

**September 26-29, 2024 | Sheraton Boston Hotel**



09/28/2024

**Contractors and Their Additional Insured Requests**

8:45 AM - 9:45 AM

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# Contractors and Their Additional Insured Requests

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## Pre 07/04

### Arising Out Of

*WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.*

**CG 20 10 11 85**



## 07/04 Change



*Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:*

- 1. Your acts or omissions; or*
- 2. The acts or omissions of those acting on your behalf;*

*in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.*

**CG 20 10 07 04**



## 04/13 Changes

- The insurance afforded the Additional Insured applies only to the extent permitted by law.
- If coverage is required by contract, the insurance afforded the Additional Insured will be no broader than the contract requires.
- If coverage is required by contract, the limits available to the Additional Insured will be no higher than the contract requires.



## Are you seeing more of this?

*Notwithstanding any contrary provisions contained in this Exhibit, Contractor and Subcontractor agree that the limits of coverage provided in this Exhibit are minimum coverages and shall not be construed to limit the coverage available to any additional insured to an amount less than the full limits of the policies required pursuant to this Exhibit.*



## 04/13 Changes

*The professional liability exclusion in the additional insured endorsement applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured if the loss involved professional architectural, engineering or surveying services.*

Note: This language appears only in some Additional Insured forms.



## 12/19 Changes

- New endorsements added to the ISO library
- Various changes to existing AI endorsements
- Recognition of the fact that policy endorsements may change the limits in the Declarations

*e.g., Available under the applicable Limits of Insurance shown in the Declarations*



## CG 20 10 11 85

POLICY NUMBER: COMMERCIAL GENERAL LIABILITY

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

### **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – (FORM B)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

**Name of Person or Organization:**

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.



# Insurer Form



**A. Ongoing Operations**

**Section II – Who Is An Insured** is amended to include as an additional insured:

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy; and
2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. above.

Such person(s) or organization(s) is an additional insured only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

A person's or organization's status as an additional insured under Paragraph A. ends when your operations for the person or organization described in Paragraph A.1. are completed.

**B. Completed Operations**

**Section II – Who Is An Insured** is amended to include as an additional insured:

1. Any person or organization when you and such person or organization have agreed in a written contract or written agreement that such person or organization be added as an additional insured on your policy; and
2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. above.

Such person(s) or organization(s) is an additional insured but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" performed for that additional insured under the written contract or written agreement and included in the "products-completed operations hazard".



# Insurer Form (cont'd)



**C. Conform to Contract Provisions**

With respect to the insurance afforded to any additional insured under this endorsement, the following applies:

**1. Ongoing Operations**

When an additional insured under Paragraph A.1. of this endorsement requires in the written contract or written agreement between you and that additional insured that additional insured coverage is to be the equivalent of that provided by:

- a. Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization CG 20 10 10 01 or CG 20 10 03 97; or
- b. Additional Insured – Owners, Lessees Or Contractors (Form B) – CG 20 10 10 93 or CG 20 10 11 85;

or if such written agreement requires you to provide additional insured coverage *arising out of* your ongoing operations, then the phrase *caused, in whole or in part by* in Paragraph A. of this endorsement is replaced by the phrase *arising out of*.

**2. Completed Operations**

When an additional insured under Paragraph B.1. of this endorsement requires in the written contract or written agreement that additional insured coverage is to be the equivalent of that provided by:

- a. Additional Insured – Owners, Lessees Or Contractors – Completed Operations – CG 20 37 10 01;
- b. Additional Insured – Owners, Lessees Or Contractors (Form B) – CG 20 10 11 85;

or if such written agreement requires you to provide additional insured coverage *arising out of* "your work", then the phrase *caused, in whole or part by* in Paragraph B. of this endorsement is replaced by the phrase *arising out of*.



