
TABLE OF CONTENTS

List of forms	xxi
List of tables	xxiii
List of abbreviations	xxv

Chapter 1 **The Career of Damage Insurance Agent and Broker**

1.1 The representative's role	3
1.1.1 The agent's role	4
1.1.2 The broker's role	4
Recap	6
Self-evaluation exercise	7
Answer sheet for the self-evaluation exercise	8
Review activity	9

Chapter 2 **General Conditions and Legal Principles Pertaining to Commercial Insurance**

2.1 Statements	15
2.1.1 Representation of risk (article 2408 CCQ)	15
2.1.1.1 Definition	15
2.1.1.2 Situations to be declared	16
2.1.1.3 Limitations to the obligation respecting representations	17
2.1.2 Material change in risk (articles 2466 and 2467 CCQ)	17
2.1.2.1 Insurer's options in the event of material change in risk	19
2.1.2.2 Two exceptions to the obligation respecting representations	19
2.1.3 Misrepresentations or concealment (articles 2410, 2411 and 2466 CCQ)	20
2.1.4 Warranties (article 2412 CCQ)	22
2.2 General provisions	23
2.2.1 Insurable interest (articles 2481 and 2484 CCQ)	23
2.2.2 Changes (article 2405 CCQ)	24
2.2.2.1 Change made to a policy in force	25
2.2.2.2 Change to a policy upon renewal	25
2.2.3 Assignment (articles 2475 and 2476 CCQ)	26
2.2.4 Books and records	27
2.2.5 Inspection	27
2.2.6 Currency	27
2.3 Losses	28
2.3.1 Notice of loss (article 2470 CCQ)	28
2.3.2 Obligation to provide information (article 2471 CCQ)	30

2.3.3	False representation (article 2472 CCQ).....	31
2.3.3.1	Definition	32
2.3.3.2	Sanctions for false representation.....	33
2.3.4	Intentional fault (article 2464 CCQ).....	33
2.3.4.1	Definition	34
2.3.4.2	Sanctions for intentional fault.....	35
2.3.5	Notice to police	36
2.3.6	Safeguarding and examination of property (article 2495 CCQ).....	36
2.3.7	Admission of liability and cooperation	37
2.3.8	Right of action (article 2502 CCQ)	38
2.4	Compensation and settlement	39
2.4.1	Basis of settlement (articles 2490, 2491 and 2493 CCQ).....	39
2.4.1.1	Actual cash value	39
2.4.1.2	Value as new.....	40
2.4.1.3	Market value.....	40
2.4.1.4	Selling price.....	40
2.4.1.5	Under-insurance.....	42
2.4.2	Pair and set	43
2.4.3	Parts	43
2.4.4	Fire insurance (articles 2485 and 2486 CCQ).....	44
2.4.5	Replacement (article 2494 CCQ)	45
2.4.6	Time of payment (articles 1591, 2469 and 2473 CCQ).....	46
2.4.7	Property of others	47
2.4.8	Waiver	47
2.4.9	Limitation of actions (article 2925 CCQ).....	48
2.4.10	Subrogation (article 2474 CCQ).....	48
2.4.10.1	A significant limit.....	50
2.4.10.2	The loss of the right of subrogation owing to any act of the insured.....	51
2.4.10.3	Exercising the insurer's remedy	52
2.5	Other insurance.....	53
2.5.1	Property insurance (article 2496 CCQ)	53
2.5.2	Liability insurance	54
2.6	Cancellation (articles 2477 and 2479 CCQ)	55
2.6.1	Cancellation by the insured	56
2.6.2	Cancellation by the insurer	56
2.7	Notice	57
2.8	Obtaining the consent of the insured	57
2.9	Bar (estoppel) and non-waiver agreement.....	58
	Recap	60
	Self-evaluation exercise	62
	Answer sheet for the self-evaluation exercise	68
	Review activity	78

Chapter 3

Introduction to Commercial Insurance

3.1	Direct and indirect damage insurance and extended coverage insurance	81
3.1.1	Named perils package policy.....	81
3.1.2	Package policy – broad form perils	82
3.1.3	Comprehensive policy	83
3.2	Liability insurance.....	83
3.2.1	Liability insurance in North America	84
3.2.2	Liability insurance in Québec.....	84
3.3	Study of basic concepts in commercial insurance	86
3.3.1	Co-insurance	86
3.3.2	Application of the deductible.....	93
3.3.2.1	Application of the deductible where there is under-insurance	94
3.3.2.2	Application of the deductible where there are limits of insurance	95
3.3.2.3	Application of multiple deductibles	95
3.4	Main damage insurance organizations and stakeholders	95
3.4.1	<i>Autorité des marchés financiers</i>	96
3.4.2	<i>Chambre de l'assurance de dommages</i>	96
3.4.3	Insurance Bureau of Canada.....	96
3.4.4	Damage insurers (P&C insurers).....	97
3.4.4.1	Insurers whose products are distributed through brokers.....	97
3.4.4.2	Direct insurers	97
	Recap	98
	Self-evaluation exercise	99
	Answer sheet for the self-evaluation exercise	102
	Review activity.....	107

Chapter 4

Direct Damage Insurance Products for Businesses

4.1	Basic form used for direct damage insurance – Commercial Property – Named Perils Form (IBC 4036).....	111
4.1.1	Indemnity agreement (clause 1).....	111
4.1.2	Insured property (clause 2).....	112
4.1.2.1	Building.....	113
4.1.2.2	Equipment	113
4.1.2.3	Stock.....	114
4.1.2.4	Contents	114
4.1.2.5	All property	115
4.1.3	Deductible (clause 3).....	115
4.1.4	Co-insurance (clause 4)	115
4.1.5	Insured perils (clause 5)	116
4.1.5.1	Fire or lightning.....	116

