



- 1.5. **Professional Liability Insurance. REQUIRED IF CONTRACTOR'S SCOPE OF WORK INVOLVES DESIGN, ENGINEERING, SURVEYING, TESTING, OR OTHER PROFESSIONAL SERVICES.**
  - A. \$1,000,000 Each Claim
  - B. \$2,000,000 Aggregate
  
- 1.6. **Pollution Liability Insurance. REQUIRED IF CONTRACTOR'S SCOPE OF WORK INVOLVES HANDLING, MOVING, DISPOSING OF, OR TRANSPORTING POLLUTANTS OR OTHER MATERIALS/SUBSTANCES WHICH ARE OR MAY BE CONSIDERED HAZARDOUS.**
  - A. \$1,000,000 Each Claim or Occurrence
  - B. \$2,000,000 Aggregate
  - C. **Additional Requirement:** The policy must include coverage for bodily injury, property damage (including loss of use), cleanup costs, and defense (including costs and expenses incurred in the investigation or settlement of claims).
  - D. This requirement may be met through the inclusion of Sudden and Accidental Pollution Liability coverage under the CGL policy.
  
- 1.7. **Property Insurance.** Unless provided otherwise in the Purchase Order or Contract, Contractor, at its sole cost and expense, shall purchase and maintain "all-risk" Builder's Risk insurance or equivalent property insurance to cover all Work to be constructed, installed, renovated, or repaired at ENITED's premises. Such coverage shall be in the amount of the total value of the Work and include ENITED, any subcontractors, architects, engineers, and any other person or entity having an interest in the Work as insureds. All covered parties shall waive all rights of subrogation they may have against the other parties on losses to the extent covered by property insurance obtained pursuant to this Section 1.7, and the policy shall provide for such waiver by endorsement or otherwise. Contractor shall maintain the policy until no party other than ENITED has an interest in the property. Contractor is solely responsible for insuring or self-insuring all of its owned, leased, borrowed, and rented equipment, tools, and materials used in performance of the Work, and shall release Owner from liability for damage to or loss of the same, regardless of cause. Contractor is solely responsible for payment of any deductibles, self-insured retentions, and/or uninsured losses for any reason arising out of Contractor's obligations of this Section
  
2. **Insurance Carrier Rating.** All insurance policies obtained and maintained by Contractor shall be with insurance companies admitted to do business in the State where the Work is performed and with an A.M. Best Key rating of at least "A- VIII".
  
3. **Coverage Trigger and Continuing Obligation.** All insurance policies obtained and maintained by Contractor shall: (i) be on an occurrence basis (provided that Professional Liability insurance may be on a "claims-made" basis so long as the retroactive date of such policy precedes the date of the Purchase Order and/or Contract), and (ii) be continuously maintained in full force and effect for five (5) years after completion of the Work or termination of the Purchase Order and/or Contract (whichever occurs first).

