

## **PART 230 ASSUMPTION OF RISK**

### **230.1 Purpose**

In accordance with the Denver Revised Municipal Code Section 5-14, every commercial operator who uses DEN, its facilities, and/or premises must at all times assume full responsibility for such activities.

### **230.2 Insurance Requirement**

Except as otherwise provided in writing in a specific agreement and/or permit with the City, all commercial operator at DEN must obtain and maintain the minimum insurance coverage requirements as stated in this Part 230 and such insurance must be applicable to any area of DEN used in commercial operations including common use areas of DEN.

### **230.3 Minimum Insurance Coverage Requirements**

The CEO has established the following minimum insurance coverage requirements for commercial users of DEN. The amounts listed indicate only the minimum amounts of insurance coverage the City is willing to accept before allowing commercial operations at DEN. These minimum requirements in no way limit any indemnity covenants, the amount of liability, or the scope of liability of commercial users of DEN. Commercial users must assess their own risks and as they deem appropriate and/or prudent, maintain higher limits and/or broader coverage.

#### **230.3-1 General Requirements**

- A. Commercial General Liability insurance coverage in the amount of \$1,000,000 each occurrence and \$2,000,000 Aggregate including \$2,000,000 Product/Complete Operations and \$1,000,000 personal and Advertising Injury. Such insurance shall contain contractual liability insurance covering any applicable contract, lease, license, permit, or other agreement.
- B. Business Automobile Liability insurance coverage, in the amount of \$1,000,000 for all owned, non-owned, and hired vehicles assigned to or used in performance of any commercial operations at DEN. If driving unescorted airside, a \$10,000,000 limit of liability is required. If transporting wastes, hazardous material or regulated substances, a pollution coverage and MCS 90 endorsement is required.
- C. Colorado Workers' Compensation and Employer Liability insurance as required by law, including but not limited to Workers' Compensation Statutory Employer's Liability with \$100,000 Each Accident; \$500,000 Policy Limit and \$100,000 Each Employee. If the commercial operator is a sole proprietor, Workers' Compensation is waived per State of Colorado law.

- D. Umbrella Liability insurance coverage in excess of and at least as broad as, the primary policies in Workers Compensation, Commercial General Liability, and Business Automobile Liability.
- E. All coverage provided shall include the City and County of Denver, its elected and appointed officials, employees, and volunteers as additional insured. Certificate Holder Information must read:
1. CITY AND COUNTY OF DENVER  
Attn: Risk Management, Suite 8810  
Chief Executive Officer  
Denver International Airport  
8500 Pena Boulevard  
Denver CO 80249
- F. All coverage provided shall be primary and any insurance maintained by the City shall be considered excess.
- G. For all coverages required under this Agreement, Contractor's insurer shall waive subrogation rights against the City.
- H. The City shall have the right to verify or confirm, at any time, all coverage, information or representations, and the insured and its undersigned agent shall promptly and fully cooperate in any such audit the City may elect to undertake.
- I. The insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-" VIII or better.
- J. For claims-made coverage, the retroactive date must be on or before the agreement date or the first date when any commercial operations at DEN, whichever is earlier.
- K. No changes, modifications or interlineations to insurance coverage shall be allowed without the review and approval of the City's Risk Administrator.
- L. Any insurance policy issued to satisfy these requirements will not be cancelled or non-renewed, or sustain a material change in coverage adverse to the City, during commercial operations at DEN without thirty (30) days written notice from the issuing company or its authorized agent to City, in accordance with policy provisions.

## 230.3-2 Aeronautical Users

In addition to the general requirements stated above, all aeronautical users conducting operations at DEN may be required, based on their specific Scope of Work to maintain the following:

A. Minimum Single Limit requirements:

1. All Cargo

<u>Minimum Single Limit</u>	<u>Maximum Gross Landed Weight</u>
\$35,000,000 Per Occurrence	0 to 20,000
\$100,000,000 Per Occurrence	20,001 to 50,000
\$300,000,000 Per Occurrence	50,001 and above

2. Passenger

<u>Minimum Single Limit</u>	<u>Number of Seats</u>
\$100,000,000 Per Occurrence	30 or less
\$300,000,000 Per Occurrence	31 or more

B. Personal Automobile Liability insurance coverage in the amount of \$10,000,000 (airside) each occurrence and aggregate or \$1,000,000 (landside), each occurrence and aggregate, that includes a business use endorsement, and a representation the aeronautical user does not own any motor vehicles and users owners, officers, directors, and employees use their personal vehicles.

C. Professional Liability, Design, Engineering, and Construction Supervision insurance coverage in the amount of \$1,000,000 each occurrence and aggregate, that includes coverage of the full scope of all cost estimating work performed under the insured's contract with City.