4.1.5.2	Explosion.....	116
4.1.5.3	Impact by aircraft, spacecraft or land vehicle.....	117
4.1.5.4	Riot, vandalism or malicious acts.....	119
4.1.5.5	Smoke	119
4.1.5.6	Leakage from “fire protective equipment”	120
4.1.5.7	Windstorm or hail	120
4.1.6	Excluded property (clause 6 A)	121
4.1.6.1	Vacant, unoccupied or shut down locations.....	121
4.1.6.2	Electrical devices, appliances or wiring	122
4.1.6.3	Growing plants, trees, shrubs or flowers.....	122
4.1.6.4	Money and precious metals	123
4.1.6.5	Automobiles, watercraft and other transportation methods	123
4.1.6.6	Property illegally acquired and property seized or confiscated.....	124
4.1.6.7	Roadways, walkways, or other exterior paved surfaces	125
4.1.6.8	Damage resulting from the application of heat	125
4.1.7	Excluded perils (clauses 6 B).....	125
4.1.7.1	War.....	125
4.1.7.2	Nuclear incident.....	126
4.1.7.3	Enforcement of by-laws.....	126
4.1.7.4	Pollution exclusion (clause 6 C).....	127
4.1.7.5	Data exclusion (clause 6 D)	128
4.1.7.6	Terrorism exclusion (clause 6 E).....	129
4.1.7.7	Fungi and spores exclusion (clause 6 F)	130
4.1.7.8	Other excluded losses (clause 6 G).....	131
4.1.8	Extensions of coverage (clause 7)	132
4.1.8.1	Removal	132
4.1.8.2	Debris removal	133
4.1.8.3	Personal property of officers and employees.....	133
4.1.8.4	Growing plants, trees, shrubs or flowers outside the “building”	134
4.1.9	Other special clauses	134
4.1.9.1	Permission (clause 8).....	134
4.1.9.2	Breach of condition (clause 9).....	135
4.1.9.3	Reinstatement (clause 10)	135
4.1.9.4	Subrogation (clause 11)	135
4.1.9.5	Property protection systems (clause 12).....	136
4.1.9.6	Premium adjustment (clause 13)	136
4.1.9.7	Verification of values (clause 14)	137
4.1.9.8	Basis of valuation (clause 15)	137
4.1.9.9	Property of others (clause 16).....	139
4.1.9.10	Definitions (clause 17).....	139
4.2	Commercial Property – Broad Form (IBC 4037).....	139
4.2.1	Similarities between IBC Form 4037 and IBC Form 4036	140
4.2.2	Differences between IBC Form 4037 and IBC Form 4036.....	140
4.2.2.1	Insured property (clause 2)	141
4.2.2.2	Insured perils (clause 5).....	142
4.2.2.3	Excluded property (clause 6)	143
4.2.2.4	Excluded perils (clause 6).....	146

4.2.2.5	Extensions of coverage (clause 7)	153
4.2.2.6	Locked vehicle warranty (clause 17)	154
4.2.2.7	Definitions (clause 18)	154
4.3	Residential Condominium Corporation Broad Form (IBC 4022)	155
4.3.1	Differences between IBC Form 4022 and IBC Form 4037	155
4.3.1.1	Insured property (clause 2)	155
4.3.1.2	Exclusions (clause 6)	156
4.3.1.3	Extensions of coverage (clause 7)	157
4.3.1.4	Other special clauses	159
4.4	Main endorsements	164
4.4.1	Replacement Cost Endorsement (IBC 4005)	164
4.4.1.1	Purpose of the endorsement	164
4.4.1.2	Exclusions (clause 3)	165
4.4.1.3	Underwriting terms	166
4.4.2	Building Inflation Protection Endorsement (IBC 4016)	166
4.4.2.1	Purpose of the endorsement	167
4.4.2.2	Underwriting terms	167
4.4.3	Earthquake Shock Endorsement (IBC 4039)	167
4.4.3.1	Purpose of the endorsement	168
4.4.3.2	Underwriting terms	169
4.4.4	Building By-laws Endorsement (IBC 4045)	170
4.4.4.1	Purpose of the endorsement	170
4.4.4.2	Underwriting terms	171
4.4.5	Land and Water Pollution Clean Up Endorsement (IBC 4050)	171
4.4.5.1	Purpose of the endorsement	171
4.4.5.2	Underwriting terms	173
4.4.6	Stock spoilage endorsements (IBC 4052 and IBC 4053)	173
4.4.6.1	Purpose of these two endorsements	173
4.4.6.2	Underwriting terms	174
4.4.7	Stated Amount – Waiver of Co-insurance Endorsement (IBC 4054)	174
4.4.7.1	Purpose of the endorsement	174
4.4.7.2	Underwriting terms	175
4.4.8	Flood Endorsement (IBC 4055)	175
4.4.8.1	Purpose of the endorsement	176
4.4.8.2	Underwriting terms	177
4.4.9	Sewer Back Up Endorsement (IBC 4056)	177
4.4.9.1	Purpose of the endorsement	177
4.4.9.2	Underwriting terms	178
4.4.10	Roof Water Endorsement (IBC 4076)	178
4.4.10.1	Purpose of the endorsement	178
4.4.10.2	Underwriting terms	178
4.4.11	Foundation exclusion clause	179
4.4.11.1	Purpose of the endorsement	179
4.4.11.2	Underwriting terms	179

4.4.12 Vacancy or unoccupancy permit	179
4.4.12.1 Purpose of the endorsement.....	180
4.4.12.2 Underwriting terms	180
Recap	181
Self-evaluation exercise	183
Answer sheet for the self-evaluation exercise	188
Review activity	198

Chapter 5

Rules and Practices in Direct Damage Insurance

5.1 Commercial insurance application	201
5.1.1 Importance of application	202
5.1.2 Contents of the commercial insurance application.....	203
5.2 Market segmentation.....	215
5.2.1 Market categories	215
5.2.1.1 Small commercial risks	215
5.2.1.2 Large commercial risks	216
5.2.1.3 Industrial risks	216
5.2.1.4 Special risks	217
5.2.2 Physical aspects of risk	217
5.2.2.1 Location.....	217
5.2.2.2 Occupancy	218
5.2.2.3 Type of construction.....	218
5.2.2.4 Age of building.....	219
5.2.3 Moral aspect of risk	219
5.2.3.1 Risk related to the person	220
5.2.3.2 Risk related to the person's attitude.....	220
5.2.4 Experience of the insured in his field.....	220
5.2.5 Reinsurance	220
5.3 Protection against certain risks	222
5.3.1 Public fire protection	222
5.3.1.1 Service effectiveness	222
5.3.1.2 Proximity of services	222
5.3.2 Private prevention and protection systems	224
5.3.2.1 Fire prevention and protection systems	224
5.3.2.2 Theft and vandalism prevention and protection systems.....	224
5.4 Risk assessment and insurance amount	225
5.4.1 Role of firm's accountant.....	225
5.4.2 Role of the building appraiser.....	226
5.4.3 Role of the representative and underwriter	226

