

## **LIABILITY INSURANCE** **for** **Arkitektbedriftene Forsikringservice AS**

**Insurance terms of 1 January 2019  
(replacing terms of 1 January 2014)**

**Cover in accordance with the claims-made principle**

### **1. ORDER OF PRECEDENCE IN RELATION TO CERTIFICATE OF INSURANCE AND NON-MANDATORY LAW**

In addition to these terms, the Insurance/Member certificate, the provisions laid down in the Norwegian Insurance Contracts Act (*Lov om forsikringsavtaler* (FAL)) of 16 June 1989 and any other provisions laid down in legislation of relevance to the insurance contract apply.

Mandatory legal provisions take precedence over the Insurance/Member certificate, which takes precedence over the terms, which in turn take precedence over any non-mandatory legal provisions.

The Insurance/Member certificate means the written certificate issued as documentation that the insurance has been taken out.

It specifies the insurance contract and any special terms that apply in addition to these terms, and generally provides information as set out in FAL Section 2-2.

These terms form part of the contract in force from time to time between Arkitektbedriftene Forsikringservice AS and Tryg Forsikring (hereinafter called the Company).

### **2. THE COMPANY'S LIABILITY**

The present terms apply to claims submitted to the insured during the insurance period (claims made), when such claims are based on events occurring after 1 January 2003.

However, if taken out after 1 January 2003, the insurance covers only claims caused after the insurance was originally taken out.

In cases of doubt, and if the damage or injury is caused by an omission, the damage or injury is regarded as having arisen on the day on which the omitted act should have been carried out at the latest in order to prevent the damage or injury.

#### **When claims are regarded as having been registered:**

Claims are deemed to have been registered within the insurance period when:

- the insured and/or the Company receives a written claim for compensation from a third party, or
- the Company is notified in writing by the insured of events that can be expected to lead to a claim being made against the insured and/or the Company.

The earliest of the above-mentioned dates determines when the claim is deemed to have been registered.

#### **Deadline for registering claims with the Company:**

The Company will in any case be exempt from liability if the insured does not submit a claim against the Company within 12 months of the insured becoming aware of the events on which such claim is based, see FAL Section 8-5.

The Company reserves the right to recourse against the insured in cases where the Company has paid compensation to the injured party and the insured has exceeded the deadline for reporting the insurance event to the Company, see FAL Section 4-10, third sentence, and FAL Section 8-5, first sentence.

#### **Agreement on extended reporting period after expiry of insurance period**

The insured can, upon payment of an additional premium, extend the deadline for registering claims beyond the contract term in order to cover claims resulting from damage or injury caused during the contract term, but which are first filed after the expiry of the contract term.

The insured's right to such extension of the reporting deadline lapses if the insured does not exercise his right in writing within 60 days of the end of the contract term at the latest, and similarly, if the insured, during the above-mentioned 60-day period, and before requesting an extension of the reporting period, receives claims or becomes aware of claims under the insurance.

The extension of the reporting period as set out in the first paragraph does not lead to any change to the sum insured or the terms applicable during the contract term.

The tariffs and guidelines agreed between the Company and Arkitektbedriftene Forsikringsservice AS from time to time apply to any agreement to extend the reporting period.

#### **Automatic extension of reporting period upon cessation of the insured's entity**

If, during the insurance period, the insured's entity ceases to exist due to circumstances other than bankruptcy, sale, merger or other form of business takeover, on the date of cessation the insurance will cover an automatic extension of the reporting period as regards claims that are reported within 5 years of the expiry of the contract term applicable at the time. In such cases, the Company's aggregate liability for any damage or injury reported during the five-year period is limited to the sums insured applicable on the date of cessation.

### **3. SCOPE OF COVER**

The insurance covers the legal liability that may be incurred by firms of architects, here insured, affiliated to Arkitektbedriftene Forsikringsservice AS during the execution of assignments in their capacity as architects, for damage or injury that occurs and can be determined in accordance with applicable law in the Europe.

Damage or injury in Europe means:

- a. Damage to property or injury to a person in a European country.
- b. Losses sustained by the client or a third party due to errors made during an assignment related to real estate in a Europe country or another project which is to be physically realised in a Europe country and that can be determined in accordance with European law.

Unless otherwise specifically agreed and stated in the insurance certificate, the insurance is subject to the limitations of liability following from Standard Norge's current standard contracts for consultancy and engineering design services.

Insurance outside Europe:

For firms of architects that have individually agreed with the Company that the insurance also applies to legal liability for damage or injury occurring and determined outside Europe, the special terms applying to such extension of cover which are stated in the Insurance/Member certificate also apply.

