



# Required Coverage

## **6.2 INSURANCE REQUIREMENTS**

Prior to commencing the Subcontract Work, or Subcontractor's entrance on the project, Subcontractor shall at its own expense, procure and maintain, with an insurance company or companies authorized to do business in the State of Texas, with an A.M. Best rating of A- or better, and with insurance companies acceptable to Contractor, insurance coverage (including additional insured coverage and completed operations coverage, where applicable) of the kind and in the minimum amounts outlined below and shall remain in force for a minimum of 10 years after completion of the project or through the statute of repose, whichever date is later, and shall include:

### **(i) Commercial General Liability**

- \$1,000,000 Each Occurrence
- \$2,000,000 General Aggregate (applies per project)
- \$2,000,000 Products/Completed Operations Aggregate (applies per project)
- \$1,000,000 Personal and Advertising Injury

The Commercial General Liability Policy shall be an occurrence form using the ISO CG 00 01 (04-13 ed) or its equivalent, and shall cover liability arising from premises, operations, contractual, independent contractors, products-completed operations and personal and advertising injury. To the fullest extent permitted by law, Contractor, Prime Contractor, Owner and their respective officers, directors, shareholders, employees, agents, successors and assigns, and any other person or entity that Contractor is required to name as an additional insured in the Contract Documents, shall be included as additional insureds on a primary and non-contributory basis using the CG 20 10 (11-85 ed.), the CG 20 10 (10-01 ed) combined with the CG 20 37 (10-01 ed) or another endorsement that provides equivalent coverage.

### **(ii) Business Automobile Liability**

- \$1,000,000 Combined Single Limit

The Business Automobile Liability Policy should be written to provide liability coverage for owned, non-owned and hired automobiles. To the fullest extent permitted by law shall name Contractor, Prime Contractor, Owner and their respective officers, directors, shareholders, employees, agents, successors and assigns, and any other person or entity that Contractor is required to name as an additional insured in the Contract Documents as an additional insureds using form CA 2048-Additional Insured or an endorsement providing equivalent coverage. Coverage shall be provided on a primary and non-contributory basis.

### **(iii) Workers Compensation/Employers Liability**

- Statutory Workers Compensation
- \$1,000,000 Employers Liability –Each Accident
- \$1,000,000 Employers Liability – Each Employee for Injury by Disease
- \$1,000,000 Employers Liability - Aggregate for Injury by Disease



The Workers Compensation Insurance shall list under Item 3.A. on the Information Page the state where the work is to be performed and shall cover liability arising out of the Subcontractor's employment of workers and anyone for whom the Subcontractor may be liable for workers' compensation claims. Workers' compensation insurance is required, and no "alternative" forms of insurance shall be permitted.

**(iv) Commercial Umbrella/Excess Liability**

\$5,000,000 Each Occurrence  
\$5,000,000 General Aggregate (applies per project)  
\$5,000,000 Products/Completed Operations Aggregate (applies per project)

Excess/Umbrella Coverage shall be on an "occurrence" basis and shall be excess over and be form following, no less broad than the underlying insurance required of Subcontractor. The excess/umbrella insurance to the fullest extent permitted by law shall name Contractor, Prime Contractor, Owner and their respective officers, directors, shareholders, employees, agents, successors and assigns, and any other person or entity that Contractor is required to name as an additional insured in the Contract Documents for any and all ongoing and completed operations claims arising out of the subcontracted work and shall be endorsed to be primary and non-contributory to any liability insurance, whether primary, excess/umbrella, held by Contractor. Drop-down coverage shall be provided for reduction and/or exhaustion of underlying aggregate limits and shall include a duty to defend any insured.

**(v) Installation Floater**

Each Job site - \$250,000 or max amount on site at any one time, whichever is greater.  
Each Temporary Location - \$250,000 or max amount on site at any one time, whichever is greater.  
Property in Transit - \$250,000 or max amount in transit, per load, at any one time, whichever is greater.

