

CONSTRUCTION PROJECTS

WHAT A DEVELOPER SHOULD CONSIDER

By: Shauna O'Connell



Consideration	What it covers
Contracts	<p>Before signing a Consulting Contract, it's important for professionals, such as architects and engineers to have appropriate limits of Errors & Omissions insurance without limiting their liability to their primary Pro-Demnity insurance (\$250,000). Contractors should, as part of Supplemental Conditions of the Construction Manager / General Contractor Contract, submit a proposal on how they will carry the required insurances.</p> <p>Provisions in the CM/GC Contract ensure that you have the right not to accept their proposal and can place the insurance yourself, thus allowing you to know ahead of time, how much to back out of their Bid Price for insurance.</p>
The Site	<p>The Developer is legally liable for the environmental exposures of a site the moment they acquire it, so engaging qualified consultants is key. Although reports may declare the site clean, unexpected issues may arise such as pollution. In this instance, a Fixed Site Pollution Policy ("PLL") covers the cost of remediation up to the insured amount. Similarly, if a Contractor causes a pollution situation, their Contractor's Pollution Legal Liability Policy ("CPL") will cover the damages you sustain.</p>
What the Insurance Broker/Insurers will Require	<p>Each carrier has their own set of requirements when applying for cover. A key factor to remember when applying, is the more information you provide and make readily available for underwriters, the better they can provide accurate cover and price the risk accordingly. Making documents such as completed applications, project details, contracts and schedule, site plans and professional reports available is key here. They may also request permitting and zoning requirements, a license and other documents pertaining to the project.</p>
Timing	<p>It is important to give brokers/insurers ample time with which to provide proposals. At the very least they need 30 working days to get the best terms and conditions.</p>
Early Works	<p>Buying lower limits for the excavation and shoring period can, in some instances, save money on the project as you are only paying for the current exposure before construction begins. This is something to discuss with your broker from the outset.</p>
Period of Construction and Completed Operations	<p>Although the standard CCDC Contract covers from the date of commencement to Substantial Completion, it is highly recommended that you purchase insurance to Total Completion, as with certain builds, there may be another year of construction once Substantial Completion has been reached. Completed Operations cover kicks in under Wrap-Up for your chosen period, with the industry standard in Ontario being 24 months. After this period, the contractor is responsible for the statue of ripose, which in Ontario is 15 years.</p>
Tarion	<p>If you are building a condo, then you are subject to the Tarion Warranty for seven years post registration for major defects. If the CM/GC is charging for the extended period after Completed Operations, you need to be sure they are contractually obliged to name you as well, to defend any Tarion or Unit Owner action against you.</p>

The information contained in this document is confidential, privileged and only for the information of the intended recipient and may not be used, published, redistributed, or reproduced in whole, or in part, nor may any of the information contained herein be disclosed without the prior written consent of In Tech Risk Management Inc.

PROTECT. OPTIMIZE. EVOLVE.

The Americas:

3 Church Street, Suite 400, Toronto, Ontario M5E 1M2
TEL: 416.348.9111

www.intechrisk.com

GMBH location: Europe, Middle East & Asia

St. Veiter Ring 1A, Top 11, 9020 Klagenfurt, Austria
TEL: +43.463.203.055.10