



## Insurance Punch List

### INTRODUCTION

Insurance is an integral part of a contractor's business. The need is driven in part by contractual requirements as well as statutory obligations. Insurance can be costly so it's important to understand how and why premium dollars are spent. The intent of this punch list is to assist mechanical contractors in indentifying insurable risks supplemented with a general discussion of the types of available insurance.

It's important to note that insurance is merely a method to transfer the risk of financial loss to another party in exchange for a premium. The overall risk management process includes risk identification, analysis and control. As risks of loss are identified and analyzed, various measures should be considered and implemented in an effort to prevent a loss from occurring. Although there may be insurance available to fund a loss, losses are disruptive to the business and can cause damage to the relationship between a contractor and customer.

The checklist at the end of this bulletin is intended simply as a working checklist to assist in discussions with your company's insurance agent or representatives. It does not purport to

be a complete list to cover every possible situation of insurance with which contractors might be faced.

Consult your insurance broker, attorney, and/or other business and insurance advisors regarding your company's specific needs. Items included on the list, depending upon the particular circumstance, location, or experience of the individual contractor, may not be available in the insurance market at this time.

MCAA is in no way stating or recommending that all of the clauses or provisions contained in this checklist be in every contractor's policies. The matter of insurance is highly individualistic and dependent upon the needs and desires faced in individual situations by individual members.

We thank CNA and International Risk Management Institute, Inc. for their contributions to this bulletin.

For additional information, see the booklet entitled *Insurance for Contractors* by Walter T. Derk of Fred S. James Company, 1 North LaSalle Street, Chicago, IL 60602.

## INSURABLE RISKS

A contractor's insurable risks generally can be categorized as:

1. **Bodily injury or property damage to a third party arising out of the contractor's acts**, or the acts of others for whom the contractor is responsible, i.e. subcontractors, vendors. This risk can arise from:

- Work in progress
- Products
- Completed operations
- Operating mobile equipment
- Operating motor vehicles
- Rigging
- Design/engineering services

2. **Physical damage to property owned or leased by the contractor**, including property of others in the care, custody or control of the contractor – for example:

- Buildings
- Business personal property (furniture, fixture, office equipment, inventory)
- Contractor's equipment
- Vehicles
- Installation materials and equipment

3. **Statutory obligations – workers' compensation benefits**

The following are not insurable risks:

- **Breach of contract** (business risk)
- **Intentional acts** (against public policy)

## CASUALTY INSURANCE

The following describes some of the major features of commercial casualty insurance. To determine precisely what

is and is not covered by your casualty insurance policies, there is no substitute for reviewing the policy contracts. Casualty insurance programs vary considerably, and only the provisions of your policies determine the scope of your insurance.

### Workers' Compensation Insurance and Employers' Liability

Workers' compensation and employers' liability insurance both apply to employee injury or disease arising out of and in the course of employment. They are commonly provided under a single policy designed as follows:

1. Part One. Workers' Compensation Insurance (WC)

Workers' compensation insurance provides for payment of statutory benefits to employees who suffer work related injury or disease. Benefits payable include the cost of medical care, income, death and dismemberment. The insurer also promises to defend any claim or suit against you for benefits payable under the policy. Since payments are prescribed by law, there is no policy limit for workers' compensation.

2. Part Two. Employers' Liability Insurance (EL)

Employers' liability applies to claims brought by employees who are excluded from state workers' compensation laws. It also applies to claims brought against you by the spouse of an injured employee. Under employers' liability, the insurer agrees to pay all sums you legally must pay as damages because of bodily injury to your employees.

In contrast to Part One, the policy

has specific limits for employers' liability. The standard limits are \$100,000 bodily injury by accident, \$100,000 per employee for disease and a policy limit of \$500,000 for disease. These limits can be increased for an additional premium. (Most umbrella liability underwriters will require that the underlying employers' liability limit be at least \$1,000,000.)

### 3. Part Three. Other States Insurance

Standard WC & EL policies provide insurance only in those states listed in Item 3.A. of the information page – these are states with known exposure. Part Three “Other States Insurance” allows an employer to include coverage for states with no known exposure at the time of policy issuance. These states must be listed in Item 3.C. of the information page, and it is preferable that 3.C. not list individual states. Instead, a blanket statement such as “*all states except North Dakota, Ohio, Washington, Wyoming and states listed in 3.A.*” is recommended.

Although temporary insurance is provided, you must still notify your insurer at once if you begin to work in any state to which Part Three applies.

### 4. Endorsements

The WC & EL policy can be endorsed to amend the contract to fit your specific needs. There are numerous endorsements available which both extend and restrict coverage. Three of the more common endorsements are the following:

#### a. Voluntary Compensation Endorsement

Every state and territory exempts some employees from coverage under its workers' compensation laws. If such employees are injured, their sole recourse may be to bring suit against you. To head off such suits you can make statutory benefits available to your employees who would not otherwise be entitled to them, by adding a Voluntary Compensation Coverage Endorsement to your policy.

#### b. Longshore & Harbor Workers Compensation Act

The standard WC & EL policy excludes any federal workers' compensation laws or other federal occupational disease laws, so coverage for employee injury claims made under federal compensation laws, such as the Longshore & Harbor Workers Compensation Act, must be specifically endorsed to your policy. This act can apply to almost any employee who works on or travels near navigable waters. The act provides greater benefits than standard WC laws, so injured employees will likely choose to file a claim under the federal act rather than the state law.

#### c. Stop Gap

There are several states that do not permit private workers' compensation insurance. Referred to as monopolistic fund states, they currently include North Dakota, Ohio, Washington and Wyoming. Employers must purchase WC benefits through the state. Employers' liability is not provided by the state. If you are operating in any of these states, you can add coverage via

a “Stop Gap” endorsement to your WC & EL policy. If you only operate in monopolistic states, you can add the “Stop Gap” endorsement to your general liability policy.

