

Commodity Purchase Agreements Contracts – Vendor Delivery

The requirements included in this section pertain to standard commodity purchase contracts (i.e. stationary, office supplies, etc.). For most commodity purchases it is not necessary, or practical, to require the vendor to include the (____) as an additional insured under the liability coverages, or provide a waiver of subrogation. The exposures presented as a result of purchasing such commodities are minimal; however, there are a few exceptions to this general rule. Those exceptions are as follows:

Exceptions to the Standard Requirements:

- Purchase of products that will be resold or distributed directly to the public. In this situation the (____) has a substantial product liability exposure and, therefore, the indemnification language and insurance requirements will be somewhat different. Contact the Risk Management Department for assistance in developing the appropriate insurance language for this type of commodity purchase contract.
- Purchase and installation of large equipment. When the (____) purchases highly valued equipment, i.e. compressors, generators or other machinery, the scope of services will generally include the installation of the equipment. This is no longer just a "commodity" purchase. The vendor's installation of the equipment makes this more of a "service contract" and, therefore, special insurance requirements should be included to address the exposures that are inherent to the operations being performed. When purchasing large equipment and machinery that will be installed in (____) facilities, refer to Section F, "Purchase and Installation of Equipment" of this manual for information about the appropriate indemnification and insurance specifications to use.
- Purchase of aircraft or aircraft parts. When the (____) purchases any type of product / equipment relating to aircraft, the limit of liability for products/completed operations coverage should be increased to \$10,000,000 each occurrence / \$20,000,000 aggregate. Contact the Risk Management Department for more information on developing the appropriate language.
- Purchase of hazardous materials, such as chlorine and other water treatment chemicals, fertilizers, herbicides and pesticides require special insurance as well as higher limits. The standard automobile liability policy excludes coverage for pollution resulting from an overturned vehicle. There is also no coverage for spills of hazardous materials while being transported. Refer to Section H, "Environmental Service and Consulting" for more information on the appropriate requirements for the purchase and/or transportation of hazardous materials, or contact the Risk Management Department for assistance.
- NOTE: Automobile Liability should be required only if the commodity is being delivered to the (____) by the vendor. If the commodity is being shipped, automobile liability will not be

required. The sample specifications that follow are to be used when the vendor delivers the commodity and include the requirement for auto liability.

**Sample Insurance Specifications and Indemnification Clause
Commodity Purchase Contracts - Vendor Delivery**

The following paragraphs should be inserted into the contract:

Indemnification:

Contractor shall indemnify, hold harmless and, not excluding the (____) 's right to participate, defend the (____) , its officers, officials, agents, and employees (hereinafter referred to as "Indemnatee") from and against all liabilities, claims, actions, damages, losses, and expenses including without limitation reasonable attorneys' fees and costs, (hereinafter referred to collectively as "claims") for bodily injury or personal injury including death, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its (____) s, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the (____) its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the (____).

Non-Waiver

The parties hereto understand and agree that the (____) is relying on, and does not waive or intend to waive by any provision of this Contract, the monetary limitations or any other rights, immunities, and protections provided by the State of Idaho Tort Act., as from time to time amended, or otherwise available to the (____), its subsidiary, associated and/or affiliated entities, successors, or assigns; or its elected officials, employees, agents, and volunteers.

Insurance Requirements:

Vendor shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the purchase and or use of the commodity.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The (____) in no way warrants that the minimum limits contained herein are sufficient to protect the Vendor from liabilities that might arise out of the purchase and use of the commodities sold under this Contract by the Vendor, his agents, representatives, employees or subcontractors and Vendor is free to purchase such additional insurance as may be determined necessary.

A. Minimum Scope and Limits of Insurance: Vendor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a “following form” basis.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, and liability assumed under an insured contract and defense costs.