### **4. SUM INSURED, LEGAL COSTS AND DEDUCTIBLE**

In so far as the insured's liability to the client is concerned, the Company's liability is limited to a maximum of 150 times the base amount (G) per claim and in total for the entire assignment.

In cases where the insured's liability under the contract with the client is less than 150 G, the Company's liability is reduced correspondingly to the limitation of liability resulting set out in the contract.

The base amount applying on the ascertainment date is used to determine the Company's maximum liability.

In so far as the insured's liability to third parties is concerned, the Company's liability is limited to 150G per claim and 150G in total for the insurance period.

The Company's total liability for all claims submitted in one and the same insurance year is a maximum of 300G. The Company is liable for rescue costs in accordance with FAL Section 6-4.

In the event of damage or injury that occurs in the Europe, legal costs are covered in addition to the sum insured. In the event of damage or injury that occurs outside the Europe and which is covered by special agreement, the Insurance Company's total payment obligation in each claim including legal costs is limited to the sum insured.

#### **Deductible**

Unless otherwise stated in the insurance certificate, the rules for determining the size of the deductible are set out in the contract between Arkitektbedriftene Forsikringservice AS and the Company. One deductible per claim is deducted from the settlement disbursed by the Company. In the event of several claims pertaining to one and the same project, a maximum of three deductibles will be deducted; however the total deductible for three or more claims per project is a minimum of NOK 150,000.

One claim means all losses which can be ascribed to an act of the same factual or legal nature and which can be attributed to the time when the act was first committed.

#### **5. THE INSURANCE DOES NOT COVER**

- a. compensation and/or damages for non-economic loss in accordance with Sections 3-5 and 3-6 of the Damage Compensation Act (*Lov om Skadeerstatning*) of 13 June 1969, or fines, day fines/coercive fines, transgression fines;
- b. liability for damage in connection with assignments for which the insured has taken out separate insurance, either alone or together with other architects and/or other consulting engineers, provided that this is compatible with the mandatory provisions set out in FAL Section 6-3;
- c. liability for damage or injury resulting from the wilful violation of the law, legislative decrees or public regulations;
- d. claims based on the provision of information which proves to be incorrect concerning the construction period or the calculation of the costs of a construction project;
- e. liability for damage or injury which the insured has, subject to a separate contract, undertaken to cover in so far as the contract entails liability over and above what follows from applicable law;
- f. liability undertaken by the insured when entering into a contract with a contractor for a turnkey contract, in so far as the liability extends beyond what the party would otherwise have been liable for vis-à-vis the client, unless otherwise separately agreed or stated in the Insurance/Member certificate;  
The same applies for other contractual relationships when the insured knew or ought to have known, at the signing of the contract, that the project was to be sold at a fixed price;
- g. liability due to delays or drawbacks resulting from the progress of a project due to drawings, calculations, descriptions or other assignments not being prepared on time, or being absent;
- h. liability incurred by the insured as the owner or user of a motor vehicle, vessel or aircraft;
- i. liability for architectural errors in relation to
  - companies belonging to the same group as the insured, or where the insured has a controlling influence or an ownership stake in excess of 50%;
  - the daily manager, board members or their family;
  - companies in which the insured's daily manager, board members or their families have an ownership stake in excess of 50%;

Family means: parents, siblings, children and spouses of the daily manager and the board members as well as the spouses' parents, siblings and children and their spouses. Live-in partners are treated like spouses. Live-in partners mean persons with joint housekeeping who live in a marriage-like relationship, and who reside at the same address according to the National Register;

- j. liability associated with projects in respect of which the insured or the insured's family has an independent financial interest in the realisation of the project;
- k. The costs incurred by the insured in fulfilling the insured's contractual obligations, such as redoing of the insured's own work, or the insured's/architect's liability to refund fees/remuneration;
- l. Liability resulting from the violation by the insured of patents, intellectual property rights, trademark rights or design copyrights.

## 6. TIME BARRING

The Company's liability is time-barred in accordance with the same rules that apply to the insured's liability, see however FAL Section 8-6, third paragraph.

## 7. THE INSURED'S DUTIES IN THE EVENT OF A CLAIM

If a claim for compensation is made against the insured, or if the insured can expect such a claim to be made, the insured must notify the Company without undue delay.

The insured is obliged to provide the Company with the information and documents that are available to the insured and that may be relevant to the settlement or to the Company's right of recourse against others.