#### Note – Alternate Employer Endorsement

This endorsement is beginning to show up in customer insurance requirements and may not be applicable. This endorsement should be considered when you are lending or borrowing employees. It serves to establish coverage under your policy for your employees while they are temporarily working for another employer. Conversely, if you are borrowing employees, you don't want to be liable for their WC benefits and, therefore, should be listed as an Alternate Employer under the regular employer's policy. By example, if you lease equipment to others with an operator, you would add the Alternate Employer endorsement to your policy. Examples of borrowing employees include renting equipment from others with an operator and hiring temporary employees from a temp agency. In such cases, you should look to the leasing companies to include you as an Alternate Employer under their policies.

#### 5. Premium

A few comments regarding WC rating that may assist in your efforts to minimize your WC costs.

- a. The basis of the premium is per \$100 of payroll. In most states the excess portion of overtime

and double time is excluded from reportable payroll, provided that you maintain records that segregate the excess portion from the straight time wages.

- b. Most workers' compensation laws provide that a contractor shall be liable for WC benefits for employees of their uninsured subcontractors. The contractor will also be responsible for paying premiums on the payroll of the uninsured subcontractor. For that matter, if a contractor lacks proof of insurance for any subcontractor, the insurer can automatically charge additional premium to the contractor's policy. Therefore it is essential that you have certificates of insurance evidencing WC insurance on file before allowing subcontractor employees on your jobsite.
- c. For contractors, payrolls are divided between classifications for the various separate and distinct construction operations, provided you maintain payroll records adequate to permit such division. Operations for which separate payroll records are not maintained must be assigned to the highest rated classification applicable.

#### Auto Insurance

The vast majority of commercial auto insurance is written on the standard Business Auto Coverage Form. This widely used policy has the coverage flexibility needed to respond to the owned and non-owned auto liability and physical damage exposures of your business. The following coverage explanations will help you tailor your auto insurance to fit your requirements.

## 1. Liability Insurance

Coverage is provided for sums you are legally obligated to pay as a result of an auto accident. The insurer's obligation to pay is limited by a combined single limit of liability for bodily injury and property damage, subject to policy terms and conditions.

3.

The insurer also has the right and duty to defend an insured against any claim or suit which potentially falls within the policy coverage. Defense costs are paid in addition to the liability limit.

Generally, a combined single limit of \$1,000,000 per accident is considered adequate and will satisfy the underlying limit requirement of most commercial umbrella policies.

Consider deductible options when pricing your auto liability insurance. You can use a property damage only deductible, or property damage and bodily injury deductible.

## 2. Physical Damage

Physical damage to your vehicles is generally provided via comprehensive and collision coverage.

Collision coverage pays for loss to a covered auto resulting from collision with another object or the covered auto's overturn. Comprehensive coverage pays for damage to the covered auto caused by any peril except collision, overturn, or a peril specifically excluded.

Premium for collision and comprehensive is based on vehicle age and cost new. As vehicles age, their "actual cash value" declines, thereby reducing the potential return

on your physical damage insurance dollar. You should annually evaluate vehicle values in relation to your deductibles and physical damage premium. At what point you choose to discontinue your physical damage insurance depends upon how much risk you care to assume for physical damage.

## 3. Uninsured (UM) and Underinsured (UIM) Motorists

UM insurance provides you with bodily injury coverage if you are in an accident with an at-fault uninsured driver. UIM insurance responds when the at-fault driver is insured, but the liability limit is inadequate.

The coverage basics are relatively simple, however, the individual state coverage variances are extremely complex.

UM/UIM is required in some states, and optional in others. Consideration for rejecting coverage should include how vehicles are used (business only or business and personal), and the potential for duplicate coverage. Most bodily injury claims will involve employees who will likely be covered by workers' compensation. Employees may also maintain UM/UIM under their personal auto insurance.

Ask your insurance representative for assistance in evaluating your UM/UIM exposures and state requirements.

## 4. No-Fault or Personal Injury Protection (PIP)

Roughly half the states have enacted no-fault auto insurance laws which serve to compensate injured

persons in auto accidents without a need to prove fault.

In theory, these statutes provide benefits to injured persons without regard to negligence, and in exchange, the law limits the injured person's right to sue. In fact, the extremely complex no-fault laws vary greatly from state to state, as each state adds its own unique slant to the no-fault concept.

Ask your insurance representative for assistance in evaluating your no-fault exposures and state requirements.

#### 5. Medical Payments (MP)

Medical Payment insurance pays without regard to liability for medical and funeral expenses arising from an auto accident. Covered expenses must be incurred within three years.

The desirability of the coverage depends to a large extent upon the legal status of your business (corporation, partnership, individual, etc.) and the occupants of your vehicles.

If you are an individual named insured, MP insurance can, subject to coverage provisions, apply to you and your family members. However, if your business is a corporation or partnership, any coverage MP provides for an individual and family has no applicability.

Your employees are specifically excluded from MP coverage since they are covered under workers' compensation for auto injuries arising out of their employment. MP insurance may be desirable if passengers are other than employees (customers, guests, etc.).

#### 6. Covered Autos

The Business Auto Policy provides a great deal of flexibility in matching auto exposures (owned, non-owned and hired) and auto coverage. The flexibility results from the use of endorsements and covered auto designation symbols.

The standard provisions of the Business Auto Policy only include liability and physical damage coverage. Other coverage such as UM, no-fault, medical payments, etc., whether mandated by state law or voluntarily selected by the insured, are provided by policy endorsements.

