

# FOR REFERENCE ONLY

## INSURANCE REQUIREMENTS CLARIFICATIONS

The following narrative is aimed at clarifying The Winter Construction Company's insurance requirements to assure that you are in compliance. If possible share the insurance requirements and this narrative with your agent or broker.

- 1. Insurance Certificate Criteria:** The required certificate form is ACORD 25 (01/2014 edition) prepared for the specific project. If faxed COI'S will be accepted only from your insurance agent. You may provide COI via email.
- 2. Named Insured on Certificate:** It is important that the entity name depicted on the certificate Match the business name on your contract documents. If your company has multiple operating names, all should be included on the Certificate.
- 3. Name Specific Project on the Certificate:** Certificate should show the specific project name in the description of operations space of the ACORD certificate. This makes it clear that the certificate is for a specific project, in the event you are working on several Winter Construction projects, simultaneously.
- 4. Winter Construction, Owner & Architect to be Named as Additional Insured:** Generally, your contract with Winter will require only these three entities be named as "Additional Insured", although occasionally the Owner Contract will require other entities be named as well. The requirement is imposed so that a claim arising from your work will be responded to by your policy, on your behalf and on behalf of Winter Construction, the Owner and Architect.

**Commercial General Liability:** Winter requires that in addition to listing Winter, Owner and Architect as Additional Insureds on your certificate, endorsement form numbers CG 2010 (11/85) OR CG 2010 **and** CG 2037 (07/04 or 4/13) must be attached to your Certificate. These endorsements must state that Completed Operations coverage is extended to the Additional Insureds. Carriers' endorsement forms equivalent to CG 2010 and CG 2037 may be submitted provided that they state additional insured with Products/Completed Operations.

**Automobile Liability:** Winter requires that in addition to listing Winter, Owner, and Architect as Additional Insureds on your certificate, an Insurance Services Office (ISO) standard Additional Insured blanket endorsement or carrier's equivalent should be attached to your certificate.

- 5. Waiver of Subrogation:** Typically, an insurance company will attempt to recover claim payments it has made from other parties that might have shared in some of the responsibility for the accident. This recovery process is called "subrogation". By requiring subs or suppliers and their insurers to waive that right of subrogation, we prevent Winter from being claimed against due to an incident stemming from the work or activity or a sub or supplier. Just like the "additional insured" requirement, we are working to protect Winter Construction from having to respond to a claim arising out of the work of another party.

The Waiver of Subrogation is required with respect to subs CGL, Auto, Umbrella, and Workers Compensation policies, and should be specifically attached.

- 6. Umbrella/Excess Liability Requirement:** The umbrella/excess policy provides an extra layer of protection above the Auto Liability, General Liability and Employer's Liability coverage. In some cases these primary policies may have limits of liability less than \$1 million, but you may buy an Umbrella/Excess to give your firm limits greater than \$1 million.

Winter's standard requirements require a \$1,000,000 umbrella/excess liability limit excess of your primary CGL, Auto, and Work Comp/Employer's Liability on a "Following Form" basis. If you do not maintain this level of coverage presently, please have your agent or broker provide you with an umbrella liability policy to comply with the requirements of this project.

- 7. Commercial General Liability Requirement:** The most common Commercial General Liability (CGL) policy limits are \$1,000,000 per occurrence, a \$1,000,000 personal and advertising injury limit, a \$2,000,000 General Aggregate and \$2,000,000 Products/Completed operations aggregate limit. Limits that are lower than this will not be accepted UNLESS an umbrella/excess liability policy with a \$1,000,000, or higher, limit is depicted on the certificate of insurance.
- 8. Automobile Liability Requirement:** The minimum level of Auto Liability combined single limit (CSL) that you should have is \$1,000,000 unless an Umbrella/Excess policy is shown on the certificate with a limit of \$1,000,000 or more. This limit is really the norm and should not generate resistance from your insurer.

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**9. Auto Liability: Split Limits Versus Combined Single Limits:** Most business auto policies are structured with a combined single limit; however, you might have a policy with “split limits” or separate limits for bodily injury or property damage. If the policy is structured in this manner, the limits should not be less than \$500,000 bodily injury per person/\$1,000,000 bodily injury for all persons/\$250,000 property damage per accident. If you have split limits, an Umbrella policy with limits of \$1,000,000 can be used to achieve Winter’s minimum required Auto liability limit of \$1,000,000 per accident for bodily injury and property damage.