**Insurer  
Form  
(cont'd)**

**E. Conditions and Limitations**

1. Coverage under Paragraph **B. Completed Operations** and Paragraph **2. Completed Operations** under Paragraph **C. Conform to Contract Provisions** does not apply unless the written contract or written agreement described in Paragraph **B.1.** of this endorsement requires you to provide coverage for completed operations.
2. Coverage afforded to an additional insured under this endorsement applies only to the extent permitted by law and will not be broader than that required by the written contract or written agreement described in Paragraph **A.1.** or **B.1.** of this endorsement between you and such additional insured.
3. With respect to the insurance afforded to an additional insured under this endorsement, the following is added to **Section III – Limits of Insurance**:

The most we will pay on behalf of an additional insured afforded coverage under this endorsement is the amount of insurance:

- a. Required by the written contract or written agreement described in Paragraph **A.1.** or **B.1.** of this endorsement; or
  - b. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.



POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY  
CG 20 10 12 19

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – SCHEDULED PERSON OR  
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.



## Additional Insured – Owners, Lessees or Contractors – Scheduled Person or Organization

### CG 20 10 12 19

A. *Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:*

1. *Your acts or omissions; or*
2. *The acts or omissions of those acting on your behalf; in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.*

04/13 language is added.



## Additional Insured – Owners, Lessees or Contractors – Scheduled Person or Organization

### CG 20 10 12 19

*This insurance does not apply to "bodily injury" or "property damage" occurring after:*

1. *All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or*
2. *That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.*





## Additional Insured – Owners, Lessees or Contractors – Automatic Status When Required in a Written Construction Agreement With You

### CG 20 33 12 19

*Section II – Who Is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy.*



## CG 20 33 – Privity of Contract required

In *Westfield Ins. Co. v. FCL Builders, Inc.*, 407 Ill. App. 3d 730 (Ill. App. Ct. 1st Dist. 2011), the Court found that a “blanket additional insured” applies only if there is a direct written agreement between parties. “Flow down” provisions would not trigger additional insured coverage:

“Notably, the provision does not refer to any person or organization. By repeatedly using the terms “such” instead of “any,” the provision necessarily requires that, in order to qualify as an additional insured, **an entity must enter into a direct written agreement with JAK** [the sub-subcontractor] listing them as additional insured.” ***Westfield Ins. Co. v. FCL Builders, Inc.*, 407 Ill. App. 3d 730 (Ill. App. Ct. 1st Dist. 2011)** [Emphasis added]



## CG 20 33 – Privity of Contract not required

In *First Mercury Ins. Co. v. Shawmut Woodworking & Supply, Inc.*, 48 F. Supp. 3d 158, 160-175 (D. Conn. 2014), the court held that the agreement to provide additional insured coverage can be memorialized in separate contracts without direct contractual privity. The court noted that nothing in the endorsement's language required direct contractual privity, and the court declined to read in additional terms, such as "direct" contract or have agreed "with each other."



## Additional Insured – Owners, Lessees or Contractors – Automatic Status When Required in a Written Construction Agreement With You

### CG 20 33 12 19

- Named Insured must be performing operations for the Additional Insured.
- Contract must be between Named Insured and Additional Insured. (privity of contract issue)

Note: This has been interpreted differently in different jurisdictions.

- Ongoing operations coverage only
- Professional Liability exclusion applies.



## Additional Insured – Owners, Lessees or Contractors – Automatic Status When Required in a Written Construction Agreement With You

**CG 20 33 12 19**

*This insurance does not apply to:*

1. *"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:*
  - a. *The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or*
  - b. *Supervisory, inspection, architectural or engineering activities.*



## Additional Insured – Owners, Lessees or Contractors – Automatic Status When Required in a Written Construction Agreement With You

**CG 20 33 12 19**

*This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.*



## CG 20 38 12 19 – A Better Choice

### Additional Insured – Owners, Lessees or Contractors – Automatic Status For Other Parties When Required in a Written Construction Agreement

(paragraph 1) CG 20 33 12 19 +

(paragraph 2) *Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. above...*

*In the performance of your ongoing operations for the additional insured described in Paragraph 1. or 2.*



## Additional Insured – Owners, Lessees or Contractors – Automatic Status For Other Parties When Required in a Written Construction Agreement – CG 20 38 04 13

**A. Section II – Who Is An Insured** is amended to include as an additional insured:

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy; and
2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. above.

