

Side A DIC Highlights

All Risk Approach

- All Risk policy construction as opposed to Follow Form with Drop Down Triggers
- Other DIC forms employ a Named Perils approach which places the burden on the insured to prove that one of the named perils has been triggered
- Named Perils approach can never describe the entire universe of potential claims scenarios while the All Risk approach can respond to currently unknown exposures
- Claims Made

Exclusions

- No prior notice exclusion
- No Presumptive Indemnification
- No Insured versus Insured exclusion
- No ERISA exclusion
- No Pollution exclusion
- No BI/PD exclusion
- "That portion of Loss" preamble
- Conduct Exclusions
 - Do not apply to Defense Costs
 - Do not apply to Independent Directors
 - Final non-appealable adjudication in the underlying action wording
 - Full severability of exclusions, including non-imputation of conduct or knowledge

Other Terms and Conditions

- No Application requirement, non-rescindable
- SOX 404 / Dodd-Frank 954 "Facilitation" Costs
- No Arbitration Clause. Insured is not forced to use ADR as a method of resolving coverage disputes.
- Taxes, fines, penalties where insurable by law included in Definition of Loss; carrier agrees not to challenge legal opinion of Insured's counsel as to insurability of punitive, exemplary, or multiplied damages
- Deemer clause: Carrier to advance within 60 days in event of failure or refusal for any reason of Company to indemnify or failure or refusal of insurance to respond
- Affirmative status coverage for fiduciaries of employee benefit plans
- No stacking of limits clause
- Carrier must prove prejudice to invoke late notice coverage defense
- Liberalization to Underlying Clause—where primary policy is broader than DIC policy, DIC adopts most favorable coverage for Insured Persons

Ashley Beales

Vice President, Executive Risk
(416) 594-4933
abeales@berkleypro.com

Richard Kniaz

Assistant Vice President, Executive Risk
(416) 594-4805
rkniaz@berkleycanada.com

Rob MacKay

Senior Underwriter, Executive Risk
(416) 594-4816
rmackay@berkleypro.com

W.R. BERKLEY CORPORATION

Total Assets:
\$20.6 billion USD

Common Stockholders' Equity:
\$4.3 billion USD

Reserves for Losses and Loss Expenses:
\$10.1 billion USD

40+ years of casualty market experience

BERKLEY INSURANCE COMPANY

A.M. Best A+
S&P A+

Berkley Canada is committed to providing essential business coverage over the long term. We apply our experience, industry expertise and underwriting knowledge to develop fully-featured, realistically priced protection on which our business partners and insureds can rely now and into the future.

Responsive. Creative. Secure. BerkleyCanada.com



Berkley Canada is the trade name for the Canadian branch of Berkley Insurance Company. As a member company of W. R. Berkley Corporation, we provide customers with the resources and stability of a global corporation, with the outstanding customer service and underwriting authority of a local company.