



AXIS RISK MANAGEMENT RISK TRANSFER GUIDE

INTRODUCTION

Axis Insurance Managers assists clients in reducing their overall cost of risk. An essential part of any Insurance program is the effective use of Risk Management and loss control strategies to mitigate exposure to loss and improve the risk profile of the client.

Insurance policies are sensitive to claims; either frequency or severity of losses can impact premiums significantly. Risk Transfer is a method to avoid risks that can or should be assumed by others. Risk transfer is a way of contractually shifting risk from one party to another.

The purchase of an insurance policy is a form of Risk Transfer, where your exposure to loss is transferred to an insurance company for a premium. Other forms of Risk Transfer include integrating hold-harmless, Indemnity and Insurance clauses into your contracts, allowing you to contractually shift your exposure to risks.

An effective risk transfer program may not always negate the need for adequate insurance protection but it can reduce your costs. When developing a risk profile for underwriting consideration a professional broker will review your contractual agreements. A consistent and thorough Risk Transfer approach will assist the broker in negotiating more favourable terms both in the extent of coverage provided and the premiums you pay. More importantly, a frequency of small claims or a large severe loss can have a serious impact on the premiums you pay and the scope of coverage offered by underwriters.

Some policies are extremely “claim sensitive” so avoiding the possibility of a claim under your policy through simple contractual language can often save thousands of dollars.

Prepared by:
Axis Insurance Managers Inc.
1108 West 8th Avenue
Vancouver, BC
V6H 3Z5
Tel. 604.731.5328

7.7.09



RISK TRANSFER "QUICK" GUIDE

Risks can be transferred to contractors, subcontractors, suppliers, vendors, customers and joint venture partners. Where written contracts are negotiated it is common for one party to assume the liabilities of another party. Savvy business managers appreciate the benefit of transferring potential liabilities to others and negotiating contracts to their own advantage. Agreeing to assume someone else's liability can be costly as you may be forced to settle claims that would otherwise not be your responsibility. You should also be careful to ensure that your own policies cover the contractual liabilities that you have assumed. Alternatively you may impose similar conditions on the parties you are contracted with and it is important to confirm they have adequate insurance coverage to protect themselves from such risks. You must also be careful not to incur unreasonable insurance costs that your contracted parties try to pass back to you.

TYPICAL RISK TRANSFER CONSIDERATIONS

Insurance	What type of policies are needed, are there policies that can be avoided completely through the transfer of risk?
Contracts	Are proper contracts in place, have all contracts been properly reviewed?
Indemnity/Hold Harmless Clauses	As a minimum contracts should make your contracted parties responsible for their own negligence.
Insurance Clauses	The clause should set out the form, terms and amounts of coverage and specify that you will be added as an additional insured.
Additional Insured	If the contract provides you with protection in the form of indemnity and there is a requirement of the contracted party to maintain insurance, you should be added as an additional insured under their policy and provided with proof of insurance in the form of a certificate of insurance.
Certificate of Insurance	This is a standard industry document and it is usually issued very quickly upon request. If your contracts require proof of insurance you should insist upon promptly receiving a certificate of insurance. The certificate should set out the terms of the coverage and contain a provision to provide you with notice in the event of cancellation or non-renewal.
Record Keeping	You should maintain an accurate record of certificates of insurance relating to every contract and make sure requests for renewal are sent on a timely basis.



The following are standard clauses suggested by Axis. These suggested controls are given to clients as a guide and while we do not expect all clients and all contracts to contain these precise clauses we encourage clients to develop a consistent strategy for effective risk transfer and monitoring.

As a service to clients we will offer to monitor and follow up with their sub-contractors in order to ensure required coverage is in place and documented. We do not charge for this service should it be required.

In addition to the proposed insurance requirements listed below there may be the need for contractors to have additional policies or coverage enhancements and endorsements. As an example contractors working in the bush should have their policies extended to include forest fire fighting expenses. It is impossible to detail every exposure and insurance solution within the scope of this paper. We advise you to review your contracts with your Axis Insurance Managers professional to ensure adequacy of the coverage required for the particular contract you are negotiating.