After appropriate coverage is determined, the autos which are subject to each coverage are identified via the use of covered auto symbols. There are ten symbols, and each symbol stands for a specific description of autos. For example:

Symbol 1 = Any Auto  
Symbol 7 = Specifically Described Autos  
Symbol 8 = Hired Autos Only  
Symbol 9 = Non-owned Autos Only  
Symbol 19 = Mobile Equipment

Subject to Compulsory or Financial Responsibility or Other Motor Vehicle Insurance Law\*

It's important to note that some symbols denote automatic coverage for newly acquired vehicles, while others require that new vehicles be reported to the insurer within 30 days. To the extent possible, you should seek the "automatic coverage symbols."

\*Symbol 19 was added in response to changes in the definition of "auto" under the commercial general

liability coverage form (CGL). The definition of "auto" was expanded to include mobile equipment that is subject to compulsory or financial responsibility laws. While the operational use of the mobile equipment is covered under the CGL, over the road use is not and must be scheduled under your auto liability policy to avoid gaps in coverage.

## 7. Vehicle Classification

With regard to correct premium determination, make sure that your vehicles are properly classified. If your vehicles are parked at job locations for the majority of the working day, "service," the lowest rated truck class, is appropriate.

Key elements of proper premium development are vehicle cost new, gross vehicle weight and vehicle radius of operation.

## 8. Conclusion

Commercial auto insurance can be complicated, particularly for multi-state risks. Work closely with your insurance agent to identify your optimum combination of auto exposure, coverage and premium.

### **Commercial General Liability Policy (CGL)**

The CGL policy provides broad coverage for damages you are legally obligated to pay to third parties arising from your acts or the acts of others for whom you are legally liable.

There are two forms of the CGL policy in use today, "occurrence" and "claims made." The major difference between the two is the "trigger," or means of activating

coverage. The "occurrence" policy covers claims arising from injury or damage which occurs during the policy period. Generally, the "claims made" policy covers injury or damage that occurs after the "retroactive date" and for which a claim is first made during the policy period.

The policy is basically divided into three coverage parts, plus Supplementary Payments (defense costs):

- Coverage A – Bodily Injury (BI) and Property Damage (PD)
- Coverage B – Personal and Advertising Injury
- Coverage C – Medical Payment

### 1. Coverage A

This coverage part is probably of most interest to contractors as it insures bodily injury and property damage to third parties arising from:

- Premises and operations liability
- Products and completed operations liability
- Broad form property damage liability
- Contractual liability
- Independent contractors liability
- Fire legal liability

There are currently 17 exclusions under Coverage A and it's important to have a general idea of what those exclusions are:

- a. Expected or Intended Injury
- b. Contractual Liability (see below)

- c. Liquor Liability
- d. Workers' Compensation (insured under a separate policy)
- e. Employers' Liability (insured under a separate policy)
- f. Pollution (see below)
- g. Aircraft, Autos, and Watercraft (insured under separate policies)
- h. (Transportation of) Mobile Equipment (refer to auto insurance)
- i. War
- j. Damage to Property (see below)
- k. Damage to your Product
- l. Damage to your Work (applies to completed operations; exception for subcontractor's work)
- m. Damage to Impaired Property or Property Not Physically Impaired
- n. Recall of Products, Work or Impaired Property
- o. Personal and Advertising Injury (refer to Coverage B)
- p. Electronic Data
- q. Distribution of Material in Violation of Statutes (against public policy)

Exclusions are intended to further define coverage and in some cases serve to provide limited coverage. Following is some additional information for your consideration:

- 1) Contractual liability exclusion – there is an exception for the assumption of tort liability of another party with respect to third party BI and PD. This is the provision applicable to indemnity and hold harmless agreements contained in many construction contracts, equipment leases, etc.
- 2) Pollution exclusion – with the exception of contractors involved

in the monitoring, testing or clean up of pollutants, the standard pollution exclusion affords some limited off-premises protection for injury or damage arising from completed operations, ongoing operations (provided you do not bring the pollutant or contaminant to the site), and accidental discharge of fuel or lubricants from mobile equipment. There are assorted endorsements that an insurer can use to further restrict or eliminate this limited protection. There are also exclusion endorsements specific to asbestos, mold, and silica. The definition of "pollutant" and "contaminant" under the CGL policy is very broad – consider the intended use of the systems you are installing or the materials and products used in your work. If there is exposure for discharge, release or escape of "pollutants" or "contaminants" during the course of construction or after a system is put to its intended use, you may want to consider purchasing a separate contractor's pollution liability policy.

- 3) Damage to Property exclusion – this excludes property damage for six types of property during the course of construction:
  1. Property you own, rent or occupy
  2. Premises you sell, give away or abandon
  3. Property loaned to you
  4. Personal property in your care, custody or control
  5. That particular part of *real* property on which you or any contractors or subcontractors working

directly or indirectly on your behalf are performing operations

6. That particular part of *any* property that must be restored, repaired or replaced because your “work” was incorrectly performed on it (often referred to as the faulty workmanship exclusion)

Generally speaking most of these exposures can be insured under builder’s risk, installation floater, or other forms of property insurance. With respect to care, custody or control, consider adding a rigging liability endorsement to your CGL policy if you are lifting property of others – you can also include rigging liability under your installation floater, but it will only provide coverage for physical damage to the property, not loss of use which is provided under the CGL.

- 4) Professional liability – the list of exclusions noted above does not include professional liability, however, it is not the intent of the CGL to insure damages arising from professional services you may provide to others as an engineer, architect or surveyor, or for independent professional services you may hire for engineering, architectural or surveying services in conjunction with your work. Accordingly, most contractor CGL policies include an exclusionary endorsement for professional liability. The exclusion should make an exception for means and methods. Separate policies are available for professional liability.

## 2. Coverage B

This coverage protects you from claims arising from “Personal and Advertising Injury Liability.”