**10. Employers Liability:** Employers Liability is a “stop gap” coverage that addresses a few scenarios that would not fall within the scope of workers compensation coverage. It is written as a component of the workers compensation policy. While workers compensation statutes dictate limits, Employers Liability (EL) limits are specifically stated on the policy and would appear on the certificate. Minimum EL limits are \$500,000 each accident/\$500,000 per employee for Disease/\$500,000 policy limit for Disease. We require your Employers Liability limits to be at least \$500,000 for Bodily Injury by accident – each accident/\$500,000 for Bodily Injury by disease – policy limit/\$500,000 Bodily Injury by disease – each employee.”.

**11. Form of Commercial General Liability Coverage:** “Occurrence vs. Claims Made”: Unless expressly authorized by Winter in advance of project commencement, your Commercial General Liability policy must be written on an “occurrence basis” (as opposed to a “claims-made” basis) using Insurance Services Office (ISO) occurrence form CG 00 01 (or equivalent form). This means that the policy will respond to any injury or damage that OCCURS during the policy period regardless of when the claim might be made. Under the General Liability section of the Certificate, the box beside “Occurrence” should be checked. If the project includes any EIFS or is residential in nature, your CGL policy may not exclude EIFS or residential construction and any exclusions or restrictions on the policy having to do with EIFS or residential construction must be attached to your certificate.

**12. CGL General Aggregate Limits - Per Project:** We require that your CGL policy’s General Aggregate limit applies separately to this project. By doing so we eliminate concerns that the limit could be eroded due to claims from other projects that you are working on. The “Project” box in the CGL section of the Certificate should be checked and the endorsement providing per project General Aggregate limits must be attached to your certificate.

**13. Additional Insured Protection for Winter to be “Primary and Non-Contributory”:** We require subcontractors to have the additional insured language structured so that it is “primary and noncontributory” as respect insurance Winter maintains. This means that your policy must respond in defense of Winter first and with no contribution of coverage from Winter’s policies.

**14. Automobile Liability Coverage – Covered Vehicles:** The Automobile requirements are in place to make sure an accident involving your vehicle would be covered whether it is owned by you, “Hired” (rented/leased) or “non-owned”, meaning your employee’s use of his/her own car on your company business. On the certificate, we are looking for the “any auto” box to be checked, but if not, at least the “all owned autos”, “hired” and “non-owned” boxes on the certificate should be checked.

**15. Professional Liability Coverage:** We require subcontractors whose scope of work contains design or engineering components to provide Professional Liability coverage for acts, errors, or omissions related to these professional services. Design, Engineering and Consulting services are excluded by Commercial General Liability policies. Professional Liability coverage is required with limits not less than \$1 million per loss/\$2 million aggregate. The policy deductible may not exceed \$25,000 without Winter’s express authorization. The Policy shall have a retroactive date prior to the start of any design or engineering work, and the retroactive date shall not be advanced for a period of three (3) years. Subcontractor must maintain such Professional Liability coverage for a period not less than three (3) years following project completion, and shall provide Winter with a certificate of insurance at each policy renewal to document compliance with this requirement.

**16. Stored Materials Coverage:** To be paid for offsite stored materials proof of Property Insurance required. Required value and sample COI to be provided on a per project basis.

**17. Leased Employees/Labor Leasing/Professional Employer Organization Arrangements:** If Subcontractor uses any leased labor, obtains any labor or employees through any form of labor leasing or Professional Employer Organization, all employees who perform any activities in relation to the project must be covered by the labor leasing or Professional Employee Organization’s Workers Compensation & Employer Liability policy. The labor leasing or Professional Employer Organization’s Employers Liability policy limits must be \$1,000,000 for Bodily Injury by accident – each accident/\$1,000,000 for Bodily Injury by disease – policy limit/\$1,000,000 Bodily Injury by disease – each employee. A certificate of insurance (COI) from the labor leasing company or Professional Employer Organization evidencing the required Workers Compensation & Employers Liability coverage but a) list Winter Construction as

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certificate holder, b) provide a Waiver of Subrogation in favor of Winter Construction, and c) provide an Alternate Employer Endorsement naming Winter Construction as the Alternate Employer. A copy of the Waiver of Subrogation and Alternate Employer endorsements must be attached to the COI. Subcontractor must also provide evidence of Workers Compensation & Employer Liability insurance in accordance with the requirements of the Subcontract Agreement and EXHIBIT J for any/all employees who will perform any work on the Project who are not provided through a labor leasing or Professional Employer Organization and, as such, are not covered under the labor leasing or Professional Employer Organization's Workers Compensation & Employer Liability policy.