

SUMMER 2022

# CONSTRUCTION INSURANCE UPDATE

PETRELA WINTER  
BONDING • INSURANCE • ADVISORY

NAVACORD®

## IS THAT LIGHT WE SEE AT THE END OF THE TUNNEL?

Years of undisciplined hyper competitive underwriting caught up to the industry, culminating in an environment in 2018 where the Canadian insurance industry as a whole paid out \$1.03 in claims and expenses for every dollar they had come in, an unsustainable business model with an unacceptable ROI.

Since early 2019, the insurance marketplace has been challenging. In an effort to return to profitability, Insurers have pressed for increased rates, higher deductibles, restricted coverage, and performed much more stringent and conservative underwriting.

It took a few years, but the financial results have improved considerably, and mid way through 2022, we are seeing positive signs. We anticipate that Contractors can expect steadier and more predictable renewal pricing on most lines of coverage - including property, liability, auto, umbrella.

**PROJECT SPECIFIC INSURANCE COVERAGE** (including Builders Risk and wrap up liability) on most construction projects are showing signs of improved pricing and terms, as a result of an increase in capacity from the market, particularly when it comes to builders risk placements. This is good news, since many insurers exited or severely limited their builders risk capacity from 2019-2020. Larger frame, unprotected construction sites still may not attract a lot of competition amongst underwriters, as consistent large fire claims pops have served as constant reminders of the severity of those claims.

**THE DIRECTORS & OFFICERS LIABILITY (D&O)** insurance market continues to tighten as insurers are quoting steep rate increases, reduced capacity, and possible changes to deductibles and/or restrictions to coverage. COVID-19 has brought challenges to both employees and employers managing a workforce and the frequency of employment related lawsuits is on the rise, including a trend of allegations of inadequate severance, or discrimination against employees, citing COVID-19. Furthermore, workplace health and safety, and the duty of an employer to take proper steps to reduce health and safety risks for their workforce, is as importance as ever, and the increased liability imposed upon directors and officers of construction companies is making this an increasingly popular coverage amongst risk conscious contractors.



Local Touch. National Strength.™





**CYBER RISKS** - The spike in employees working from home revealed technological vulnerabilities that cyber criminals (often part of sophisticated cyber cartels) are taking advantage of. Claims frequency and severity have skyrocketed, and so insurance companies have sought large rate increases, been restricting coverage, and insisting on larger deductibles. In the past, large retail businesses that housed sensitive credit card data were the main target, but construction companies are now being severely targeted. Newer IT technologies being increasingly used in construction require data security and privacy risk assessments and proper controls in place, and construction businesses not have historically had cybersecurity as all that 'top of mind'. Prominent names such as Bird, GFL and Bouygues have all suffered significant cyber attacks, as have hundreds of smaller contractors from coast to coast.

### **WATER DAMAGE MITIGATION & MANAGING DEDUCTIBLES**

While we are seeing a trend towards more liberal terms on Builders Risk policies, the industry appears to be holding fast on their demand for increasingly large deductibles, particularly with respect to water damage. Deductibles of \$5,000 and \$10,000 have been replaced with \$25,000, \$50,000, and \$250,000, depending on the size and scope of the project and the experience of the parties involved in the project. General Contractors should have a robust Water Mitigation Plan and should coordinate this plan with subcontractors.

A good construction specialist broker may have samples of comprehensive water mitigation plans, but as a summary for the reader's benefit, they should include some of the following main highlights:

- The overall water damage response plan should be posted in key areas such as the water shutoff area and main construction office.
- The plan should include a list of 24 hour contact personnel – both of the GC and of the plumbers.
- The plan should clearly indicate that the main supply valve is to be shut in the event of an emergency, with designate.
- The location of key domestic water and fire protection shutoff valves should be indicated on the site drawings and referenced clearly on the posting. Include photos of the areas for ease of reference in an emergency.
- All subs on-site should be briefed on the location of water lines (to avoid damage when doing other work) and the location of the shutoff valves.
- Water shutoff valves should be duly tagged upon installation.
- As water systems are commissioned, an on-site guard should be considered. This guard should provide water watch duties as part of the after-hours rounds.
- Provide easily accessible water clean-up kits (including wet/dry vacuums, tarps, squeegees, and absorbent material).

## HEAVY VEHICLE DRIVERS:

With an alarming 20,000 truck driver positions currently unfilled in Canada, businesses that operate commercial vehicles have experienced difficulties hiring experienced heavy drivers, particularly those located in more rural locations. Over 60% of companies looking to hire commercial vehicle operators report that they simply cannot find them.

In addition to the challenge of finding a quality heavy vehicle driver, the insurance market is not making things any easier, as insurers are extremely hesitant to insure drivers with less than 3 years of experience driving heavy vehicles (GVW over 4,500 Kgs.) and are often very demanding in terms of the form of evidence required to prove their experience.

Sadly, actuarial evidence backs their concerns, where inexperienced drivers are disproportionately responsible for costly accidents, such as the notorious Humboldt bus crash, where an inexperienced driver's momentary lapse cost 13 young men their lives and led to a significant insurance claim that has still not been settled today.

This will continue to be a challenge, although experienced insurance brokers are often able to find ways to help a contractor with a sound documented fleet management plan get their drivers covered.

## DRONES

Over the past 2-3 years, the use of drone technology within the construction sector has grown substantially. The use of drones throughout a construction projects can cut planning and survey costs, increase efficiency and accuracy, eliminate disputes over the status of a project at a given point in time, and act as a good pictorial update for management and construction owners.

Since drones are considered 'aircraft' and subject to Canadian Aviation Regulations, liability emanating from their use (physical damage, bodily injury, or privacy claims and liabilities) is excluded in General Liability policies, so special 'Unmanned Aircraft' coverage is necessary.

If you are currently using drones on your job site, or plan to do so, you have risk to consider, and should be aware that the CCDC -2 (2020) and most recent CCDC - 41 updated insurance requirements require such special coverage, with a minimum liability limit of \$5,000,000.

## CONCLUSION

If the last 2 years have taught us anything, it's that the world is anything but dependable. Unpredictable events, like pandemics and aggressive invasions, will continue to influence financial markets (including insurance), and so while we're optimistic that the general insurance landscape has settled down some, events beyond our imagination can happen anytime.

As a result, the contractor's best bet is choosing an insurance advisor that is aligned with them, and their industry, so regardless of which way the tide is moving, the contractor can depend on someone to help them navigate the seas.

---

**Please contact your representative at Petrela Winter & Associates,  
for further discussion or to answer any questions.**

---

**BENEFIT FROM OUR SPECIALIZATION**

Toronto  
416.488.2522

London  
519.439.7754

Sudbury  
705.280.6554

Local Touch. National Strength.™