Minimum Limits:

General Aggregate	\$1,000,000
Products/Completed Operations Aggregate	\$2,000,000
Each Occurrence Limit	\$1,000,000
Personal/Advertising Injury	\$1,000,000

2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Minimum Limits:

Bodily Injury/Property Damage (Each Accident)	\$1,000,000
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3. Worker's Compensation and Employers' Liability

This requirement shall not apply when a contractor or subcontractor is exempt under **Idaho Workers' Compensation Act.**, AND when such contractor or subcontractor executes the appropriate independent contractor form.

Minimum Limits:

Coverage A (Workers' Compensation)	Statutory
Coverage B (Employers Liability)	\$1,000,000
	\$1,000,000
	\$1,000,000

B. Notice of Cancellation: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the (____), except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to ((____) Agency / Department Representative's Name & Address). If any insurance company refuses to provide the require notice, the Contractor or its insurance broker shall notify the (____) of any cancellation, suspension, non-renewal of any insurance within seven (7) days of receipt of insurers' notification to that effect.

C. Acceptability of Insurers: Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Idaho and with an “A.M. Best” rating of not less than A-VII. The (____) in

no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

- D. Verification of Coverage: Vendor shall furnish the (_____) with certificates of insurance (ACORD form or equivalent approved by the (____)) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the (____) before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to ((____) Agency / Department Representative's Name and Address). The (____) project/contract number and project description are to be noted on the certificate of insurance. The (____) reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

- E. Approval: Any modification or variation from the insurance requirements in this Agreement shall be made by Risk Management or _____, whose decision shall be final. Such action will not require a formal contract amendment, but may be made by administrative action.

Commodity Purchase Agreements Contracts – Commodity Shipped

The requirements included in this section pertain to standard commodity purchase contracts (i.e. stationary, office supplies, etc.). For most commodity purchases it is not necessary, or practical, to require the vendor to include the (____) as an additional insured under the liability coverages, or provide a waiver of subrogation.

- NOTE: Automobile Liability should be required only if the commodity is being delivered to the (____) by the vendor. If the commodity is being shipped, automobile liability will not be required. The sample specifications that follow are to be used when the commodity is being shipped to the (____) and does not include the requirement for auto liability.

The exposures presented as a result of purchasing such commodities are minimal; however, there are a few exceptions to this general rule. Those exceptions are as follows:

Exceptions to the Standard Requirements:

- Purchase of products that will be resold or distributed directly to the public. In this situation the (____) has a substantial product liability exposure and, therefore, the indemnification language and insurance requirements will be somewhat different. Contact the Risk Management Department for assistance in developing the appropriate insurance language for this type of commodity purchase contract.

- Purchase and installation of large equipment. When the (_____) purchases highly valued equipment, i.e. compressors, generators or other machinery, the scope of services will generally include the installation of the equipment. This is no longer just a "commodity" purchase. The vendor's installation of the equipment makes this more of a "service contract" and, therefore, special insurance requirements should be included to address the exposures that are inherent to the operations being performed. When purchasing large equipment and machinery that will be installed in (_____) facilities, refer to Section F, "Purchase and Installation of Equipment" for information about the appropriate indemnification and insurance specifications to use.
- Purchase of aircraft or aircraft parts. When the (_____) purchases any type of product / equipment relating to aircraft, the limit of liability for products/completed operations coverage should be increased to \$10,000,000 each occurrence / \$20,000,000 aggregate. Contact the Risk Management Department for more information on developing the appropriate language.
- Purchase of hazardous materials, such as chlorine and other water treatment chemicals, fertilizers, herbicides and pesticides require special insurance as well as higher limits. The standard automobile liability policy excludes coverage for pollution resulting from an overturned vehicle. There is also no coverage for spills of hazardous materials while being transported. Refer to Section H, "Environmental Service and Consulting" for more information on the appropriate requirements for the purchase and/or transportation of hazardous materials, or contact the Risk Management Department for assistance.

