

COMMERCIAL GENERAL LIABILITY PRACTICE

Commercial General Liability insurance is the cornerstone of every Business's casualty program, making it the most widely bought liability cover in Canada. Few risk transfer products can rival the value and utility of the "CGL". It is the comprehensive nature of the product itself that gives rise to wide dislocations in the general liability marketplace; while every company needs CGL coverage, not every class of business finds it readily available. Social inflation and constantly evolving categories of liability make the CGL more valuable than ever to mitigate your client's risk in a volatile business climate.

SUM Insurance aligns first class security with creative underwriting expertise and top notch service to solve your CGL placement challenges. We underwrite Canadian domiciled insureds with a product tailored appropriately to each risk at hand. Our CGL appetite is as diverse as Canada's economy, and includes but is not limited to:

Premise hazards: Sports playing facilities, playgrounds, amusement parks and tourist attractions, fair grounds and stadia, day cares and social welfare centers, martial art and fitness studios, tanning salons, schools and academies, special events from parades to concerts, camp grounds, vacant and abandoned sites, dams, unions, political parties, government services, First Nations risks and many other varieties of domestic premises risks that your clients may present you with;

Operations hazards: High-hazard contracting such as demolitions, blasting, excavation, underpinning, shoring, building moving, welding, roofers, playground installations, railroad and airport work and most others, wrap up liability, railroads, pyrotechnicians, temporary seating, equipment rentals, elevating devices, and many other classes presenting placement challenges;

Products hazards: Human food processing, animal feeds, cosmetics and cleaners, medical, dental and scientific diagnostics, equipment and supplies, mobility aids, fireworks, infant furniture, elevating devices, automobile parts, sports protective equipment, toys, bicycles, recycled materials, gun smiths, agricultural or industrial tools and machinery, automobile parts and many others for Canadian manufacturers and importers with sales in Canada, to the United States (no maximum percentage) and abroad.

Reasonable Expectations: Many insurers will write tougher lines of business only if or when excluding

key perils. This dramatically reduces the efficacy of their CGL product. **SUM Insurance** has identified several segments commonly mistreated in the marketplace, and offers full and appropriate CGL cover:

Participant injury hazards: Sports associations, clubs, leagues, teams, competitions and tournaments, adventure outfitters, hunting and tour guides, amusement device operators and rentals and a myriad of other pursuits and activities that may injure those taking part;

Environmentally/human health related hazards: Chemical blending, herbal and natural supplements and foods, water wells and works, remediation and abatement contractors (such as asbestos, mould, UFFI, lead, tank, silica and PCB removal), landfills, recyclers, environmental product manufacturers, pesticide, herbicide and fertilizer applicators, exterminators and many other classes;

Efficacy or "Failure to Perform" hazards: Arising from either operations or products hazards, such as the protection industry (please see our Security & Protection Product section for full details), medical equipment supply, installation and service, life safety products including fall protection and ventilation equipment, communication devices, monitors, alarms and other security product manufacturers and importers;

Abuse Liability: Organizations of all kinds face an increasing risk of allegations of abuse and molestation perpetrated by staff or volunteers in positions of trust. SUM Insurance offers a companion cover fully insuring this hazard on most classes where appropriate risk management policies are in effect.

In SUMmary, our underwriters can tackle:

- Risks presenting frequency and severity;
- Claims problems;
- Short term and one off risks;
- The new, creative, unusual, unique or complex.

We want to be your first and last call for your CGL placement challenges. Please try us today!

We pay 15% commission standard, generally do not charge policy fees and have a \$1,000.00 minimum premium.

Coverage Highlights

\$2,000,000.00 policy limit, with easy access to higher limits via our in-house Excess/Umbrella liability facilities.

Occurrence and Claims Made forms available. Our Occurrence form is based on the IBC 2005 wording, Claims Made on IBC 1986.

Bodily Injury and Property Damage arising from Premises, Operations and Products/Completed Operations

Personal Injury incl. Advertising Injury Liability, False Arrest, Libel & Slander

Voluntary Medical Payments

Broad Form Tenants Legal Liability
(limit outside of general aggregate)

Non-Owned Automobile

Employee Benefits Liability

Employers Liability & Voluntary Compensation

Forest Fire Fighting Expenses

Broad form Named Insured

Defense Expense in addition to limits of insurance
(Occurrence form)

Use of force to protect persons, property

Contractual Liability

Contingent Employer's Liability

Owned and Non-owned watercraft under 10 m

Attached Machinery

Unlicensed Automobiles

Broad Form Property Damage including loss of use

Hostile Fire Exception to pollution exclusion,
IBC 2313 Sudden & Accidental extension available