5.5	Calculation of premium.....	227
5.5.1	Sector	227
5.5.2	Heating system	227
5.5.3	Loss history.....	228
5.5.4	Competition or the impact of supply and demand	228
	Recap	229
	Self-evaluation exercise	230
	Answer sheet for the self-evaluation exercise	235
	Review activity.....	240

TABLE OF CONTENTS

List of Forms.....	xix
List of Tables.....	xxiii
List of Abbreviations.....	xxv

Chapter 6 Indirect Damage Insurance Products for Businesses

6.1	Introduction to business interruption insurance.....	4
6.1.1	Insured perils.....	4
6.1.1.1	Named perils forms.....	4
6.1.1.2	Broad form perils forms.....	5
6.1.2	Indemnity period.....	5
6.1.2.1	American-inspired forms (limited insurance).....	6
6.1.2.2	British-inspired forms (extended insurance).....	6
6.1.2.3	Co-insurance.....	8
6.1.3	Financial statements.....	9
6.1.3.1	Income statement.....	10
6.1.3.2	Balance sheet.....	11
6.1.3.3	Statement of changes in financial position.....	13
6.2	Limited Business Income – Named Perils (IBC 4106A) and Broad Form Perils (IBC 4106B) forms.....	13
6.2.1	Indemnity agreement (clause 1).....	13
6.2.2	Indemnity period.....	16
6.2.3	Application of co-insurance.....	17
6.2.4	Insured perils and exclusions.....	20
6.2.5	Special clauses.....	21
6.2.5.1	Determination of payment (clause 7).....	22
6.2.5.2	Payroll (clause 8).....	23
6.2.5.3	Interruption by civil authority (clause 9).....	25
6.2.5.4	Accountants' fees (clause 10).....	26
6.2.5.5	Alternate trading (clause 16).....	26
6.2.5.6	Obligation to minimize loss (clause 17).....	27
6.2.5.7	Premium adjustment (clause 18).....	27
6.2.5.8	Definitions (clause 19).....	28
6.3	Extended Business Income – Named Perils (IBC 4107A) and Broad Form Perils (IBC 4107B) forms.....	29
6.3.1	Indemnity agreement (clause 1).....	29
6.3.2	Co-insurance (clause 4).....	30
6.3.3	Insured perils and exclusions (clauses 5 and 6).....	32
6.3.4	Special clauses.....	33
6.3.4.1	Payroll (clause 8).....	33
6.3.4.2	Premium adjustment (clause 18).....	33

6.4	Limited Rental Income – Named Perils (IBC 4108A) and Broad Form Perils (IBC 4108B) forms.....	33
6.4.1	Indemnity agreement (clause 1).....	34
6.4.2	Co-insurance (clause 4)	34
6.4.3	Special clauses.....	35
6.4.3.1	Determination of payment (clause 7).....	35
6.4.3.2	Alternate accommodation (clause 15)	37
6.4.3.3	Premium adjustment (clause 17)	38
6.4.3.4	Definitions (clause 18).....	38
6.5	Extended Rental Income – Named Perils (IBC 4109A) and Broad Form Perils (IBC 4109B) forms.....	39
6.5.1	Indemnity agreement (clause 1).....	39
6.5.2	Co-insurance (clause 4)	39
6.5.3	Insured perils and exclusions (clauses 5 and 6)	40
6.5.4	Determination of payment (clause 7)	40
6.5.5	Premium adjustment (clause 17).....	41
6.6	Limited Extra Expense – Named Perils (IBC 4110A) and Broad Form Perils (IBC 4110B) forms.....	42
6.6.1	Indemnity agreement (clause 1).....	43
6.6.2	Resumption of operations (clause 4).....	44
6.6.3	Determination of payment	44
6.7	Calculating the minimum insurance amount required based on the form used.....	45
6.7.1	Business income forms (IBC 4106 and IBC 4107).....	45
6.7.2	Rental income forms (IBC 4108 and IBC 4109).....	47
6.8	Business interruption endorsements.....	48
6.8.1	Contingent business income extension endorsement (IBC 4116)	49
6.8.2	Building by-laws: additional time required for rebuilding endorsement (IBC 4117)	49
6.8.3	Earthquake shock endorsement (IBC 4139).....	50
6.8.4	Flood endorsement (IBC 4155).....	51
6.8.5	Sewer back up endorsement (IBC 4156)	52
6.8.6	Additional increase in cost of operations endorsement – business income (IBC 4157)	53
6.8.7	Additional increase in cost of operations endorsement – rental income (IBC 4158)	53
6.8.8	Fines or damages for breach of contract endorsement (IBC 4159).....	54
6.8.9	Off premises services interruption endorsement (IBC 4179)	54
	Recap	56
	Self-evaluation exercise	57
	Answer sheet for the self-evaluation exercise	63
	Review activity	73

Chapter 7

Rules and Practices in Indirect Damage Insurance

7.1 Commercial insurance application	77
7.1.1 Importance of application	78
7.1.2 Content of the indirect damage insurance application	78
7.2 Rules and practices specific to indirect damage insurance	80
7.2.1 Business categories.....	80
7.2.2 Supplier risks	82
7.2.3 Client risks	83
7.2.4 Energy risks	83
7.3 Calculation of premium	84
7.3.1 Calculation method based on the basic rate	84
7.3.2 Use of different forms	86
Recap	87
Self-evaluation exercise	88
Answer sheet for the self-evaluation exercise	91
Review activity.....	95

