect of any amount for which the Insured would otherwise be entitled to indemnity under this Policy beyond the amount for which the Insured is entitled to indemnity under such other insurance.

4.16 Previous claims and circumstances

Any claim or circumstance that may give rise to a claim which has been notified and accepted by insurers in respect of any other insurance that was in force prior to the inception of this Policy.

4.17 Trading losses

Any trading losses or trading liabilities incurred by any business managed or carried on by the Insured including loss of any client account or business.

4.18 Failure to arrange insurance and/or finance

Any loss which follows from the failure of the Insured to arrange and/or maintain insurance and/or finance.

4.19 Asbestos

Any claim involving asbestos.

4.20 Financial services

Any claim arising out of regulated financial services including but not limited to activities subject to supervision of the Swedish Financial Supervisory Authority (Finansinspektionen).

4.21 Pension trustee liability

The Insured acting in the capacity of trustee, fiduciary or administrator of any employer-sponsored pension or superannuation scheme or superannuation programme.

4.22 Bodily injury and/or property damage

Any claim arising out of injury, disease, illness (including mental stress) or death of any person(s) or loss of or damage to property (except as provided under Clause 1.3)

4.23 Sanctions

Any benefit under this Policy to the extent of providing cover, payment of any claim or the provision of any benefit where doing so would breach any sanction, prohibition or restriction imposed by law or regulation.

DEFINITIONS AND INTERPRETATIONS

Headings and notes are for information purposes only and are not to be construed as part of this Policy.

Various words and phrases are used in this Policy and wherever they appear in bold with their first letter in capitals, whether they are used in the plural or singular form, they are deemed to have the meaning set out below:-

Business

Means advice given and service(s) performed by or on behalf of the Insured as detailed in the Policy Schedule.

Where the Insured is liable for a sub-consultant the definition of Business is extended to include any professional activities of the sub-consultant for which the Insured is liable.

Circumstance

Means information or facts or matters of which the Insured is aware which is likely to give rise to a claim against the Insured which the Insured could become legally liable to pay and which arises out of the exercise and conduct of the Business.

Co-operate

Means that the Insured:

- (a) assists Insurers and their duly appointed representatives to put forward the best possible defence of a claim within the time constraints available;
- (b) shall have adequate internal systems in place, which will allow ready access to material information;
- (c) shall at all times and at its own cost give to Insurers or their duly appointed representatives all such information, assistance, signed statements or depositions as may properly be required to facilitate compliance with all applicable Civil Procedure Rules, Practice Directions and Pre-Action Protocols and recoveries;
- (d) shall pay the Excess on demand of Insurers or their duly appointed representatives to comply with any settlement agreed by Insurers.

Defence costs

Means all costs and expenses incurred in the investigation, defence or settlement of any claim or Circumstance notified under the terms of this Policy and/or the cost of representation at any enquiry or other proceedings which have a direct or indirect relevance to the investigation, defence or settlement of any matter notified under the terms of this Policy.

Documents

Means project models or displays, deeds, wills, agreements, maps, plans, records, photographs or negatives, written or printed books, letters, certificates or written or printed documents of any nature whatsoever and shall include computer software and systems records (electronic data shall be deemed to be physical property for the purposes of this Policy).

This definition excludes bearer bonds, coupons, bank or currency notes and other negotiable paper.

Excess

Means the sum shown in the Policy Schedule unless otherwise stated in this Policy and shall be the first amount of each claim that is payable by the Insured which shall not be indemnified by Insurers.

Where, however, more than one claim is made during the Policy Period which arises from the same original cause then only a single Excess shall apply in respect of such claims.

Geographical limits

Means anywhere in the world excluding the United States of America and/or Canada or their Dominions or Protectorates or as varied in the Policy Schedule.

Harm

Means any harm to the health of any living organism or interference with ecological systems of which they form part and, in the case of a person, shall include offence caused to any of their senses.

Indemnity limit

Means the sum shown in the Policy Schedule which is available to indemnify the Insured in respect of each claim, provided always that where more than one claim arises from the same original cause, all such claims shall be deemed to be one claim and only one Indemnity Limit shall be payable in respect of the aggregate of all such claims.

Insured

Means the corporate body or bodies named as the Insured in the Policy Schedule including:

Any subsidiary company in which Insured directly or indirectly:

- (i) holds more than 50% of the share capital, or
- (ii) holds more than a half of the voting rights for all shares, or
- (iii) is entitled to appoint or relieve from office more than a half of the members of its board of directors or corresponding company body, or
- (iv) has the management control

Insurers

Means W. R. Berkley Insurance AG, svensk filial

Letter of claim

Means a written Letter of Claim in which the Insured is held liable for pure financial loss incurred by a claimant

Policy period

Means the period shown in the Policy Schedule plus any extensions to the period which may be granted by Insurers.

Pollution

Means any one or a combination of a release, emission, discharge, dispersal, disposal, escape of any substances, which are capable of causing Harm to any person or any living organism, into or onto any water, land or air.