Such person(s) or organization(s) is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations for the additional insured.



## Additional Insured – Owners, Lessees or Contractors – Automatic Status For Other Parties When Required in a Written Construction Agreement – CG 20 38 12 19

**A. Section II – Who Is An Insured** is amended to include as an additional insured:

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy; and
2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. above.

Such person(s) or organization(s) is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured described in Paragraph 1. or 2. above.



## Additional Insured – Owners, Lessees or Contractors – Automatic Status For Other Parties When Required in a Written Construction Agreement

### CG 20 38 12 19

- Ongoing operations coverage only
- Professional Liability exclusion applies.
- ISO says (Circular GL-2018-OFR18)

*“to reinforce that the additional insured status provided by this endorsement extends to the person or organization described in Paragraph A.2. even when the named insured’s ongoing operations are only performed for the person or organization described in Paragraph A.1.”*

*“There is no impact on coverage.”*



POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY  
CG 20 37 12 19

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.



**Additional Insured – Owners, Lessees  
or Contractors – Completed Operations**

**CG 20 37 12 19**

*Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard"...*



## CG 20 40 12 19

### Additional Insured – Owners, Lessees or Contractors – Automatic Status For Other Parties When Required in Written Construction Agreement (Completed Operations)

(paragraph 1) CG 20 39 12 19\* +

(paragraph 2) *Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. above...*

*...caused in whole or in part by "your work" performed for the additional insured described in Paragraph 1. or 2. above and included in the "products-completed operations hazard".*

Completed Operations version of the CG 20 38 12 19



\*CG 20 39 12 19 is the completed operations version of CG 20 33 12 19.

## Additional Insured – Owners, Lessees or Contractors – Automatic Status For Other Parties When Required in Written Construction Agreement (Completed Operations) – CG 20 40 12 19

**A. Section II – Who Is An Insured** is amended to include as an additional insured:

1. Any person or organization for whom you have performed operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy; and
2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. above.

Such person(s) or organization(s) is an additional insured only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" performed for the additional insured described in Paragraph 1. or 2. above and included in the "products-completed operations hazard".



POLICY NUMBER: COMMERCIAL GENERAL LIABILITY  
CG 20 32 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – ENGINEERS, ARCHITECTS OR SURVEYORS NOT ENGAGED BY THE NAMED INSURED**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name(s) Of Additional Insured Engineer(s), Architect(s) Or Surveyor(s) Not Engaged By The Named Insured:

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.



**Additional Insured – Engineers, Architects or Surveyors Not Engaged by the Named Insured**

**CG 20 32 12 19**

*Section II – Who Is An Insured is amended to include as an additional insured the architects, engineers or surveyors shown in the Schedule, but only with respect to liability for “bodily injury”, “property damage”, or “personal and advertising injury” caused, in whole or in part, by:*

- 1. *Your acts or omission; or*
  - 2. *The acts or omissions of those acting on your behalf*
- In the performance of your ongoing operations performed by you or on your behalf. Such architects, engineers or surveyors, while not engaged by you, are contractually required to be added as an additional insured to your policy.*

Note:

- A contract is required to trigger coverage.
- Professional liability exclusion applies.





POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY  
CG 20 12 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – STATE OR GOVERNMENTAL  
AGENCY OR SUBDIVISION OR POLITICAL  
SUBDIVISION – PERMITS OR AUTHORIZATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

State Or Governmental Agency Or Subdivision Or Political Subdivision:

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.