Chapter 8

The Main Forms and Endorsements Used in Commercial Extended Coverage Insurance

8.1 Comprehensive Dishonesty, Disappearance and Destruction Policy (IBC 5000)	99
8.1.1 Declarations	101
8.1.2 Insuring agreements	102
8.1.2.1 Insuring agreement I – employee dishonesty coverage (form A or form B).....	102
8.1.2.2 Insuring agreement II – loss inside the premises coverage	107
8.1.2.3 Insuring agreement III – loss outside the premises coverage.....	107
8.1.2.4 Insuring agreement IV – money orders and counterfeit paper currency coverage	107
8.1.2.5 Insuring agreement V – depositors forgery coverage	108
8.1.3 General agreements	108
8.1.4 Conditions and limitations.....	109
8.1.4.1 Policy period, territory, discovery (section 1)	109
8.1.4.2 Exclusions (section 2)	109
8.1.4.3 Other conditions and limitations	111
8.2 Builders risk	114
8.2.1 Builders risk – broad form (IBC 4042)	115
8.2.1.1 Indemnity agreement (clause 1).....	115
8.2.1.2 Additional insureds (clause 2)	116
8.2.1.3 Insured property (clause 3)	116

8.2.1.4	Insured perils (clause 5).....	118
8.2.1.5	Exclusions (clause 6).....	118
8.2.1.6	Special clauses.....	119
8.2.2	Builders risk endorsements.....	122
8.2.2.1	Builders risk flood endorsement (IBC 4043).....	122
8.2.2.2	Builders risk earthquake endorsement (IBC 4044).....	122
8.2.2.3	Hoarding endorsement.....	122
8.2.2.4	Watchman endorsement.....	122
8.3	Contractors' equipment insurance.....	123
8.3.1	Insured property.....	123
8.3.2	Perils insured.....	126
8.3.3	Special provisions.....	126
8.4	Boiler and machinery insurance (also referred to as equipment breakdown insurance).....	127
8.4.1	Classes of insurable objects.....	129
8.4.1.1	Pressure vessels.....	130
8.4.1.2	Mechanical equipment and electrical equipment.....	132
8.4.1.3	Production machines.....	133
8.4.1.4	Electronic equipment.....	134
8.4.2	Insuring agreement.....	135
8.4.2.1	Definition of "accident".....	136
8.4.2.2	Four insurability conditions.....	137
8.4.3	Exclusions.....	138
8.4.4	General conditions.....	139
8.4.4.1	Inspection.....	139
8.4.4.2	Suspension.....	139
8.4.4.3	Cancellation.....	140
8.4.4.4	Agreement between insurers.....	140
8.4.5	Insurance forms.....	140
8.4.5.1	Special form.....	140
8.4.5.2	Broad form.....	141
8.4.5.3	Basic form.....	141
8.4.6	Usual endorsements.....	141
8.4.6.1	Water damage and ammonia contamination.....	141
8.4.6.2	Indirect loss endorsement.....	142
8.4.6.3	Professional fees.....	142
8.4.7	Business interruption insurance.....	142
8.5	142Motor truck cargo insurance.....	142
8.5.1	Transportation of property in trucks belonging to the insured.....	143
8.5.1.1	Insured perils.....	144
8.5.1.2	Exclusions.....	145
8.5.1.3	Special features.....	145
8.5.2	Transportation of property in the trucks of a common carrier.....	147
8.5.2.1	Insured property.....	148
8.5.2.2	Insured perils.....	148
8.5.2.3	Special features.....	148

8.6	Depository's insurance (also referred to as bailee's insurance)	149
8.6.1	Insured property	150
8.6.2	Insured perils	151
8.6.3	Exclusions	151
8.6.4	Special features	152
8.6.5	Forms tailored to meet the needs of specialized depositaries	152
8.6.5.1	Dry cleaners	152
8.6.5.2	Cold storage providers	153
8.6.5.3	Clothing contractors and other manufacturers	153
8.7	Other coverage frequently taken out	154
8.7.1	Glass breakage insurance	154
8.7.1.1	Insuring agreement	154
8.7.1.2	Exclusions	155
8.7.2	Computer protection and data processing media coverage	156
8.7.2.1	Property insured	156
8.7.2.2	Perils insured	157
8.7.2.3	Property excluded	157
8.7.2.4	Valuations	158
8.7.3	Office contents insurance	158
8.7.3.1	Property insured	159
8.7.3.2	Perils insured	159
8.7.3.3	Extensions of coverage	159
8.7.3.4	Exclusions	161
8.7.3.5	Special clauses	162
8.7.4	Accounts receivable insurance	162
8.7.4.1	Insuring agreement	162
8.7.4.2	Exclusions	163
8.7.5	Valuable papers and records insurance	163
8.7.5.1	Insuring agreement	163
8.7.5.2	Exclusions	164
8.8	Comprehensive commercial insurance	165
8.8.1	Office package insurance	165
8.8.1.1	Insured property	166
8.8.1.2	Insured perils	166
8.8.2	Retail package insurance	168
8.8.2.1	Insured property	168
8.8.2.2	Insured perils	169
8.8.3	Comprehensive insurance to meet specific needs	170
	Recap	172
	Self-evaluation exercise	175
	Answer sheet for the self-evaluation exercise	182
	Review activity	195

Chapter 9

Rules and Practices in Commercial Extended Coverage Insurance

9.1	Items common to all insurance applications	200
9.1.1	Identification of parties to the contract and applicant's address	200
9.1.2	Effective date and expiry date of contract	201
9.1.3	Prior claims	201
9.1.4	Refusal of insurance	202
9.1.5	Limits of liability table	202
9.1.6	Misrepresentation clause	202
9.1.7	Warranty	203
9.1.8	Signature	203
9.2	Types of insurance applications and additional questionnaires	203
9.2.1	Comprehensive dishonesty, disappearance and destruction insurance	203
9.2.2	Builders risk insurance	208
9.2.3	Boiler and machinery insurance	212
9.2.4	Computer protection insurance	216
9.2.5	Comprehensive commercial insurance	218
9.3	Market segmentation	219
9.3.1	Existing clientele	220
9.3.2	New clientele	221
9.4	Underwriting terms for extended coverage products	222
9.4.1	Classification of risk based on a fire and theft alarm system	223
	Recap	224
	Self-evaluation exercise	225
	Answer sheet for the self-evaluation exercise	228
	Review activity	233
	Index	234