Coverage is triggered by an “offense” committed during the policy period (as compared to an “occurrence” under Coverage A). Covered offenses include:

- False arrest, detention, or imprisonment
- Malicious prosecution
- Wrongful eviction
- Wrongful entry
- Invasion of privacy
- Libel or slander of a person, organization, product, or service
- Advertising infringement (including Internet ads)
- Copyright infringement in advertisements
- Consequential “bodily injury” arising out of any of these offenses is considered “personal and advertising injury”

There are currently 16 exclusions for this Coverage B. Most of the exclusions pertain to knowledge that the offense would violate the rights of another. An exclusion to note is “personal and advertising liability” assumed under contract. “Bodily injury” and “personal injury” in an insurance contract have distinct definitions. By comparison, attorneys have a tendency to use “personal injury” in lieu of “bodily injury” and this could create a gap in coverage since “personal injury” liability assumed under contract is excluded under the CGL. Unless your insurer agrees to delete the contractual liability exclusion for “personal and advertising injury,”

make sure that the indemnity and hold harmless agreements you are accepting include “bodily injury,” and not just “personal injury.” There is also a total pollution exclusion to preclude any possibility of claims under Coverage B.

### 3. Coverage C

Medical Payments coverage pays the medical expenses of others resulting from bodily injury caused by an accident on your premises or arising from your operations. Payments are made without regard to fault, which means that the injured party does not have to prove negligence. The expense must be incurred and reported within one year of the accident. The purpose of the coverage is to allow an insured the opportunity to cover medical expenses incurred by a member of the public or customer in a timely manner. Such a gesture could serve to avoid litigation.

Exclusions to this coverage part include injury to the insured, the insured’s employees, subcontractors, persons covered by workers’ compensation or similar laws, and persons injured in the course of athletic activities.

#### Supplementary Payments – Coverage A and B

In accordance with the insuring agreements, your insurer has an affirmative duty to defend claims made against you for bodily injury, property damage, and personal and advertising injury covered by the policy. Defense expense is paid as Supplementary Payments, which means the payments are in addition to the policy limits.

Your insurer also has a duty to defend an additional insured if you have a contractual obligation to provide a defense. Subject to policy terms and conditions, the defense of an additional insured will either qualify as Supplemental Payments or as “damages.” Defense costs paid as “damages” are within the policy limit which serves to reduce your limit of liability.

The insurer’s obligation to defend an additional insured and to pay Supplemental Payments ends when the limits of insurance have been exhausted by payment of judgments or settlements.

#### Limits

The following chart summarizes the six policy limits under the CGL policy, including an indication of typical limits. There is no guideline for selecting adequate limits of insurance, but it is common practice to purchase a primary commercial general liability per occurrence limit of \$1,000,000. In some cases, purchasing a limit of \$2,000,000 will result in significant savings in your umbrella policy premium – possibly enough to recognize a net reduction between the two policies.

<b>Limit Type</b>	<b>Typical Limit</b>	<b>Description</b>
General Aggregate Limit	\$1,000,000	This is the most the policy will pay for the sum of medical expense, bodily injury and property damage (other than damages under products-completed operations), and personal and advertising injury.
Products-Completed Operations Aggregate Limit	\$1,000,000	This is the most the policy will pay for bodily injury and property included under products-completed operations.
Personal and Advertising Injury Limit	\$1,000,000	Subject to the general aggregate, the most the policy will pay for any one person or organization.
Each Occurrence Limit	\$1,000,000	Subject to the general aggregate and the products-completed operations aggregate, this is the most the policy will pay for bodily injury, property damage, and medical payments arising out of any one occurrence.
Damage to Premises Rented to You	\$100,000	Subject to the occurrence limit, this is the most the policy will pay for fire damage to premises you rent (\$100,000 is standard, can be increased).
Medical Expense Limit	\$5,000	Subject to the occurrence limit this is the most the policy will pay for all medical expenses incurred by any one person.

## 6. Conclusion

Commercial general liability is a valuable part of a contractor's insurance portfolio. Insurers have many endorsements they can use to both expand and restrict the standard CGL policy, so it's very important to work closely with your insurance and legal advisors to ensure that your policy is structured properly to cover your operations as well as the liabilities you are assuming under contract. Keep in mind that separate policies may be required to cover exposures involving professional services and pollution liability.

## Umbrella Liability Insurance

An umbrella is a blanket policy used to provide additional limits of liability above several underlying primary policies, and may also provide broader coverage than what is provided by the primary liability insurance. Typical lines of insurance that are scheduled under an umbrella policy include:

- Commercial general liability
- Automobile liability
- Employers' liability
- Foreign liability

By contrast, "excess" liability policies provide additional limits of

liability above a single policy. These excess liability policies typically do not provide broader coverage and merely follow the terms and conditions of the underlying policy. Excess liability policies are commonly used above an umbrella policy to achieve higher limits.

As a matter of reference, certain types of policies cannot be scheduled under an umbrella. Examples include professional liability, pollution liability, directors and officers, and employment-related practices liability. Generally speaking, reasonably high limits can be purchased within the individual policy.

There is no insurance industry standard for umbrella forms – no advisory organization dictates the policy wording or scope of coverage. At a minimum the scope of coverage under your umbrella should be as broad as your scheduled primary policies. Following are some additional considerations:

- 1) The umbrella should “drop down” as primary insurance in the event limits of insurance on your underlying policy are exhausted by payment of judgments or settlements.
- 2) Defense expense should be in addition to the policy limit.
- 3) In cases where you have a loss that is not covered by a scheduled underlying policy, but is covered by the umbrella, you will be responsible for a deductible or self-insured retention, which is typically \$10,000.
- 4) It is important that your

scheduled underlying policies and your umbrella policy have the same effective dates. Without concurrent policy dates, you may end up with gaps in coverage.