Coverage shall be primary and will not seek contribution from any other available policies of the contractor. It is the express intent that the installation coverage of the subcontractor be primary and any builders risk coverage purchased by owner or contractor shall be excess.

**(vi) Professional Liability/Contractors Errors and Omissions**

\$1,000,000 Each Claim  
\$1,000,000 Policy Aggregate

Professional Liability/Contractors Errors and Omissions Coverage shall be on an "occurrence" or "claims made" basis. If coverage is on a claims made basis, the retroactive date of the policy must be prior to the commencement of any service or work performed and shall remain in force continuously after completion of the project for 10 years or through the duration of the statute of repose, whichever is later. Design coverage shall be provided for both subcontractor or any party subcontractor hires to perform design work. The definition of "Wrongful Act" shall include coverage for faulty workmanship and defective materials. To the fullest extent permitted by law, Subcontractor shall name Contractor, Prime Contractor, Owner and their respective officers, directors, shareholders, employees, agents, successors and assigns, and any other person or entity that Contractor is required to name as an additional insured in the Contract Documents for any and all professional liability/Errors and Omissions claims arising out of the subcontracted work and shall be endorsed to be primary and non-contributory to any liability insurance, whether primary, excess/umbrella, held by Contractor.



**(vii) Pollution Legal Liability**

If Subcontractor's scope of Work could give rise to a pollution incident and/or includes any of the following: foundations, earthwork, excavation, underground utilities, piling, drywall, insulation, demolition, exterior insulating finish systems (EIFS), skylights, glazed wall systems, windows, flashing and sheet metal, aluminum entrances and storefronts, exterior panel systems, heating-ventilation-air conditioning (HVAC), waterproofing, damp-proofing, sealants, plumbing, lath and plaster systems, fire protection or sloped glazing systems, then Subcontractor shall maintain contractor's pollution liability coverage as specified.

- \$2,000,000 Policy Aggregate
- \$2,000,000 Pollution Legal Liability
- \$2,000,000 Transportation Pollution Liability
- \$2,000,000 Third Party Claims for Non-Owned Disposal Sites
- \$2,000,000 Microbial Substance Contractors Pollution Liability (with coverage for mold and legionella)
- \$2,000,000 Emergency Remediation
- \$200,000 Rectification Expense

If Subcontractor's scope of Work includes any of the following: removal, transportation, disposal, remediation or abatement of Hazardous Waste (as that term is defined in the Resource Conservation and Recovery Act), then Subcontractor shall maintain contractor's pollution liability coverage as specified below:

- \$5,000,000 Policy Aggregate
- \$5,000,000 Pollution Legal Liability
- \$5,000,000 Transportation Pollution Liability
- \$5,000,000 Third Party Claims for Non-Owned Disposal Sites
- \$5,000,000 Microbial Substance Contractors Pollution Liability (with coverage for mold and legionella)
- \$5,000,000 Emergency Remediation
- \$500,000 Rectification Expense

Pollution Coverage shall be on an "occurrence" or "claims made" basis. If coverage is on a claims made basis, the retroactive date of the policy must be prior to the commencement of any service or work performed and shall remain in force continuously after completion of the project for 10 years or through the duration of the statute of repose, whichever is later. To the fullest extent permitted by law, Subcontractor shall name Contractor, Prime Contractor, Owner and their respective officers, directors, shareholders, employees, agents, successors and assigns, and any other person or entity that Contractor is required to name as an additional insured in the Contract Documents for any and all pollution claims arising out of the subcontracted work and shall be endorsed to be primary and non-contributory to any liability insurance, whether primary, excess/umbrella, held by Contractor.

