

# Owner's Protective Professional Indemnity



**Berkley**  
**Construction Professional**  
a Berkley Company



Presented by

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- Over 20 years of underwriting experience in design and construction professional liability insurance
- Originator of the owners and contractor's protective insurance coverages which are now the preferred approaches to underwriting project specific design and contractor's professional liability





# Berkley Construction Professional

Our mission is to be the leading provider of specialized construction professional insurance and pollution coverage for construction-related industry exposures. In addition, we offer leading edge risk management services so that our insureds continue to be best-in-class in avoidance of potential claims.

- Dedicated to the Construction Industry
- Expert Underwriters
- Expert Claims Service
- Real-world Risk Management Education

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*Practice management recommendations should be carefully reviewed and adapted for the particular project requirements, firm standards and protocols established by the construction professional.*



# Presentation Outline

1. What is Opus?
2. Pushback from Owners / Benefits of Opus
3. Opus Coverage Innovations
4. Best Practices for Placing Coverage



## What is Opus?

- First party indemnity insurance policy that covers a broad spectrum of professional and pollution exposures on construction projects
- Sits excess and difference-in-conditions of the professional liability policies of the design and construction professionals on a construction project
- Owner is the named insured and usually has privity of contract with designers and in U.S. may be the only entity legally entitled to recover loss
- Drops to dollar-one cover if there is no underlying insurance
- Significantly more cost effective than A/E replacement insurance (PSPL)



## Pushback from Owners

Why should I worry about coverage (or additional) for the design firms—they showed me certificates?

I bought a PSPL dedicated for the design team—doesn't this address my exposure?

I'm buying a construction Wrap Up and added the design team as insureds under the policy

I'm buying a Builders Risk policy and have added the LEG3 endorsement

I don't want Opus—my design team has warned me it is a bad policy

This looks like a lawyer's dream come true and tons of finger pointing

With integration of design and construction management liability, isn't it better to have one single policy approach?



# Benefits of Opus

Broadly covers professional risks on a project

Improved consultant selection

Places design risk directly on firms who can best control it

Minimizes defense costs for professional claims

Owners protective carrier has a duty to act in good faith when there is no relationship with the design team

Enhances aggregate pool of insurances

More cost effective than alternative project insurances





# Owners Protective Professional Indemnity (OPPI)

## OPPI SUCCESS STORIES

- \$10 million paid on design flaws on a dormitory project
- \$5 million paid on a hotel
- \$45 million on a hospital
- \$5 million mechanical claim on a data center

## I WISH I HAD OPPI

- Unpaid \$50 million roof design failure on stadium
- \$10 million eroded on defense costs on convention center
- \$15 million eroded on defense costs at international terminal



# Opus Innovations



- Proactive coverage
- 1st dollar cover
- Cover during operating and maintenance phase of P3 projects
- Design cover when owner not in direct contract with designer
- Professional services when performed by the contractor
- Professional services extension to delegated design
- Employed architects
- Portfolio approach



# Best Practices for Placing Coverage

- Difference in Conditions (DIC)/  
Difference in Limits (DIL)
- Other insurance clause
- Are all design professionals covered?
- Construction management –  
extend to CM agency and CM at risk
- Know your limitations (of liability)
- Make sure policy and minimum insurance requirements match
- Avoid material variation wording and endorse unintentional  
failure to report conditions
- Be transparent, avoid commissions grab





# Questions?

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