- 5) Premium for an umbrella policy is generally based on a percentage of the scheduled underlying policy premiums. The umbrella premium can be a flat cost or subject to audit.
- 6) Conclusion

The umbrella policy is a good way to increase your liability insurance protection. Selection of limits should be based in part on your assessment of operational liabilities such as the nature and volume of work, how much and what type of work you subcontract, business conditions in the states in which you operate, the size of your fleet, etc.

Bear in mind that no casualty insurance program is without exclusions. Umbrella coverage is generally broad, but not all inclusive. In fact, umbrella policies include many of the same exclusions contained in your scheduled primary policies, so don't expect the umbrella to fill your need for professional, pollution, aircraft, etc.

### **Owner/Contractor Controlled Insurance Programs**

No discussion of contractor insurance can go without mention of wrap-up type insurance plans. These plans are a method to provide owners and contractors with reasonably broad protection for liabilities

arising from construction operations on designated projects. They are touted as an advantage for subcontractors but successful participation is dependent on several factors including:

- Agreed-upon terms for insurance credits
- Understanding any obligation for deductibles or self-insured retentions
- Coordinating provisions under your own insurance program to supplement deficiencies or insolvency of insurance provided under wrap-up type plans

Insurance typically provided under a wrap-up type plan is workers' compensation, general liability and umbrella liability. Some plans, particularly residential work, may only provide general liability and umbrella liability. Builder's risk may or may not be included in the wrap-up.

Most contractor general liability and umbrella liability policies include an endorsement that excludes operations and completed operations for work performed under wrap-ups. It is important to negotiate "excess" and "difference in conditions (DIC)" exceptions into these exclusions so that your policies can respond in the event there is a loss that is not covered by the wrap-up but is covered by your insurance, or in the event the limits of insurance under the wrap-up are exhausted by payment of claims – these plans have a single limit that is shared by all the participants.

## PROPERTY INSURANCE

When evaluating contractor property exposures it is necessary to distinguish between property at "fixed locations" as compared to property that is intended to move from location to location, or is in the course of construction. Commercial property insurance is designed for "fixed locations," which include the facilities occupied by the contractor and the contents contained within. By comparison, contractor's equipment is insured under a "floater" policy, as are materials and equipment intended for installation. These floater policies include coverage for the transportation of the equipment and materials, whereas a commercial property policy has very limited coverage for property in transit or at another location.

### Commercial Property Insurance

This is the form of insurance used for buildings and contents. There are limitations with respect to property outside of the building, so if you have property in storage trailers or in open yards, check with your insurance advisor to see which type of policy best covers the risk – commercial property, contractor's equipment, or installation floater.

#### 1. Perils Insured

Property is insured against risks of direct physical loss for perils as defined in one of several causes of loss forms. The broadest form is the "special causes of loss form", which covers most perils including theft. The perils of earthquake and flood are excluded. Coverage may be available by endorsement to the property policy or through purchase of "difference in conditions" policies. The National Flood Insurance Program is

another option for flood.

## 2. Replacement Cost and Depreciation

Any loss adjustment begins with determining the cost of replacing the damaged property. If your coverage is written on a replacement cost basis, the policy will pay the cost to replace your building or contents with a new building or contents of the same type. If your coverage is written on an actual cash value basis, the adjuster will reduce the replacement cost by a reasonable allowance for physical depreciation. Note – under a replacement cost policy, if you do not replace the damaged property, the loss will be adjusted on an actual cash value basis.

Do not confuse physical depreciation for insurance with depreciation for tax purposes. Generally speaking, property in active use will not depreciate more than a maximum of 50% to 60%; this depreciation is taken over the reasonable life of the property. Tax depreciation is almost always taken as fast as possible, and the asset may be completely used up from a tax depreciation standpoint. Using the latter depreciation can cause disastrous underinsurance and result in substantial coinsurance penalties.

Regardless of the valuation basis, you will not be able to collect more than the limit of insurance.

The difference in premium between replacement cost valuation and actual cash value

is the amount of insurance that you will need to purchase.

## 3. Coinsurance

Coinsurance is a common provision in property policies and requires the policyholder to insure their property to a specified percentage of the total value, generally 80%, 90% or 100%. In the event of a partial loss, if the property is underinsured, there will be a penalty in the loss recovery. Coinsurance does not affect loss recovery in the event of a total loss.

## 4. Ordinance or Law Coverage

Certain building codes, particularly in large cities, require that all new construction be of fire resistive materials. Construction with this type of material may be considerably more expensive than your present frame or brick building. If your building is damaged to a certain extent, the code in your city may require you to demolish your entire building, and, if you wish to rebuild, to rebuild with fire resistive materials. The commercial property policy covers damage caused by the fire or other peril, but it does not cover the undamaged portion that must be demolished. Using the Ordinance or Law endorsement you can add a limit of coverage for the demolition and a limit for the increased cost of construction.

## 5. Green Building Insurance

Some insurance companies now offer coverage to rebuild a building to higher environmental

standards after a partial or total loss.

## 6. Items Not Insured

Property policies exclude items such as underground piping, land and paved surfaces that would not usually be affected by a loss. The value of this type of item should be excluded from your building insurance valuation. Foundations are also excluded. If you purchase earthquake insurance consider endorsing your policy to include the building foundation.

## 7. Valuable Papers and Records

The commercial property policy provides limited coverage for valuable records. It covers only the cost of the paper, plus the cost of writing or typing the information on the paper. The major loss, the cost of recovering or restoring the lost information, is not insured. Separate coverage can be purchased for the following:

### a. Accounts Receivable

If your records of accounts receivable are destroyed and you deal with a large number of clients, you may have difficulty ascertaining the amount that each client owes you. Therefore, you may have difficulty in collecting on these accounts. The amount you are unable to collect may be insured under accounts receivable insurance. The cost of this coverage can be materially reduced by storing your records in a special fire resistive container. The cost may also be reduced by

duplicating your records monthly and storing the duplicate copy at another location.

