

# Contract Review Guidelines and Best Practices for Logistics Providers



Contractual agreements between logistics providers and their shipper clients are increasingly common and come in many forms. When these contracts exceed standard Terms and Conditions of Service, the logistics provider may be exposed to increased risk.

A comprehensive contract review process can help identify these added risks and how your current insurance coverage will or will not address them.

## PIVOTAL CONTRACT COMPONENTS

The following guidelines highlight the components of a contract that dictate your liabilities, responsibilities, insurance costs and potential coverage gaps.

- ▶ **Statement of Parties** – Know who the parties are and how they will be referred to in the contract. Make sure the contract template is appropriate for its application.
- ▶ **Indemnification** – This should always be mutual (knock-for-knock).
- ▶ **Liability** – Dictates your actual liability scope and quantum. Must be capped.
- ▶ **Insurance** – Contracts that extend liability past terms agreed by your insurers must be approved for coverage to apply.
- ▶ **Force Majeure** – Usually appears in all contracts. Will exclude liability for events out of your control such as Acts of God, War, SR & CC, etc.
- ▶ **Applicable Law** – Be sure to agree to a venue (location) that is covered by any applicable insurance.
- ▶ **Services** – Be sure your insurance policy covers services and commodities required in the contract.
- ▶ **Performance Standards** – Penalties are not usually covered by insurance.
- ▶ **Subcontractors** – Consider how you will enforce subcontractor compliance.

## EXAMPLES OF BINDING AGREEMENTS

- ▶ Shipper Contract
- ▶ Master Service Agreement (MSA)
- ▶ Letter of Intent (LOI)
- ▶ Memorandum of Understanding (MOU)





## BEST PRACTICES

Add these best practices to reinforce your contract review process.

- ▶ Assign a contract leader within your office to manage all contract negotiations.
- ▶ Your risk manager/insurance buyer, attorney and compliance office should all review the contracts.
- ▶ Most insurance policies do not automatically respond to Contractual Liability, especially if terms are outside your standard terms and conditions. Anything outside needs to be approved by underwriters prior to attachment of the contract.
- ▶ Be wary of requirements that will erode the profitability of the contact, especially for out of pocket claims payments or insurance terms and conditions you may not have in your policy and will need to purchase.
- ▶ Many of today's transportation broker/shipper contracts are requiring the logistics provider to have the same liability as the motor carrier. Avoid this whenever possible.
- ▶ Your insurance covers YOUR liability and not your subcontractor's liability. Contingent insurance coverage may cover liability that falls on you as a result of your subcontractor's insurance failing to respond.
- ▶ The contract should be clear, concise, and easy to understand by any party that may read it.

## CONTRACT REVIEW & CONSULTATION

Shipper-driven contracts shift risk to the logistics provider. These exposures and liability often exceed the protections afforded by accepted conventions or customary terms and conditions. Roanoke does not offer legal advice, but we do assist our clients in addressing this exposure with a contract review solution. Contact your Roanoke service advisor to arrange your contract review.

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[www.RoanokeGroup.com](http://www.RoanokeGroup.com)



1.800.ROANOKE Ext. 1066



[infospot@roanokegroup.com](mailto:infospot@roanokegroup.com)