TABLE OF CONTENTS

List of forms	xxv
List of tables	xxvii
List of abbreviations	xxix

Chapter 10 **Legal and General Principles of Liability Insurance**

10.1	General principles of extracontractual and contractual liability	3
10.1.1	Rules of evidence in liability	7
10.1.1.1	Presumption of fault	8
10.1.1.2	Presumptive liability	8
10.1.1.3	No-fault liability	8
10.2	About liability	9
10.2.1	Liability for the act or fault of another	9
10.2.1.1	Holder of parental authority	10
10.2.1.2	Custodian or supervisor of a minor	11
10.2.1.3	Custodian of a mentally incompetent adult	12
10.2.1.4	Principal	13
10.2.2	Liability for the act of a thing	14
10.2.2.1	Autonomous act of a thing	14
10.2.2.2	Ruins of a building	15
10.2.2.3	The act of an animal	16
10.2.3	Product liability	16
10.2.3.1	Extracontractual regime	17
10.2.3.2	Contractual regime	18
10.3	Rules for awarding damages	19
10.3.1	The different types of harm	19
10.3.1.1	Bodily injury	20
10.3.1.2	Moral injury	21
10.3.1.3	Material injury	21
10.3.2	Total compensation	21
10.3.3	Invalidity of releases, transactions or statements	23
10.3.4	Reservation of right within three years of judgment	24
10.3.5	Compensation payable in cash or instalments	25
10.3.6	Interest	26
10.3.7	Punitive damages	27
10.4	Defences and exemptions	27

10.4.1	Superior force	28
10.4.2	The good Samaritan	28
10.4.3	Disclosure of a trade secret	29
10.4.4	Manufacturers, distributors and suppliers	30
10.4.5	Exemption from and limitation of liability clauses	30
10.4.6	Notices	32
	10.4.6.1 Notices in contractual matters	32
	10.4.6.2 Notices in extracontractual matters	32
10.4.7	Assumption of risk	33
10.4.8	Sharing of liability	33
10.4.9	Obligation to minimize damage	34
10.4.10	Liability for a joint wrongful act	35
10.4.11	Prescription	35
	10.4.11.1 General rules	35
	10.4.11.2 Calculating prescription	36
	10.4.11.3 Prescriptive periods	36
	Recap	39
	Self-evaluation exercise	41
	Answer sheet for the self-evaluation exercise	46
	Review activity	53

Chapter 11

Liability Insurance

11.1	The legal aspects of liability insurance	57
	11.1.1 Contractual liability	59
	11.1.2 Extracontractual liability assumed by contract	59
	11.1.3 Third person's right of recourse (article 2501 CCQ)	61
	11.1.4 Insurer's obligation to defend the insured (article 2503 CCQ)	62
11.2	How liability insurance works	63
	11.2.1 Application of the "law of large numbers" principle	64
	11.2.2 Factors considered in premium determination	64
	11.2.2.1 Statutory amendments	64
	11.2.2.2 Social change	66
	11.2.2.3 Financial changes	66
11.3	Application of coverage	67
	11.3.1 The date of the occurrence	67
	11.3.2 The date the claim is made and reported to the insurer	68

11.4	Main differences between commercial liability and professional liability insurance.....	71
11.5	Introduction to commercial liability insurance policy	74
11.5.1	Declarations	75
11.5.2	Basic coverage.....	75
11.5.3	Application of coverage.....	76
11.5.4	The deductible.....	76
11.5.5	Supplementary payments	76
11.5.6	Who is an insured	77
11.5.7	Limits of insurance or coverage amount.....	77
11.5.8	General conditions specific to liability insurance	77
11.5.9	Definitions.....	78
	Recap.....	79
	Self-evaluation exercise	80
	Answer sheet for the self-evaluation exercise	83
	Review activity.....	89

Chapter 12

IBC Form 2100 – Commercial General Liability Policy

12.1	Section I – Coverage A – Bodily injury and property damage liability.....	94
12.1.1	Insuring agreement (paragraph 1)	94
12.1.2	Exclusions (paragraph 2)	97
12.1.2.1	Expected or intended injury (exclusion a)	97
12.1.2.2	Contractual liability (exclusion b).....	98
12.1.2.3	Workers compensation and similar laws (exclusion c).....	100
12.1.2.4	Employer’s liability (exclusion d)	100
12.1.2.5	Aircraft or watercraft (exclusion e).....	103
12.1.2.6	Automobile (exclusion f)	105
12.1.2.7	Damage to property (exclusion g)	108
12.1.2.8	Damage to your product (exclusion h)	111
12.1.2.9	Damage to your work (exclusion i).....	112
12.1.2.10	Damage to impaired property or property not physically injured (exclusion j)	113
12.1.2.11	Recall of products, work or impaired property (exclusion k)	115
12.1.2.12	Electronic data (exclusion l)	116
12.1.2.13	Personal and advertising injury (exclusion m).....	117
12.1.2.14	Professional services (exclusion n).....	117
12.1.2.15	Abuse (exclusion o).....	118
12.1.2.16	Other exclusions (p to u)	119

12.2	Section I – Coverage B – Personal and advertising injury liability	119
12.2.1	Insuring agreement (paragraph 1)	119
12.2.2	Exclusions (paragraph 2)	120
12.2.2.1	Knowing violation of rights of another (exclusion a)	120
12.2.2.2	Material published with knowledge of falsity (exclusion b)	120
12.2.2.3	Material published prior to policy period (exclusion c)	120
12.2.2.4	Criminal acts (exclusion d)	121
12.2.2.5	Contractual liability (exclusion e)	121
12.2.2.6	Breach of contract (exclusion f)	121
12.2.2.7	Quality or performance of goods – Failure to conform to statements (exclusion g)	121
12.2.2.8	Wrong description of prices (exclusion h)	122
12.2.2.9	Infringement of copyright, patent, trademark or trade secret (exclusion i)	122
12.2.2.10	Insureds in media and internet type businesses (exclusion j)	123
12.2.2.11	Electronic chatrooms or bulletin boards (exclusion k)	123
12.2.2.12	Unauthorized use of another’s name or product (exclusion l)	123
12.2.2.13	Other exclusions (m to r)	123
12.3	Section I – Coverage C – Medical payments	124
12.3.1	Insuring agreement (paragraph 1)	124
12.3.2	Exclusions (paragraph 2)	125
12.3.2.1	Any insured (exclusion a)	125
12.3.2.2	Hired person (exclusion b)	125
12.3.2.3	Injury on normally occupied premises (exclusion c)	125
12.3.2.4	Workers compensation and similar laws (exclusion d)	126
12.3.2.5	Athletics activities (exclusion e)	126
12.3.2.6	Products-completed operations hazard (exclusion f)	126
12.3.2.7	Coverage A exclusions (exclusion g)	127
12.4	Section I – Coverage D – Tenants’ legal liability	127
12.4.1	Insuring agreement (paragraph 1)	128
12.4.2	Exclusions (paragraph 2)	128
12.4.2.1	Expected or intended injury (exclusion a)	129
12.4.2.2	Contractual liability (exclusion b)	129
12.4.2.3	Other exclusions (c to h)	129
12.5	Section I – Common exclusions – Coverages A, B, C and D	130
12.5.1	Asbestos (exclusion 1)	130
12.5.2	Fungi or spores (exclusion 2)	131
12.5.3	Nuclear energy liability (exclusion 3)	132
12.5.4	Pollution (exclusion 4)	133
12.5.5	Terrorism (exclusion 5)	138
12.5.6	War risks (exclusion 6)	139