### b. Valuable Papers Insurance

Tax records, engineering notes, estimate sheets, plans and many other records of information may be insured by this type of insurance. You are insured for the cost of redeveloping the information contained on the stored record, almost regardless of the manner in which the record was destroyed or lost.

## 8. Time Element

When a building is damaged by a covered cause of loss and cannot be occupied for a period of time, the insured may suffer a loss of income and incur additional expenses for setting up temporary facilities. These damages can be insured by adding business income or extra expense insurance to your commercial property policy.

Generally speaking contractors will not suffer a loss of income because operations will continue. Loss of rental income may be an exposure for owned buildings with tenants. Otherwise, the risk of loss a contractor might consider insuring is extra expense.

## 9. Cost Saving Possibilities

- If you own more than one location, look into multiple location rating or blanket coverage.

- A special causes of loss form may be more insurance than you need for certain types of property – consider purchasing fewer covered perils under an alternate causes of loss form.
- If you have property that you will not replace if damaged, insure for actual cash value rather than replacement cost.
- Consider large deductibles.
- Do not purchase insurance on property such as glass where there is little, if any, catastrophic exposure.
- Talk to a competent fire safety engineer before constructing your building.

### **Equipment Breakdown Insurance (formerly Boiler & Machinery)**

Specialized coverage is necessary on boilers and other pressure vessels, because explosion of these vessels is excluded under most property insurance policies. It is necessary on certain types of compressors, motors and other machinery because these objects are subject to types of losses that are not included under the property policies. Mechanical breakdown, short circuit, and so on, are excluded by property policies. Specialized coverage is also necessary on this type of equipment because it provides for expert examination of these objects on a regular basis; the inspection helps to prevent breakdowns, explosions and other losses by uncovering problems before they result in a loss. Generally speaking, if any

of these objects are owned by you, located in your part of the building, or are maintained by you, you should consider equipment breakdown insurance.

### **Inland Marine**

Inland Marine refers to forms of insurance that cover property that is moving over land. Contractor's equipment, installation floater and builder's risk are examples of inland marine insurance that cover common contractor risks.

1. Contractor's Equipment policies provide broad coverage for a contractor's tools and equipment wherever they may be located, including in transit. The policy can also include coverage for rented or borrowed equipment.
2. Installation Floater insures materials and equipment while in transit, while in temporary storage and while awaiting installation at the project site. Materials for a particular project that are stored at your facility can also be insured under the installation floater, but may require an endorsement to the policy. Coverage includes property of others in your care, custody or control.
3. Builder's risk is generally arranged by the owner or general contractor to insure property in the

course of construction and may include subcontractors as insureds under the policy.

- Confirm that you are included as a Named Insured on the policy, and verify covered perils and deductible obligations.
- Builder's risk policies don't generally include coverage for property while in transit or in temporary storage, so you may still need to rely on your installation floater for certain coverage.
- Confirm that any insurance placed by the owner or general contractor protects you for property after it is installed (prior to acceptance), as well as before it is installed.
- Insurance on property being tested following completion of construction is vague and sometimes difficult. Discuss this exposure with your insurance advisor and the owner.
- If you are working in an existing building and are relying on the owner's property insurance, you must have your name added to the owner's insurance policy as a Named Insured, or get a letter from the owner relieving you of responsibility for damage to the owner's property.

### **Crime Insurance**

Crime insurance coverage includes the following:

- Employee dishonesty coverage
- Forgery or alteration coverage
- Money and securities coverage
- Money orders and counterfeit paper currency coverage
- Theft, robbery, burglary, or safe burglary coverage for property other than money and securities
- Computer fraud coverage
- Funds transfer fraud

Theft of property and money is probably the largest risk to a contractor. Most of your property is insured for theft under contractor's equipment and installation floater policies, and if you use a special causes of loss form for your commercial property policy, your contents are insured for theft as well. Most policies exclude money and securities and theft by employees, so the crime coverage of most interest will likely be employee dishonesty.

Employee dishonesty coverage is written with a limit per loss, regardless of the number of employees involved. Loss may be the result of bookkeeping manipulation, forgery of checks, misappropriation of materials, collusion with suppliers, etc. Coverage is generally written to cover all employees, although it may

be possible to insure specified employees.

It is important to note that any dishonest act of an employee which comes to the knowledge of management (even one committed prior to the current employment) immediately cancels employee dishonesty insurance for future acts of that employee. If you want to give an employee a second chance, you must first get the permission of the insurance company.

Services contracts commonly require that the property owner be included as a loss payee under the contractor's employee dishonesty insurance. Be sure to have your agent review such requirements as your policy may require further amendment to provide coverage at a client site.

The following section is reprinted from *Construction Risk Management* with permission of the publisher, International Risk Management Institute, Inc. Original printing, November 1984.

## **CONSTRUCTION INSURANCE CHECKLISTS**

The checklists offer valuable assistance to the construction risk manager/ insurance buyer in properly evaluating the insurance program of his or her firm. Checklists aid in identifying and evaluating the loss exposures of the firm and enumerate various insurance coverages and risk management techniques which can be used to avoid unintentional gaps in coverage.

Checklists are also helpful to the agent/broker who currently has construction accounts or is attempting to produce such an account. By using checklists to analyze and review a current client's insurance program on a regular basis, numerous additional coverages can be brought to the client's attention for consideration. Using checklists to properly review the insurance program and offer coverage suggestions during the initial meeting with a prospective client would seem to enhance the probability of the agent/broker producing the account by reinforcing the agent's knowledge and professionalism. The use of checklists is also a good quality control procedure, and completed checklists can provide valuable documentation of coverage recommendations and the insured's decisions.