**(viii) Crime/Fidelity**

- \$1,000,000 Employee Theft
- \$1,000,000 Computer Fraud
- \$1,000,000 Funds Transfer Fraud
- \$1,000,000 Social Engineering Fraud
- \$1,000,000 Client Coverage



**(ix) Cyber**

\$1,000,000 Cyber Incident Response  
\$1,000,000 Business Interruption and Extra Expense  
\$1,000,000 Contingent Business Interruption and Extra Expense  
\$1,000,000 Digital Data Recovery  
\$1,000,000 Network Extortion  
\$1,000,000 Cyber, Privacy, and Network Security Liability

Subcontractor shall maintain all insurance coverages required by this Subcontract Agreement, including, but not limited to ongoing operation, completed operations, and additional insured coverage in force for the longer of (a) the statutory period of repose in the state where the Work is performed; or (b) twelve (12) years from the date of project completion.

All policies providing coverage for Work under this Subcontract shall contain a waiver of subrogation endorsement in favor of Contractor, Prime Contractor and Owner, and their directors, officers, agents and employees.

Prior to starting the Subcontract Work, Subcontractor shall deliver to Contractor an original Acord Certificate of Insurance which evidences the coverages and endorsements required herein.

Coverages afforded under the policies will not be cancelled, terminated or materially modified unless at least 30 days written notice is given to Contractor. Upon request of Contractor, Subcontractor shall deliver a copy of all required insurance policies.

For all coverages outlined in this contract there shall be no coverages exclusion for the following exposures. Where a specific coverage form is noted, the use of that specific coverage form and any materially equivalent coverage form is prohibited.

- Residential exclusion (if residential work is being performed). Residential work is defined as any structure where a person lives or sleeps at night.
- Breach of contract
- Contractual liability limitation or exclusion ( i. e. CG 21 39)
- Amended definition of insured contract (i.e. CG 24 26)
- XCU exclusion
- EIFS exclusion or sublimit below \$2M per occurrence (if EIFS work is being performed)
- Damage to work performed by subcontractors on your behalf (CG 22 94, CG 22 95)
- Total pollution exclusion (CG 21 49)
- Communicable disease exclusion (CG 21 32)
- Any sort of independent contractor or subcontractor exclusion or limitation, where coverage for that subcontractor is conditional on the insurance they have in place

Notwithstanding anything to the contrary, the insurance provisions in this Subcontract Agreement, including but not limited to the additional insured requirements, are intended to comply with Chapter 151 of the Texas Insurance Code and shall be read as broadly as permitted to satisfy that intent. It is agreed that with respect to any legal limitations now or hereafter in effect and affecting the validity and enforceability of the additional insured obligations under this Subcontract Agreement, such legal limitations are made a part of the additional insurance obligation to the minimum extent necessary to bring the insurance provisions into conformity with Chapter 151 of the Texas Insurance Code, and as so modified, the additional insured obligations shall continue in full force and effect.



**Breach of Insurance Requirements: Subcontractor's/Seller's failure to obtain and maintain insurance coverages as outlined in this agreement or any attachment/exhibit shall constitute a material breach of the Subcontract/Purchase Order. In such event, in addition to any and all other rights and remedies contained in the Subcontract/Purchase order, (i) Contractor/Buyer may, at its option terminate the Subcontractor/Seller for default; (ii) Contractor/Buyer may, at its option, purchase such coverage and back charge the premium and associated costs to Subcontractor/Seller; (iii) Contractor/Buyer may, at its option, withhold any funds due to the Subcontractor/Seller until they meet the insurance requirements outlined in this agreement; and/or (iiii) any of the Indemnified Parties or Additional Insureds can require that Subcontractor and/or its subcontractors pay for all attorney's fees, expenses and liability as a result of any claim or lawsuit for which coverage would have been provided to the Indemnified Parties or Additional Insureds under Subcontractor's/Seller's insurance program, but for a breach by Subcontractor/Seller or any of its subcontractors. Furthermore, to the extent of their respective interests, the insurers of those entities that were to be included as Additional Insureds are deemed to be third-party beneficiaries of the insurance procurement obligation and as such have the same rights against the breaching parts as the Indemnified Parties or Additional Insureds.**

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