4. **Additional Insured.** All of Contractor's insurance policies required herein (except Workers' Compensation and Professional Liability (if applicable)) shall be endorsed to name Owner Group (as defined below) as Additional Insureds for both ongoing and completed operations, with such coverage applying on a Primary and Non-contributory basis to any insurance maintained by such Additional Insureds.
5. **Waiver of Subrogation.** To the fullest extent allowed by law, all of Contractor's policies, whether or not required herein, shall include a provision or endorsement whereby the insurer agrees to waive all rights of subrogation it may have against any member of Owner Group. Contractor hereby waives any similar rights of subrogation it may have against such parties.
6. **Notice of Cancellation.** All of Contractor's insurance policies required herein shall be endorsed to provide that all coverages are in effect and will not be cancelled without thirty (30) days prior written notice to Owner (ten (10) days for nonpayment of premium). Notwithstanding the foregoing requirement, Contractor shall promptly notify Owner any time that any of Contractor's insurance coverages required herein are cancelled, non-renewed, or changed in a manner such that Contractor is no longer in compliance with these Terms.
7. **Certificate of Insurance.** Prior to beginning the Work, Contractor shall deliver a Certificate of Insurance to Owner which evidences Contractor's compliance with the insurance requirements specified herein. An updated Certificate of Insurance shall be provided any time a policy required herein is renewed, replaced, or a carrier is changed. Owner shall have the right, at any time during the term of the Purchase Order and/or Contract, to request and examine complete policies of insurance and/or policy endorsements from Contractor. Failure of Owner to object to a Certificate of Insurance or to enforce the requirements in this Section shall not relieve Contractor from complying with the insurance requirements in these Terms.
8. **No Limitation of Liability.** The required coverages and limits specified herein shall in no way affect, nor are they intended as a limitation on the liabilities and obligations assumed by Contractor under the Purchase Order and/or Contract and these Terms. In the event that Contractor maintains insurance coverage that exceeds the minimums required by these Terms, the broadest coverage and highest limits actually afforded under the applicable policy(ies) shall be considered the coverage and limits that are required and available to Owner Group as additional insureds.
9. **Severability of Interest/Separation of Insureds.** All insurance carried by Contractor shall be endorsed to provide that, inasmuch as the policy is written to cover more than one insured, all terms, conditions, insuring agreements, and endorsements, with the exception of policy limits, shall operate in the same manner as if there were a separate policy covering each insured.
10. **Per Project/Location Aggregate.** Contractor's CGL and Excess/Umbrella Liability policies shall be endorsed to provide that the aggregate limits apply on a per project or per location basis.
11. **Subcontractors.** Contractor shall require all subcontractors engaged to perform all or part of the Work to (i) release, defend, indemnify, and hold harmless Owner Group to the same extent as Contractor is required to by these Terms and (ii) either be covered by insurance maintained by Contractor or by insurance procured by such subcontractors. If a subcontractor procures its own insurance, Contractor shall ensure that the subcontractor complies with the insurance requirements

herein, including naming Owner Group as additional insureds and waiving rights of subrogation against Owner Group. Contractor may, in accordance with reasonably prudent business practices, set different minimum insurance limits for its subcontractors than are required herein. Contractor shall be responsible for collecting certificates of insurance from each subcontractor, and shall provide a copy of the same to Owner upon request. Regardless of whether it engages a subcontractor to perform on its behalf and regardless of whether such subcontractor procures its own insurance coverage, Contractor shall remain primarily liable to Owner for performance of the Work and for the acts, errors, and omissions of Contractor's subcontractors, as well as any deficiency in the type or adequacy of its subcontractors' insurance.

## **II. INDEMNIFICATION.**

1. To the fullest extent permitted by applicable law, Contractor shall release, defend, indemnify, and hold harmless ENITED, its parent, subsidiary, and affiliate companies, and the directors, officers, agents, and employees of any of them ("**ENITED GROUP**") from and against all claims, suits, demands, penalties, damages, losses, and expenses (including court costs and reasonable attorneys' fees) ("**Losses**") of whatever kind or character which arise out of or result from acts, errors, or omissions (regardless of the nature thereof, including but not limited to negligent, reckless, willful, a breach of contract, or strict liability), of Contractor or anyone for whom Contractor is legally responsible, regardless of whether or not such Losses are caused in part by ENITED Group. If the applicable law limits the scope and/or extent of indemnification allowed, then this provision shall be modified to the least extent necessary to comply with the law and allow for the greatest level of indemnification of ENITED Group.
2. Notwithstanding the foregoing, ENITED shall have the right, through counsel of its choice, to control the defense of any matter to the extent ENITED reasonably determines that such matter may have a significantly adverse effect on any member of ENITED Group.
3. Contractor's indemnity obligations in these Terms shall continue indefinitely after the completion of the Work and/or termination of ENITED's engagement of Contractor and shall be in addition to all other rights and remedies of ENITED under these Terms and at law.
4. Contractor's obligations to release, defend, indemnify, and hold harmless ENITED GROUP shall not be limited in any way by reason of any insurance required herein or which may be maintained by ENITED Group.
5. Contractor shall require any and all subcontractors engaged to perform all or part of the Work to release, defend, indemnify, and hold harmless ENITED Group to the same extent as Contractor is required to by these Terms.
6. In claims against any person or entity indemnified hereunder by an employee of Contractor, a subcontractor of any tier, a supplier of any tier, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligations herein shall not be limited by a limitation on amount or types of damages, compensation, or benefits payable by or for Contractor or a subcontractor under worker's or workmen's compensation acts, disability benefit acts, or other employee benefit acts.