12.6	Section 1 – Supplementary payments – Coverages A, B and D	139
12.7	Section II – Who is an insured.....	141
12.8	Section III – Limits of insurance	146
12.8.1	Deductible (paragraph 8)	148
12.9	Section IV – Commercial general liability conditions.....	149
12.9.1	Bankruptcy (paragraph 1)	150
12.9.2	Legal action against us (paragraph 7)	150
12.9.3	Other insurance (paragraph 8).....	151
12.9.4	Premium audit (paragraph 9).....	155
12.9.5	Premiums (paragraph 10)	156
12.9.6	Representations (paragraph 11).....	156
12.9.7	Separation of insureds – Cross liability (paragraph 12).....	157
12.9.8	Termination (paragraph 13)	158
12.9.9	Transfer of rights of recovery against others to us (paragraph 14).....	159
12.10	Section V – Definitions	159
12.10.1	Abuse (paragraph 1)	160
12.10.2	Automobile (paragraph 4)	160
12.10.3	Impaired property (paragraph 13)	161
12.10.4	Fungi (paragraph 11)	162
12.10.5	Loading or unloading (paragraph 17).....	162
12.10.6	Insured contract (paragraph 15)	162
12.10.6.1	Contract for a lease of premises	164
12.10.6.2	Sidetrack agreement	164
12.10.6.3	Easement or license agreement in connection with vehicle or pedestrian private railroad crossings at grade	165
12.10.6.4	Any other easement agreement	165
12.10.6.5	Any obligation to compensate a municipality	166
12.10.6.6	Elevator maintenance agreement	166
12.10.6.7	Any part of a contract or agreement pertaining to a business	167
12.10.7	Fissionable substance (paragraph 10).....	167
12.10.8	Executive officer (paragraph 9).....	168
12.10.9	Bodily injury (paragraph 5).....	168
12.10.10	Incidental medical malpractice injury (paragraph 14)	168
12.10.11	Compensatory damages (paragraph 6).....	169
12.10.12	Property damage (paragraph 25).....	169
12.10.13	Employee (paragraph 8)	170
12.10.14	Hostile fire (paragraph 12)	171
12.10.15	Nuclear facility (paragraph 19).....	171
12.10.16	Coverage territory (paragraph 7)	171
12.10.17	Pollutants (paragraph 22).....	174
12.10.18	Action (paragraph 2)	174

12.10.19	Personal and advertising injury (paragraph 21)	174
12.10.20	Advertisement (paragraph 3)	177
12.10.21	Nuclear energy hazard (paragraph 18)	177
12.10.22	Products-completed operations hazard (paragraph 23)	177
12.10.23	Professional services (paragraph 24)	179
12.10.24	Occurrence (paragraph 20)	180
12.10.25	Spores (paragraph 27)	181
12.10.26	Radioactive material (paragraph 26)	181
12.10.27	Terrorism (paragraph 29)	181
12.10.28	Volunteer worker (paragraph 30)	181
12.10.29	Leased worker (paragraph 16)	182
12.10.30	Temporary worker (paragraph 28)	182
12.10.31	Your product (paragraph 31)	182
12.10.32	Your work (paragraph 32)	184
	Recap	186
	Self-evaluation exercise	188
	Answer sheet for the self-evaluation exercise	194
	Review activity	204

Chapter 13

Various Forms Regarding Commercial and Professional Liability Insurance

13.1	Commercial General Liability Policy form (IBC 2200)	207
13.1.1	Declarations	208
13.1.2	Section I – Coverages	210
13.1.2.1	Coverage A – Bodily injury and property damage liability	210
13.1.2.2	Coverage B – Personal injury liability	212
13.1.2.3	Coverage C – Medical payments	213
13.1.2.4	Coverage D – Tenants’ legal liability	213
13.1.2.5	Common exclusions to Coverages A, C and D	213
13.1.3	Section II – Who is an insured and section III – limits of insurance	213
13.1.4	Section IV – Commercial general liability conditions	213
13.1.5	Section V – Extended reporting periods	215
13.1.6	Section VI – Definitions	219
13.2	Professional liability insurance	220
13.2.1	Insuring agreement	221
13.2.2	Definitions	221
13.2.3	Exclusions	222

13.3	Directors and officers liability insurance	222
13.3.1	Insuring agreement	223
13.3.2	Specific exclusions	224
13.3.3	Tail coverage or extended reporting period	226
13.3.4	Errors and omissions insurance for non-profit organizations.....	226
13.4	Warehouseman's legal liability insurance	227
13.4.1	Insuring agreement	227
13.4.2	Specific exclusions	229
13.5	Motor truck cargo carrier's liability insurance	230
13.5.1	Insuring agreement	232
13.5.2	Limit of liability	233
13.5.3	Specific exclusions	233
13.6	Excess liability insurance and umbrella liability insurance	235
13.6.1	Excess liability insurance	235
13.6.1.1	Purpose	235
13.6.1.2	Insuring agreement	236
13.6.1.3	Exclusions	236
13.6.1.4	Special clauses	236
13.6.2	Umbrella liability insurance	237
13.6.2.1	Following form coverage	238
13.6.2.2	Special clauses	239
13.7	Wrap-up liability insurance	240
13.7.1	Insuring agreement	241
13.7.2	Policy period.....	241
13.7.3	Special clauses	242
	Recap.....	243
	Self-evaluation exercise	245
	Answer sheet for the self-evaluation exercise	248
	Review activity.....	254