The Company will be exempt from liability if the insured does not submit a claim to the Company within 12 months of the insured becoming aware of the events on which such claim is based, see FAL Section 8-5.

The insured is obliged to present the case to the Company free of charge; for example, the insured must arrange for the preparation of reports, necessary photocopying, meetings and travel free of charge within a cost limit of 1 G (base amount).

A fee of 1/20 G per day is paid for the attendance of court cases.

Necessary travelling and accommodation expenses for court meetings are refunded.

The insured must, in cooperation with the Company, do what he can to prevent or limit the liability as much as possible, and if requested to do so by the Company, the insured must seek an amicable settlement with the injured party.

The insured must not admit to any liability or negotiate any claims without the prior consent of the Company. If such consent is not obtained, the Company is not bound by the insured's admissions to the injured party.

If the Company has declared itself willing to settle a case amicably, but if the insured prevents this, the Company is exempt from any expenses incurred as a result of this.

## 8. THE COMPANY'S DUTIES IN THE EVENT OF A CLAIM

In the case of claims which, in the opinion of the injured party, are covered by the insurance and which exceed the deductible, the Company undertakes to:

- establish whether a claim exists;
- negotiate with the injured party;
- pay the necessary costs associated with the case/lawsuit.

The Company chooses a lawyer or other competent claims handler internally or externally to deal with the case. If the insured engages its own lawyer, the Company does not cover the costs unless the lawyer chosen by the insured has been approved by the Company in advance.

If the claim is partly covered by the insurance and partly falls outside the scope of cover, the costs are divided between the parties based on their interest in the case.

If a claim is made directly against the Company, the Company must notify the insured without undue delay and keep the insured informed about the further processing of the claim.

The Company has the right to pay all compensation to the injured party and has the right to make itself exempt from any further obligations by settling the claim or the sum insured, including costs incurred.

In such cases, a prior statement must be obtained from Arkitektbedriftene Forsikringservice AS and the claims handler responsible for the insurance scheme.

The Company's admissions to the injured party are not binding for the insured.

## **9. INTEREST**

The insured is entitled to interest pursuant to FAL Section 8-4.

## **10. COMMENCEMENT**

The insurance commences on the date stated in the insurance certificate.

## **11. DISPUTES – APPEAL TO APPEAL BOARD**

In the event of a dispute between the Company and the insured concerning the insured's claims or rights under the agreement, either party may present such dispute to Arkitektbedriftene Forsikringsservice AS with a view to obtaining a statement before a decision is made. Forsikringsservice decides itself whether it can make a statement in the case.

The insured is also entitled to appeal to the Insurance Appeal Board.

The appeal must be filed with the Insurance Appeal Office (*Forsikringsklagekontoret*), Postboks 53, Skøyen, 0212 Oslo.

## **12. LOSS OF COVER**

If the insured has neglected the obligation to provide information or acted dishonestly towards the Company, the Company's liability can be reduced or withdrawn, see FAL Section 4-2, second paragraph.

## **13. LIMITATION OF THE COMPANY'S RECOURSE AGAINST THIRD PARTY**

The Company has no right of recourse against the insured's family, household or persons who are employed in his service.

## **14. AMENDMENTS – RENEWAL/TERMINATION OF INSURANCE CONTRACT**

Any amendments to the insurance terms take effect from the start of the new insurance year. Notice of any amendments is sent out together with the premium notice for the new insurance period.

The insurance is agreed for one year at a time and is automatically renewed for one year at a time unless terminated by either party, see FAL Section 3-2. The insured's right to terminate the insurance follows from FAL Sections 3-4 and 3-6. The Company's right to terminate the insurance follows from FAL Sections 3-5 and 3-7.

In case of termination of the insurance during the insurance period, the insured must be credited any amounts outstanding pursuant to FAL Section 3-9.

## **15. AMENDMENT OF RISK – LAPSE OF LIABILITY**

In the case of changes to the basis for calculating the premium, for example the annual revenue, payroll costs or number of employees stated by the insured so that a higher premium is required, the compensation is proportionately reduced, see FAL Section 4-7. If the change concerns a factor of considerable relevance to the risk, the Company's liability lapses, see FAL Section 4-6.

## **16. SAFETY REGULATIONS**

In cases where the firm of architect enters into a contract with a subcontractor, the firm of architects must ensure that the subcontractor has taken out liability insurance for its activities on equivalent terms and with equivalent sums insured as the insurance taken out by the firm of architects. If the Insured fails to do so, an additional deductible of 2G will apply to each and every claim which can be traced back to the subcontractor.