**Sample Insurance Specifications and Indemnification Clause
Commodity Purchase Contracts - Commodity Shipped**

The following paragraphs should be inserted into the contract:

Indemnification:

Contractor shall indemnify, hold harmless and, not excluding the (_____) 's right to participate, defend the (_____), its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against all liabilities, claims, actions, damages, losses, and expenses including without limitation reasonable attorneys' fees and costs, (hereinafter referred to collectively as "claims") for bodily injury or personal injury including death, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its (_____)s, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the (_____), its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the (_____).

Non-Waiver

The parties hereto understand and agree that the (____) is relying on, and does not waive or intend to waive by any provision of this Contract, the monetary limitations or any other rights, immunities, and protections provided by the Idaho Governmental Immunity Act et seq., as from time to time amended, or otherwise available to the (____) its subsidiary, associated and/or affiliated entities, successors, or assigns; or its elected officials, employees, agents, and volunteers.

Insurance Requirements:

Vendor shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the purchase and or use of the commodity.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The (____) in no way warrants that the minimum limits contained herein are sufficient to protect the Vendor from liabilities that might arise out of the purchase and use of the commodities sold under this Contract by the Vendor, his agents, representatives, employees or subcontractors and Vendor is free to purchase such additional insurance as may be determined necessary.

A. **Minimum Scope and Limits of Insurance:** Vendor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a “following form” basis.

1. **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage, and liability assumed under an insured contract and defense costs.

Minimum Limits:

General Aggregate	\$1,000,000
Products/Completed Operations Aggregate	\$2,000,000
Each Occurrence Limit	\$1,000,000
Personal/Advertising Injury	\$1,000,000

2. **Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Minimum Limits:

Bodily Injury/Property Damage (Each Accident)	\$1,000,000
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3. **Worker's Compensation and Employers' Liability**

This requirement shall not apply when a contractor or subcontractor is exempt under **Idaho Workers' Compensation Act.**, AND when such contractor or subcontractor executes the appropriate independent contractor form.

Minimum Limits:

Coverage A (Workers' Compensation)	Statutory
Coverage B (Employers Liability)	\$1,000,000
	\$1,000,000
	\$1,000,000

- B. Notice of Cancellation: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the (____) , except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to ((____) Agency / Department Representative's Name & Address). If any insurance company refuses to provide the require notice, the Contractor or its insurance broker shall notify the (____) of any cancellation, suspension, non-renewal of any insurance within seven (7) days of receipt of insurers' notification to that effect.
- C. Acceptability of Insurers: Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Idaho and with an "A.M. Best" rating of not less than A- VII. The (____) in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- D. Verification of Coverage: Vendor shall furnish the (____) with certificates of insurance (ACORD form or equivalent approved by the (____)) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the (____) before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to ((____) Agency / Department Representative's Name and Address). The (____) project/contract number and project description are to be noted on the certificate of insurance. The (____) reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. DO NOT SEND CERTIFICATES OF INSURANCE TO THE (____)'S RISK MANAGEMENT DEPARTMENT.

- E. Approval: Any modification or variation from the insurance requirements in this Contract must have prior approval from the Risk Management Department or _____, whose decision shall be final. Such action will not require a formal contract amendment, but may be made by administrative action.

**Commodity Purchase Agreements
Purchase & Installation of Equipment**

In contracts where the (____) is purchasing highly valued equipment or machinery (i.e. compressors, air conditioning units, generators, etc.) the scope of services will generally include the installation of the equipment. The contract has now become more than just a standard commodity purchase agreement and falls under the category of a 'service contract'.

In addition to the standard general liability, automobile liability and workers' compensation insurance requirements contained in most service agreements, purchase and installation of equipment contracts should also require the vendor to carry an "installation floater".

Installation floaters are similar to builders' risk policies in that they provide coverage for damage that may occur to the equipment and materials while they are being installed and tested. This type of policy is used by contractors performing a specialized job on an existing building or installing equipment or materials that are not included in a construction project contract.