Chapter 14

Common Endorsements and Other Forms used in Commercial Liability Insurance

14.1	Deductible Endorsement (IBC 2301).....	257
14.1.1	Purpose of the endorsement.....	257
14.1.2	Deductible per claim.....	258
14.1.3	Deductible per occurrence	259
14.1.4	Summary procedures and underwriting	259

14.2	Extension – Garage Liability (IBC 2302)	260
14.2.1	Purpose of the endorsement	260
14.2.2	Summary procedures and underwriting	261
14.3	Extension – Employers’ Bodily Injury Liability Coverage (IBC 2303)	262
14.3.1	Purpose of the endorsement	262
14.3.2	Summary procedures and underwriting	263
14.4	Limitation of Coverage to Designated Premises (IBC 2304)	263
14.4.1	Purpose of the endorsement	263
14.4.2	Summary procedures and underwriting	263
14.5	Exclusion – Products–completed Operations Hazard (IBC 2305)	264
14.5.1	Purpose of the endorsement	264
14.5.2	Summary procedures and underwriting	265
14.6	Exclusion – Damage from Blasting, Pile Driving, Removal or Weakening of Support (IBC 2307)	265
14.6.1	Purpose of the endorsement	265
14.6.2	Summary procedures and underwriting	266
14.7	Limitation – Contractual Liability (IBC 2308)	267
14.7.1	Purpose of the endorsement	267
14.7.2	Summary procedures and underwriting	267
14.8	Limited Pollution Liability Coverage (120 hours) (IBC 2313)	268
14.8.1	Purpose of the endorsement	268
14.8.2	Summary procedures and underwriting	270
14.9	Certificate of Insurance (IBC 2328)	271
14.9.1	Purpose of the endorsement	271
14.10	Additional Insured – Owners, Lessees or Contractors – Scheduled Person or Organization (IBC 2341)	271
14.10.1	Purpose of the endorsement	271
14.10.2	Summary procedures and underwriting	272
14.11	Additional Insured – Owners, Lessees or Contractors – Automatic Status when Required in an “Insured Contract” (IBC 2342)	272
14.11.1	Purpose of the endorsement	272
14.11.2	Summary procedures and underwriting	273
14.12	Employee benefit programs liability endorsement	273
14.12.1	Purpose of the endorsement	273
14.12.2	Summary procedures and underwriting	275

14.13	Product recall insurance endorsement.....	275
14.13.1	Purpose of the endorsement.....	275
14.13.2	Summary procedures and underwriting.....	276
14.14	Elevator collision endorsement.....	276
14.14.1	Purpose of the endorsement.....	276
14.14.2	Summary procedures and underwriting.....	277
14.15	Q.P.F. Non-owned Form No. 6.....	278
14.15.1	Summary procedures and underwriting.....	278
	Recap.....	280
	Self-evaluation exercise.....	282
	Answer sheet for the self-evaluation exercise.....	285
	Review activity.....	290

Chapter 15

Rules and Practices in Commercial Liability Insurance

15.1	Commercial insurance application.....	293
15.1.1	Commercial liability insurance.....	294
15.1.2	Professional liability insurance.....	294
15.2	Required information based on type of insurance requested.....	295
15.2.1	Description and occupancy of the insured building or premises.....	296
15.2.2	Description of the insured's activities.....	297
15.2.3	Loss history.....	298
15.2.4	Additional coverages required.....	299
15.3	Market segmentation in commercial liability insurance.....	300
15.3.1	Market categories.....	300
15.3.1.1	Small commercial risks.....	301
15.3.1.2	Large commercial risks.....	301
15.3.1.3	Industrial and product manufacturing risks.....	302
15.3.1.4	Special risks.....	302
15.3.2	Physical or objective risk.....	303
15.3.2.1	Location.....	303
15.3.2.2	The insured's activities.....	304
15.3.3	Moral or subjective risk.....	306
15.3.3.1	Company risk.....	306
15.3.3.2	Company management risk.....	307
15.3.4	The applicant's loss history.....	307

15.4	Determining the minimum insurance amount required	308
15.5	Bases of rate making.....	308
15.5.1	Revenue	309
15.5.2	Annual salaries	310
15.5.3	Number of employees	311
15.5.4	Surface area.....	311
15.5.5	Other rate-making criteria	312
15.6	Rate making for additional coverages.....	313
15.6.1	Tenants' legal liability	313
15.6.2	Personal injury	313
15.6.3	Medical expenses	313
15.6.4	Liability coverage for employee benefit programs	313
15.6.5	Non-owned automobile liability insurance	314
15.6.6	Pollution liability insurance.....	314
15.6.7	Elevator collision insurance	314
15.6.8	Product recall insurance	314
15.6.9	The deductible	314
15.7	Market segmentation in professional liability insurance.....	315
15.7.1	Market categories	315
15.7.1.1	Physicians	315
15.7.1.2	Lawyers	316
15.7.1.3	Architects.....	316
15.7.1.4	Engineers	317
15.7.1.5	Notaries and dentists	317
15.7.1.6	Damage insurance brokers	317
15.7.2	Professional risk.....	318
15.7.3	Moral or subjective risk	318
15.7.3.1	Risk related to the person	318
15.7.3.2	Risk related to the person's attitude.....	318
15.8	Determining the minimum insurance amount required	319
15.9	The bases of rate making.....	320
15.9.1	Professional liability insurance funds.....	320
15.9.2	Insurance companies.....	320
15.9.3	Rate making for additional coverage	320
	Recap	321
	Self-evaluation exercise	323
	Answer sheet for the self-evaluation exercise	328
	Review activity	335

Chapter 16

Processing Change, Renewal, Termination and Cancellation Requests

16.1	Processing change requests	342
16.2	Processing renewal requests	344
16.3	Processing cancellations	347
16.3.1	Cancellation by the insurer.....	348
16.3.2	Cancellation by the insured.....	350
16.4	Processing terminations	352
	Recap.....	354
	Self-evaluation exercise	356
	Answer sheet for the self-evaluation exercise	360
	Review activity.....	367