**Additional Insured – State or Governmental  
Agency or Subdivision or Political Subdivision  
– Permits or Authorizations**

**CG 20 12 12 19**

*Section II – Who Is An Insured is amended to include as an additional insured any state or governmental agency or subdivision or political subdivision shown in the Schedule, subject to the following provisions:*

- 1. This insurance applies only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization.*



**Additional Insured – State or Governmental Agency or Subdivision or Political Subdivision – Permits or Authorizations**

**CG 20 12 12 19**

- 2. *This insurance does not apply to:*
  - a. *"Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or*
  - b. *"Bodily injury" or "property damage" included within the "products-completed operations hazard".*



POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY  
CG 20 26 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s):

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Information required to complete this Schedule, if not shown above, will be shown in the Declarations.



## Additional Insured – Designated Person or Organization – CG 20 26 12 19

- A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
1. In the performance of your ongoing operations; or
  2. In connection with your premises owned by or rented to you.
- However:
1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
  2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
- B.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**
- If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:
1. Required by the contract or agreement; or
  2. Available under the applicable limits of insurance;
- whichever is less.
- This endorsement shall not increase the applicable limits of insurance.



## Insurer Proprietary Forms



## Automatic AI - Considerations

Who is covered? Possibilities:

- Only the entity that signed the contract with the Named Insured, if the Named Insured is performing operations for that entity (privity of contract issue)
- Parties for which the Named Insured is performing operations if the contract requires that they be covered
- Other parties the Named Insured is required to include as Additional Insured if the contract requires that they be covered
- Something else



## Automatic AI - Considerations

What is the scope/breadth of coverage? Possibilities:

- Does “arising out” language apply if required? (usually in a written contract or agreement)
- Must the loss be caused in whole or in part by the Named Insured’s acts or omissions?
- Is negligence of the Named Insured required?
- Is the breadth of coverage limited to what the contract requires?
- Is an Additional Insured covered only for its vicarious liability?
- Something else



## Automatic AI - Considerations

What triggers coverage? Possibilities:

- Written contract
- Written agreement
- Permit
- Oral agreement
- Executed contract
- Something else



## Automatic AI - Considerations

**What triggers coverage?**

**Something else example**

*WHO IS AN INSURED is amended to include as an additional insured any of your ... **with whom you have agreed in writing in a contract or agreement or received a written request or written insurance specifications, including email or fax, to add them as an additional insured on your policy.***



## Automatic AI - Considerations

### Primary and Noncontributory

- The AI endorsement might include primary and noncontributory wording.
- Coverage may be excess unless the contract requires that it be primary.
- Coverage may be primary if the contract requires that it be primary.
- Coverage is usually still excess over coverage the Additional Insured has under another's policy.
- Coverage may always be excess.



## CG 20 01 12 19 Endorsement

COMMERCIAL GENERAL LIABILITY  
CG 20 01 12 19

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**PRIMARY AND NONCONTRIBUTORY –  
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

**Primary And Noncontributory Insurance**  
This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.



## Automatic AI - Considerations

- Ongoing and/or completed operations?
- Is a certificate required?
- Are limits available to the Additional Insured limited to what the contract requires?
- Does the Additional Insured have additional duties? e.g.
  - Notify the carrier
  - Tender the claim and defense to other insurers
  - Notify its own carrier
- Do additional exclusions apply to the Additional Insured?



## Exclusions in AI endorsements

*No coverage is provided to an additional insured for damages because of bodily injury to an employee of the Named Insured...*

*Any insurance provided to the additional insured shall only apply with respect to a claim made or a "suit" brought for damages for which you are provided coverage.*



## Exclusions in AI endorsements

*With respect to the insurance afforded by this endorsement, exclusion I. Damage to Your Work.....is relaxed by the following*

### **I. Damage To Your Work**

*“Property damage” to “your work” arising out of it or any part of it and included in the “products-completed operations hazard”.*



# Thank You for Being Here!



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