Sample Insurance Specifications and Indemnification Clause Purchase and Installation of Equipment

The following paragraphs should be inserted into the contract:

Indemnification Clause:

Contractor shall indemnify, hold harmless and, not excluding the (____) 's right to participate, defend the (____), its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against all liabilities, claims, actions, damages, losses, and expenses including without limitation reasonable attorneys' fees and costs, (hereinafter referred to collectively as "claims") for bodily injury or personal injury including death, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its (____) s, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the (____), its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the (____).

Non-Waiver

The parties hereto understand and agree that the (____) is relying on, and does not waive or intend to waive by any provision of this Contract, the monetary limitations or any other rights, immunities, and protections provided by the Idaho Governmental Immunity Act et seq., as from time to time amended, or otherwise available to the (____) its subsidiary, associated and/or affiliated entities, successors, or assigns; or its elected officials, employees, agents, and volunteers.

Insurance Requirements:

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for

injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The (____) in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, his agents, representatives, employees or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

A. Minimum Scope and Limits of Insurance: Vendor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, and liability assumed under an insured contract and defense costs.

Minimum Limits:

General Aggregate	\$1,000,000
Products/Completed Operations Aggregate	\$2,000,000
Each Occurrence Limit	\$1,000,000
Personal/Advertising Injury	\$1,000,000

2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Minimum Limits:

Bodily Injury/Property Damage (Each Accident)	\$1,000,000
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3. Worker's Compensation and Employers' Liability

This requirement shall not apply when a contractor or subcontractor is exempt under **Idaho Workers' Compensation Act.**, AND when such contractor or subcontractor executes the appropriate independent contractor form.

Minimum Limits:

Coverage A (Workers' Compensation)	Statutory
Coverage B (Employers Liability)	\$1,000,000
	\$1,000,000
	\$1,000,000

4. Installation Floater

Coverage equal to the initial Contract Amount including labor and expenses, policy shall include the following provisions:

- a. The (____), Contractor, subcontractor and any others with an insurable interest in the work shall be Insureds on the policy.
- b. Coverage shall be written on a Covered Cause of Loss-Special Form, replacement cost basis and shall include coverage for flood and earth movement as well as coverage for losses that may occur during equipment testing.
- c. Policy shall be maintained until whichever of the following shall first occur: (1) final payment has been made; or, (2) until no person or entity, other than the (____) has an insurable interest in the property required to be covered.
- d. Policy shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the (____).
- e. The Installation Floater must provide coverage from the time the equipment/material becomes the responsibility of the Contractor and shall continue without interruption during the installation, including any time during which the equipment/material is being transported to the installation site, or awaiting installation, whether on or off site.
- f. Policy shall contain a waiver of subrogation in favor of the (____).
- g. Contractor is responsible for the payment of all deductibles under the Installation Floater policy.

B. Additional Insured Requirements: The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the (____) is named as an additional insured, the (____) shall be an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.

C. Notice of Cancellation: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the (____) , except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to ((____) Agency / Department Representative's Name & Address). If any insurance company refuses to provide the require notice, the Contractor or its insurance broker shall notify the (____) of any cancellation, suspension, non-renewal of any insurance within seven (7) days of receipt of insurers' notification to that effect.

D. Acceptability of Insurers: Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Idaho and with an "A.M. Best" rating of not less than A- VII. The (____) in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. Verification of Coverage: Contractor shall furnish the (____) with certificates of insurance (ACORD form or equivalent approved by the (____)) as required by this Contract. The certificates for each

insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the (____) before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to ((____) Agency / Department Representative's Name and Address). The (____) project/contract number and project description are to be noted on the certificate of insurance. The (____) reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

- F. Subcontractors: Contractors' certificate(s) shall include all subcontractors as additional insureds under its policies or Contractor shall furnish to the (____) separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- G. Approval: Any modification or variation from the insurance requirements in this Agreement shall be made by Risk Management or _____, whose decision shall be final. Such action will not require a formal contract amendment, but may be made by administrative action.