Chapter 17

Rules and practices in Damage Insurance

17.1	Applying good practices	371
17.2	Submitting loss notices.....	373
17.2.1	Receiving a loss notice from an insured	374
17.2.2	Sending loss notices to the insurer	375
17.2.3	Following up with the insured and settling the file	376
	Recap.....	378
	Self-evaluation exercise	379
	Answer sheet for the self-evaluation exercise	381
	Review activity.....	385
	Appendix A	387
	Appendix B	389
	Bibliography.....	391
	Glossary	392
	Index	417

TABLE OF CONTENT

Insurance Bureau of Canada insurance forms and endorsements

IBC 2100 (10-2011)	Commercial General Liability Policy	3
IBC 2100-Dec (03-2005)	Commercial General Liability Policy Declarations	27
IBC 2200 (03-2000(r))	Commercial General Liability Policy	31
IBC 2301 (02-2010)	Deductible Endorsement – Commercial General Liability Policy	53
IBC 2302 (02-2010)	Extension – Garage Liability – Commercial General Liability Policy.....	57
IBC 2303 (02-2010)	Extension – Employers’ Bodily Injury Liability Coverage – Commercial General Liability Policy	61
IBC 2304 (02-2010)	Limitation of Coverage to Designated Premises – Commercial General Liability Policy	65
IBC 2305 (02-2010)	Exclusion – Products – Completed Operations Hazard – Commercial General Liability Policy	69
IBC 2307 (02-2010)	Exclusion – Damage from Blasting, Pile Driving, Removal or Weakening of Support – Commercial General Liability Policy	73
IBC 2308 (02-2010)	Limitation – Contractual Liability – Commercial General Liability Policy	77
IBC 2313 (06-09)	Pollution Liability Exclusion – Limited Pollution Liability Coverage (120 hours) – Commercial General Liability Policy	81
IBC 2328 (03-2000)	Certificate of Insurance	87
IBC 2341 (06-2011)	Additional Insured – Owners, Lessees or Contractors – Scheduled Person or Organization	91
IBC 2342 (06-2011)	Additional Insured – Owners, Lessees or Contractors – Automatic Status when Required in an “Insured Contract”	95
IBC 4005 (03-07)	Replacement Cost Endorsement.....	99
IBC 4016 (03-07)	Building Inflation Protection Endorsement.....	103
IBC 4022 (09-2008)	Residential Condominium Corporation Broad Form	107
IBC 4036R (10-2008)	Commercial Property – Named Perils Form	121
IBC 4037R (05-2010)	Commercial Property – Broad Form	131
IBC 4039R (05-2010)	Earthquake Shock Endorsement	145
IBC 4041 (4-1998)	Builders Risk – Named Perils	149
IBC 4042 (08-2010)	Builders Risk – Broad Form	159
IBC 4043 (8-87)	Builders Risk – Flood Endorsement.....	169
IBC 4044 (8-87)	Builders Risk – Earthquake Endorsement	173

IBC 4045R (05-2010)	Buildings By-laws Endorsement	177
IBC 4050 (12-95)	Land and Water Pollution Clean up Endorsement.....	181
IBC 4052 (03-07)	Stock Spoilage Endorsement (Damage on premises).....	185
IBC 4053 (03-07)	Stock Spoilage Endorsement (Extended form).....	189
IBC 4054 (03-07)	Stated Amount – Waiver of Co-Insurance Endorsement	193
IBC 4055R (06-2010)	Flood Endorsement.....	197
IBC 4056R (06-2010)	Sewer Back up Endorsement	201
IBC 4076 (05-2010)	Roof Water Endorsement.....	205
IBC 4106A (11-08)	Limited Business Income – Named Perils	209
IBC 4106B (11-08)	Limited Business Income – Broad Form Perils	221
IBC 4107A (11-08)	Extended Business Income – Named Perils.....	235
IBC 4107B (11-08)	Extended Business Income – Broad Form Perils	247
IBC 4108A (11-08)	Limited Rental Income – Named Perils.....	261
IBC 4108B (11-08)	Limited Rental Income – Broad Form Perils	271
IBC 4109A (11-08)	Extended Rental Income – Named Perils	285
IBC 4109B (11-08)	Extended Rental Income – Broad Form Perils.....	295
IBC 4110A (11-08)	Limited Extra Expense – Named Perils	307
IBC 4110B (11-08)	Limited Extra Expense – Broad Form Perils	317
IBC 4116 (11-08)	Contingent Business Income Extension Endorsement.....	329
IBC 4117 (11-08)	Buildings By-laws: Additional Time required for Rebuilding Endorsement.....	333
IBC 4139 (11-08)	Earthquake Shock Endorsement	337
IBC 4155 (11-08)	Flood Endorsement.....	341
IBC 4156 (11-08)	Sewer Back up Endorsement	345
IBC 4157 (11-08)	Additional Increase in Cost of Operations Endorsement – Business Income.....	349
IBC 4158 (11-08)	Additional Increase in Cost of Operations Endorsement – Rental Income.....	353
IBC 4159 (11-08)	Fines or Damages for Breach of Contract Endorsement.....	357
IBC 4179R (11-08)	Off Premises Services Interruption Endorsement.....	361
IBC 5000 (4-85)	Comprehensive Dishonesty, Disappearance and Destruction Policy	365

Other useful documents

General Conditions (2009)	379
IBC Claim Form NO. 6 – Non Waiver Agreement	389
Québec Automobile Insurance Policy - Q.P.F. NO. 6 – Non-Owned Form and Endorsements (February 1 st , 2010)	393
Agreement of guiding principles (Property insurance), 1984	409

Extended coverage insurance forms

Glass breakage insurance.....	421
Boiler and machinery insurance	427
Cargo insurance	437
Accounts receivable insurance:.....	447
Valuable papers and records insurance	453
Data processing media insurance	459
Computer protection insurance	463
Contractors' equipment insurance.....	471
Comprehensive commercial insurance	475
Office contents insurance.....	563

Liability insurance forms

Directors and officers liability insurance	571
Excess liability insurance	581
Umbrella liability insurance.....	595
Motor truck cargo carrier's liability insurance	613
Warehouseman's legal liability insurance.....	619
Professional liability insurance	625
Wrap-up liability insurance	633
Employee benefit programs liability endorsement.....	647
Elevator collision endorsement	651