Checklists also facilitate communication between the risk manager/insurance buyer and the agent/broker by providing a common base from which these people can work in designing the insurance program. When using a checklist during the insurance review, use this top ten list of questions to consider:

1. What are my exposures to loss?
2. How much risk am I willing to assume myself with respect to my exposure?
3. Is this coverage presently carried for this exposure?
4. If this particular form of coverage is not currently carried, should it be?
5. If coverage is currently provided, can/should coverage be reduced or dropped?
6. If it is desirable to purchase this

coverage, what will be the cost?

7. Is it advisable to utilize deductibles and, if so, what would be the effect on cost?
8. What areas of exposure to loss remain for which no insurance is presently carried?
9. What alternative risk management techniques should be used in conjunction with those exposures?
10. Do I have the right insurance broker and carrier who understand contracting risk and can help answer these questions?

While these checklists are intended to be comprehensive, they are not all-inclusive. There may be special forms for coverage not listed which may have special application to a particular construction operation. Individual exposures do vary, and the insured should be careful when selecting limits, deductibles, and the like based on the organization's loss history and equity position.

# IRMI GENERAL LIABILITY COVERAGE CHECKLIST

To navigate between form fields, use TAB and SHIFT+TAB, *only*.  
Please *do not* use the arrow keys as it may fill in a form field you have not selected.

Insured \_\_\_\_\_

Insurer \_\_\_\_\_

Policy Period \_\_\_\_\_

Completed by \_\_\_\_\_

Date \_\_\_\_\_

Check All That Apply	Recommendations/Comments
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## ***ENTITIES/OPERATIONS INSURED***

- Named insured
  - First named insured
  - Other named insured(s)
- Automatic insureds (list)
  - \_\_\_\_\_
- Additional insured(s) (list)
  - \_\_\_\_\_
- Blanket additional insured endorsement
- Scheduled additional insured endorsement
- Additional insured status for completed operations
- Joint ventures

## ***LIMITS OF INSURANCE***

- Occurrence
- General aggregate \$\_\_\_\_\_
- Aggregate per project \$\_\_\_\_\_
- Aggregate per location \$\_\_\_\_\_
- Personal/advertising injury \$\_\_\_\_\_

# IRMI GENERAL LIABILITY COVERAGE CHECKLIST

Check All That Apply	Recommendations/Comments
<input type="checkbox"/> Medical payments \$_____ <input type="checkbox"/> Damage to premises rented to you \$_____ <input type="checkbox"/> Products/completed operations aggregate limit \$_____	

## **DEDUCTIBLES**

<input type="checkbox"/> Each claim bodily injury \$_____ <input type="checkbox"/> Each occurrence bodily injury \$_____ <input type="checkbox"/> Each claim property damage \$_____ <input type="checkbox"/> Each occurrence property damage \$_____ <input type="checkbox"/> Each claim property damage/ bodily injury combined \$_____ <input type="checkbox"/> Each occurrence property damage/ bodily injury combined \$_____	
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## **COVERAGE DETAILS**

### ***Insuring Agreement***

- |  |  |
|--|--|
| <input type="checkbox"/> Trigger <ul style="list-style-type: none"> <li><input type="checkbox"/> Occurrence</li> <li><input type="checkbox"/> Claims-made</li> </ul> <input type="checkbox"/> Defense <ul style="list-style-type: none"> <li><input type="checkbox"/> In addition to limits</li> <li><input type="checkbox"/> Defense of indemnitees</li> </ul> <input type="checkbox"/> Coverage territory <ul style="list-style-type: none"> <li><input type="checkbox"/> U.S. territories and possessions, Puerto Rico, Canada</li> <li><input type="checkbox"/> International waters and airspace enroute to and from</li> <li><input type="checkbox"/> World-wide for products liability</li> </ul> |  |
|--|--|

# IRMI GENERAL LIABILITY COVERAGE CHECKLIST

Check All That Apply	Recommendations/Comments
<input type="checkbox"/> World-wide for business travel <input type="checkbox"/> World-wide for Internet liability <input type="checkbox"/> Owned watercraft liability <input type="checkbox"/> Description <input type="checkbox"/> Length <input type="checkbox"/> <i>In rem</i> coverage <input type="checkbox"/> Other insurance—excess over policy with additional insured status <input type="checkbox"/> Built into policy <input type="checkbox"/> By endorsement <input type="checkbox"/> Waiver of subrogation <input type="checkbox"/> Blanket coverage <input type="checkbox"/> Pollution liability <input type="checkbox"/> Standard broad form exclusion <input type="checkbox"/> Total pollution exclusion endorsement <input type="checkbox"/> Total pollution exclusion with hostile fire exception <input type="checkbox"/> Total pollution exclusion—hostile fire and building heating equipment exception <input type="checkbox"/> Pollution coverage extension endorsement <input type="checkbox"/> Named perils coverage <input type="checkbox"/> Short-term pollution event coverage <input type="checkbox"/> Designated pollutant coverage <input type="checkbox"/> Product withdrawal expense coverage <input type="checkbox"/> Electronic data liability coverage	

# IRMI GENERAL LIABILITY COVERAGE CHECKLIST

Check All That Apply	Recommendations/Comments
<input type="checkbox"/> Employee benefits liability <input type="checkbox"/> Stop gap employers liability <input type="checkbox"/> Contractual liability coverage for personal injury perils	
<b>Products/Completed Operations</b>	
<input type="checkbox"/> Coverage for joint ventures <ul style="list-style-type: none"> <li><input type="checkbox"/> Current</li> <li><input type="checkbox"/> Past</li> </ul>	
<input type="checkbox"/> Products/completed operations redefined	
<b>Policy Exclusions</b>	
<input type="checkbox"/> Exclusionary endorsements	
<input type="checkbox"/> Explosion, collapse, underground property damage (X, C, U)	
<input type="checkbox"/> Personal/advertising injury	
<input type="checkbox"/> Amendment of liquor liability exclusion	
<input type="checkbox"/> Amendment of liquor liability exclusion with scheduled exception	
<input type="checkbox"/> Medical payments	
<input type="checkbox"/> Employment-related practices	
<input type="checkbox"/> New entities	
<input type="checkbox"/> Employees as insureds	
<input type="checkbox"/> Intercompany products suits	
<input type="checkbox"/> Restrictive definition of "insured contract"	
<input type="checkbox"/> Products-completed operations hazard	
<input type="checkbox"/> Designated work or products	