Owner and Contractor Protective

Employees and Volunteers as Insureds

Newly acquired ventures for 90 days

Incidental Medical Malpractice

Cross Liability

Blanket Additional Insureds/Vendors available

Where many CGL policies end, we begin. On many risks we offer buy-back cover for common CGL exclusions, including but not limited to:

Asbestos (remediation)

Fungi: (remediation and completed operations)

Pollution

Terrorism

Professional (alternate cover available please enquire)

Abuse

Recall

XCU Hazards

Data (alternate cover available - please enquire)

Nuclear (industrial isotopes)

CGL Placement Notes

Given its ubiquitousness and broad scope, there is no standard CGL form. Rather coverage is as diverse and complex as the businesses buying it. This has spawned a large body of case law interpreting the intent and range of CGL cover, amplifying the brokers role in identifying and meeting their clients' needs. As important as coverage design, effectively managing a clients' expectations and communicating clearly the function and limitation of coverage is paramount to the brokers role. Remember the CGL is often your clients only casualty insurance product, and could be called upon to respond to almost any third party allegation. Plaintiff's bar is always pushing the frontier, crafting new categories of liability and framing claims so as to trigger cover for otherwise uninsured events. Insurers have responded by adding exclusions in an effort to make their results more finite and predictable. Investing in thorough disclosure and advice at inception is an investment that will reduce the risk of conflict later. We offer these notes in the hope of assisting you through the CGL underwriting process. Over time we will add and expand on this initial contribution.

1. Start with the basics: Who is Insured? Misstating or omitting a Named Insured can lead to embarrassing delays in claim adjustment, or worse, outright denials. Review the Underwriters' "Who is an Insured" clause to understand how it treats predecessor, acquired and successor entities, and make sure to obtain full disclosure from your client on their organizational structure; past, present and future!
2. Don't be afraid of Claims-Made: this form is invaluable, making some otherwise uninsurable classes of business palatable to insurers. By managing retro-dates, negotiating ERP clauses and avoiding gaps between insuring agreements when changing carriers (claims made to claims made and reported, claims made to occurrence) brokers can design claims-made programs matching the value Occurrence cover provides.
3. Test your assumptions: if in doubt, ask your Underwriter to clarify the meaning of the key coverage features and clauses affecting your client. If your clients principal hazard is pollution related, for instance, ask the underwriter to describe the cover their form provides or does not provide. If your clients principal risk characteristic is a frequency of incidents that may or may not give rise to a claim, take the time to make sure you, your client and the Underwriter all understand incident reporting criteria and responsibilities. You won't regret this extra effort later!
4. Up sell limits: we don't need to remind you that the current market is highly competitive. Encourage your client to invest premium discounts in higher limits; they provide cost efficient protection in an increasingly volatile world, and won't be available forever at this price point.
5. Avoid deductible and SIR pitfalls: everyone loves to save money and deductible and SIR clauses deliver. So it seems. These savings are often overshadowed by dissatisfaction when claims occur, especially if the clauses include adjusting expense. If not carefully communicated to the insured and managed through a strong claims handling agreement with the insurer, a deductible or SIR that is financially material to your client creates a classic conflict of interest between parties. The underwriter will almost always retain the ultimate right to negotiate and settle claims, balancing economics with the facts at hand, and using your client's deductible or retention!
6. We have noticed a definite trend toward ever more onerous risk transfer language in the sales and service contracts commonly used today. Most businesses assume various contractual liabilities, consciously or not. Counsel your client fully disclose their obligations, especially where they agree to add other parties as additional insureds or provide waivers of subrogation from their insurer.
7. Manage expectations: many coverage disputes revolve around what is a "business risk" versus what is an insured loss. Recent case law reinforces that the CGL is neither a performance bond nor a product guarantee. Clearly explaining the limits of cover to an insured is not easy, but is a necessary step in the brokering cycle. Clauses we have witnessed client confusion over include the "Duties in The Event of Occurrence, Claim or Action", "Premium audit" and the "duty to defend". Beyond these, be wary of manuscript exclusions, often eliminating cover for your client's key exposures. Disclose these to your client, negotiate alternative cover, and document the correspondence carefully, especially if the insured ultimately declines cover.
8. Given its utility, the CGL form is used broadly by underwriters. It is comprehensive, but by no means a catchall. Keep in mind it is written for typical commercial risks, and as such may be deficient in addressing your client's specific needs. For example, the definition of "Who is an Insured" may not include volunteers critical to a non-profit association, or the athletics exclusion may restrict medical expense cover important to a sports association.

SUM

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UNDERWRITING
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A subsidiary of

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