1.0 Indemnity

The CONTRACTOR agrees to defend, indemnify, save and hold harmless ABC COMPANY INC. from and against any and all claims, demands expense and liability arising out of injury or death to any person or the damage, loss or destruction of any property which may occur or in any way grow out of any negligent act, error or omission of the CONTRACTOR, its agents, servants and employees, and any and all costs, expense and/or attorney fees incurred by ABC COMPANY INC. The CONTRACTOR agrees to investigate, handle, respond to, provide defense for and defend any such claims, demands or suits at its sole expense related thereto, even if such claim, demand or suit at its sole expense related thereto, is groundless, false or fraudulent.

2.0 Claims for Liens

The CONTRACTOR shall hold ABC COMPANY INC. harmless from any and all claims for liens of labour, services or material furnished to the CONTRACTOR in connection with the performance of its obligations under this contract.

3.0 Insurance

3.1 Limits of Liability

All reference to limits in the following clauses applicable to this section shall not be construed to be an express or implied limitation of Contractor's liability, nor that ABC COMPANY INC. accepts liability above such limits or that any insurance available to ABC COMPANY Inc. shall be excess of limits required herein.

Limits as required herein shall in no way constitute a release of liability by ABC COMPANY INC. beyond such limits. Further, acceptance by ABC COMPANY INC. of insurance documentation shall not constitute in any way acceptance of the adequacy of coverage nor compliance with the insurance requirements herein.



SUB-CONTRACTOR CONTROLS

3.2 Professional Liability Insurance

The CONTRACTOR shall maintain professional liability coverage during the term of this agreement. The limits of this coverage shall be a minimum of \$5,000,000.00 combined single limit. This requirement shall extend to any and all professional subcontractors employed by the prime consultant CONTRACTOR or surveyor. CONTRACTOR shall provide certification of such insurance and a copy of the policy upon request.

3.3 General Liability Insurance

The CONTRACTOR shall maintain general liability coverage during the terms of this agreement. The limit of this coverage shall be a minimum of \$5,000,000.00 combined single limit per occurrence for bodily injury, personal injury, and property damage; and naming ABC COMPANY INC. as an additional insured. CONTRACTOR shall provide certification of such insurance and a copy of the policy upon request.

3.4 Workers' Compensation Insurance

The CONTRACTOR shall maintain workers' compensation coverage during the term of this agreement.

3.5 Automobile Liability Insurance

The CONTRACTOR shall maintain automobile liability coverage during the term of this agreement. The limits of this coverage shall be a minimum \$5,000,000.00, combined single limit per accident for owned, non-owned and hired vehicles. CONTRACTOR shall provide certification of such insurance and a copy of the policy upon request.

3.6 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by ABC COMPANY INC. Prior to entering into this agreement, and at the option of ABC COMPANY INC., either,

- ABC COMPANY INC. shall accept and approve the deductible or self-insured retention;
- The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to ABC COMPANY INC.; or
- The CONTRACTOR shall procure a bond guaranteeing payment for losses and related investigations, claim administration and defense expenses.



SUB-CONTRACTOR CONTROLS

3.7 Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provision:

1. GENERAL LIABILITY COVERAGE

- a. ABC COMPANY INC. is to be added as “additional insured” as respects liability arising out of activities performed by or on behalf of the CONTRACTOR; products and completed operations of the CONTRACTOR; premises owned, occupied or used by the CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to ABC COMPANY INC.
- b. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to ABC COMPANY INC.
- c. The CONTRACTOR’S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

11. WORKERS’ COMPENSATION AND EMPLOYER’S LIABILITY COVERAGE

The insurer shall agree to waive all rights of subrogation against ABC COMPANY INC., for losses arising from work performed by the CONTRACTOR for ABC COMPANY INC.

111. UMBRELLA POLICY

An Umbrella Policy may be used to meet minimum requirements.

1v. ALL COVERAGES

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, or cancelled unless thirty (30) days prior written notice by certified mail, return receipt requested, has been given to ABC COMPANY INC.