# IRMI GENERAL LIABILITY COVERAGE CHECKLIST

Check All That Apply	Recommendations/Comments
<input type="checkbox"/> Damage to/from subcontractor's work <input type="checkbox"/> Mold <input type="checkbox"/> Silica <input type="checkbox"/> EIFS <input type="checkbox"/> Prior work <input type="checkbox"/> Terrorism <input type="checkbox"/> Exclusion of certified acts of terrorism <input type="checkbox"/> Exclusion of non-certified acts of terrorism <input type="checkbox"/> Coverage limitation (nuclear, biological, chemical; aggregate limit) Specify ____	

## OTHER PROVISIONS

<input type="checkbox"/> Notice of cancellation <input type="checkbox"/> Insurer time requirement ____ days <input type="checkbox"/> Nonrenewal notice ____ days <input type="checkbox"/> Material policy change notice ____ days	
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## CLAIMS-MADE CONSIDERATIONS

<input type="checkbox"/> Extended reporting period (ERP) <input type="checkbox"/> Automatic 5-year available <input type="checkbox"/> Supplemental may be purchased <input type="checkbox"/> Available on insured cancellation <input type="checkbox"/> Available on insurer cancellation <input type="checkbox"/> Aggregate reinstatement option	
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# IRMI GENERAL LIABILITY COVERAGE CHECKLIST

Check All That Apply	Recommendations/Comments
<input type="checkbox"/> ERP for specific accident, product, work, location  <input type="checkbox"/> Retroactive date  <input type="checkbox"/> Concurrent with first claims-made policy  <input type="checkbox"/> Exclusion of specific accident, product, work, location ("laser beam" endorsement)	

## ***RATING/PREMIUM CONSIDERATIONS***

<input type="checkbox"/> Exposure basis <ul style="list-style-type: none"> <li><input type="checkbox"/> Payroll</li> <li><input type="checkbox"/> Sales               <ul style="list-style-type: none"> <li><input type="checkbox"/> Review intercompany sales</li> </ul> </li> <li><input type="checkbox"/> Cost</li> <li><input type="checkbox"/> Units</li> </ul> <input type="checkbox"/> Experience rating <ul style="list-style-type: none"> <li><input type="checkbox"/> Credit modifier</li> <li><input type="checkbox"/> Debit modifier</li> </ul> <input type="checkbox"/> Schedule rating <ul style="list-style-type: none"> <li><input type="checkbox"/> Credit</li> <li><input type="checkbox"/> Debit</li> </ul> <input type="checkbox"/> Dividend <input type="checkbox"/> Deductible credit <input type="checkbox"/> Credit(s) for coverage limitations(s) <input type="checkbox"/> Review "A" rates <input type="checkbox"/> Immature claims-made discount	
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# IRMI GENERAL LIABILITY COVERAGE CHECKLIST

Check All That Apply	Recommendations/Comments
<input type="checkbox"/> Premium payment schedule <ul style="list-style-type: none"> <li><input type="checkbox"/> Scheduled payments</li> <li><input type="checkbox"/> Audits               <ul style="list-style-type: none"> <li><input type="checkbox"/> Semi-annual</li> <li><input type="checkbox"/> Quarterly</li> <li><input type="checkbox"/> Monthly</li> </ul> </li> </ul> <input type="checkbox"/> Retrospective rating <ul style="list-style-type: none"> <li><input type="checkbox"/> Loss limitation</li> <li><input type="checkbox"/> Excess loss premium factor</li> <li><input type="checkbox"/> Basic</li> <li><input type="checkbox"/> Tax multiplier</li> <li><input type="checkbox"/> LCF</li> </ul>	

## **ASSESS NEED FOR SEPARATE POLICIES**

<input type="checkbox"/> Automobile <ul style="list-style-type: none"> <li><input type="checkbox"/> Business automobile policy (BAP)</li> <li><input type="checkbox"/> Garage liability</li> <li><input type="checkbox"/> Garagekeepers liability</li> </ul> <input type="checkbox"/> Craft <ul style="list-style-type: none"> <li><input type="checkbox"/> Aircraft</li> <li><input type="checkbox"/> Watercraft</li> </ul> <input type="checkbox"/> Professional liability <ul style="list-style-type: none"> <li><input type="checkbox"/> Professional/E&amp;O liability</li> <li><input type="checkbox"/> Fiduciary liability</li> <li><input type="checkbox"/> Directors &amp; officers liability</li> </ul>	
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# IRMI GENERAL LIABILITY COVERAGE CHECKLIST

Check All That Apply	Recommendations/Comments
<ul style="list-style-type: none"><li><input type="checkbox"/> Protective liability<ul style="list-style-type: none"><li><input type="checkbox"/> Railroad protective liability</li><li><input type="checkbox"/> Owners &amp; contractors protective liability</li><li><input type="checkbox"/> Principals protective liability</li></ul></li><li><input type="checkbox"/> Other miscellaneous liability<ul style="list-style-type: none"><li><input type="checkbox"/> Bailee liability</li><li><input type="checkbox"/> Liquor liability</li><li><input type="checkbox"/> Pollution liability</li><li><input type="checkbox"/> Products recall</li><li><input type="checkbox"/> Foreign liability</li><li><input type="checkbox"/> Employment practices liability</li><li><input type="checkbox"/> Electronic data/Internet liability</li></ul></li></ul>	