

Client Insurance Requirements

1) **Insurance.** Client (CW) shall purchase and maintain, with an insurer or insurers acceptable to Schweitzer Mountain Properties LLC (Owner), policies of insurance which will protect Client and Owner from claims which may arise out of or result from the Client's actions or inactions relating to the Agreement, whether such be by itself or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The aforementioned insurance shall include coverage for:

a) **Statutory Workers' Compensation and Employer's Liability** as required by law in Idaho, with limits of \$1,000,000/1,000,000/1,000,000 and a waiver of subrogation.

b) **Commercial General Liability** (Bodily Injury & Property Damage) Insurance, the limits of which shall not be less than \$5,000,000.00 per occurrence, and which includes limited form contractual liability coverage.

c) **Umbrella Liability Insurance**

Commercial Umbrella/Excess Liability Insurance for bodily injury and property damage liability must sit over Client's primary Employer's Liability, Commercial General Liability and Commercial Automobile Liability with limits of Five Million Dollars (\$5,000,000) each occurrence and aggregate. All coverages and terms required under the Commercial General Liability, Automobile Liability and Employer's Liability must be included on the Excess/Umbrella Liability policy. Higher limits or lower limits may be required or accepted by Landlord. Tenant's Excess/Umbrella Liability Policy shall provide liability coverage, subject to the terms and conditions of the policy, in excess of all available underlying coverage before any primary or excess coverage held by any Additional Insured.

d) **Automobile Bodily Injury and Property Damage Liability Insurance**, which shall extend to owned, non-owned and hired vehicles used in the performance of this Agreement. The limits of liability shall not be less than \$1,000,000.00 bodily injury and \$1,000,000 property damage per occurrence.

e) **Professional Liability Insurance**, including contractual liability, with limits of not less than \$1,000,000.00 per claim and in the aggregate and a deductible not to exceed \$25,000.00. Such insurance shall be maintained during the term of this Agreement and renewed for a period of at least five (5) years thereafter if available to the professional and/or at rates consistent with the time of execution of this contract adjusted for inflation. In the event that Client subcontracts or assigns any portion of his duties he shall require any such subcontractor to purchase and maintain insurance coverages as provided in this subparagraph. In the event Client replaces or renews the coverage required hereunder, such replacement policy must contain a "retroactive date" endorsement, evidencing continuous coverage from the effective date of this agreement.

f) Except for the insurance required under Section 5(a) and 5(d) above, insurance shall name Owner, Client and any other interested parties and affiliated companies, including, but not limited to Owner, as additional insured using endorsement CG-2010-1185 or an equivalent endorsement(s), and contain a Cross Liability Endorsement which provides that the insurance applies separately to each insured and will cover claims or suits by one insured against another. Such insurance shall contain a Primary Insurance Clause stating, "It is further agreed that such insurance as is afforded by this policy for the benefit of Owner, Client and its affiliated companies, including, but not limited to Owner, a Delaware limited liability owner, shall be primary insurance as respects any claim, loss or liability arising directly or indirectly from Client's operations, and any other insurance maintained by the Owner shall be excess and non-contributory with the insurance provided hereunder".

g) All insurance required by Section 5, shall be written in a form acceptable to Owner. All policies must be written by insurance companies whose rating is the most recent Best's Rating Guide of "A-" or better. The insurance required under 5(a) shall contain a Waiver of Subrogation against Owner, its affiliated companies, including, but not limited to Owner. Cancellation provision should be typed on the insurance certificate, and must be consistent with the cancellation provision in the policy; OR, a 30-day notice of cancellation except ten (10) days for non-payment of

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premium. Endorsement must be attached to insurance certificate. Prior to commencing work, Client shall provide Owner with a certificate or other documentary evidence of the above insurance satisfactory to Owner. If requested by Owner, Client shall provide certified copies of all such policies to Owner within an unqualified 30 days of such request.

2) Client's Indemnification

(a) INDEMNITY – To the fullest extent permitted by law, Client, or any sub-Client(s), or any one directly, or indirectly employed by any of them agrees to indemnify, defend and hold harmless Owner, Client and Owner, including their officers, agents, employees, affiliates, parent & subsidiaries, and each of them from all liability,

(1) on account of any and all claims under Workers' Compensation Acts and other Employee Benefit Acts with respect to Client's employees or his subcontractors' employees arising out of Client's work under this Agreement; and

(2) on account of any and all claims for damages because of personal injury or death or damages to property, or other costs and charges, directly or indirectly arising out of or attributable to, in whole or in part, Client's negligent acts, errors and /or omissions in the performance of the obligation as stated in this Agreement, or the negligent acts, errors and/or omissions of Client's sub-Clients, employees or agents in the performance of their obligations as stated in this Agreement.

However, this indemnification shall not apply if it is ultimately determined by a court of competent jurisdiction that such claims, costs or charges arose out of the sole negligence or willful misconduct of Owner, Client or Owner.

(b) Coverage and Duration.

The coverage of such indemnification shall include, without limitation, attorney's fees and court costs incurred by Owner and Client. Said indemnity is intended to apply during the period of expiration or termination of this Agreement until such time as action against Owner or Client on account of any matter covered by such waiver or indemnity is barred by the applicable Statute of Limitation.