D. Technology Errors and Omissions insurance coverage in the amount of \$1,000,000 each occurrence and aggregate consistent with C.R.S. § 13-80-104, that includes liability arising from theft, dissemination and/or use of confidential information (a defined term including but not limited to bank account, credit card account, personal information such as name, address, social security numbers, etc.), information stored or transmitted in electronic form, liability arising from the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network or similar computer related property and the data, software, and programs thereon, and liability arising from advertising injury, personal injury (including invasion of privacy) and intellectual property offenses related to internet.

- E. Cyber Liability insurance coverage in the amount of \$1,000,000 each occurrence and aggregate covering liability arising from privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security.
- F. Contractors Pollution Liability insurance coverage in the amount of \$1,000,000 each occurrence and aggregate covering bodily injury, property damage including loss of use of damaged property, defense costs including costs and expenses incurred in the investigation, defense or settlement of claims, and cleanup cost to sudden and gradual pollution conditions resulting from the escape of release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, gases, natural gas, waste materials, or other irritants, contaminants, or pollutants (including asbestos).
- G. Builder's Risk Insurance or Installation Floater insurance coverage written on a Special Completed Value Covered Cause of Loss form and covering theft, vandalism, malicious mischief, collapse, false-work, temporary buildings, transit, debris removal, demolition, increased cost of construction, flood (including water damage), earthquake, and if applicable, all below and above ground structures, piping, foundations including underground water and sewer mains, pilings including the ground on which the structure rests and excavation, backfilling, filling and grading.

### **230.3-3 Professional Services**

In addition to the general requirements stated above, all commercial operators providing services for the City at DEN must maintain the following:

- A. Professional Liability insurance coverage for errors and omissions in the amount of \$1,000,000 each occurrence and aggregate. Coverage shall extend to cover the full scope of all cost estimating work performed and shall apply for three (3) years after project is complete.

### **230.3-4 Ground Transportation and Parking**

In addition to the general requirements stated above, all commercial operators providing ground transportation and parking services at DEN must maintain the following: Insurance as required in C.R.S. §§ 24-10-103 (5), 24-110-114 (1), and 4 C.C.R. 723-6-6007.

### **230.3-5 Concession Services**

In addition to the general requirements stated above, all commercial operators providing concession services at DEN must maintain the following:

- A. Network Security and Privacy Liability insurance coverage in the amount of \$1,000,000 each occurrence and aggregate covering liability arising out of privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. Policy shall include coverage for costs associated with breach notification, credit monitoring, PCI and regulatory fines and penalties.
- B. Personal Property, Contents, Fixtures, Improvements and Betterments insurance coverage in such amounts that will provide one hundred percent (100%) of the Replacement Cost value of Personal Property, Contents, Fixtures, Improvements, and Betterments including a replacement cost endorsement.
- C. Business Interruption insurance coverage in such amounts as will reimburse the Concessionaire for direct or indirect loss of earnings attributable to the perils commonly covered by property insurance required in this Part 230, including losses arising from mechanical failures on or interruption of services to DEN premises.
- D. Commercial Crime insurance coverage in the amount of \$1,000,000 each occurrence and aggregate including but not limited to any loss arising from employee theft, employee dishonesty, forgery or alteration, robbery, burglary, embezzlement, disappearance, destruction, money orders and counterfeit currency, depositors forgery, and computer fraud at DEN.

### **230.4 Self Insurance**

Notwithstanding the forgoing, commercial users of DEN, in their discretion, may self-insure any of the minimum insurance requirement identified in this Part 230, under the same terms as required in this Part 230. All self-insured requirements must be declared and approved by City's Risk Administrator, in accordance with any requirements requested by City's Risk Administrator.

### **230.5 Verification of Coverage**

All commercial users of DEN must furnish City with an original Certificate of Insurance, or in such form as the City's Risk Administrator may require and accept, evidencing the existence of the policies required by this Part 230 prior to beginning any commercial operations at DEN. All insurance policies must remain in full force and effect at all times during commercial operations at DEN. If any required insurance coverage is not in force

and effect during commercial operations at DEN, the commercial operator shall cease all commercial operations at DEN until the appropriate insurance coverage is reinstated.

### **230.6 Waiver of Subrogation**

As condition of receiving City's permission to perform commercial operations at DEN, all commercial users of DEN must grant to City a waiver of subrogation which any insurer may acquire against City, its officers, officials, employees, and volunteers, from the commercial user by virtue of the payment of any loss. All commercial users of DEN agree to obtain any endorsement necessary to affect this waiver of subrogation but this rule will apply regardless of whether or not City has received a waiver of subrogation endorsement from the insurer.

### **230.7 Escorting and Subcontracting**

All commercial users of DEN escorting any person and/or vehicle into the controlled, sterile, or secured areas of DEN certifies it assumes all applicable insurance requirements stated in this Part 230 and/or other agreement with City for such escorted person and/or Vehicle. Additionally, all commercial users of DEN must require and verify all subcontractors maintain insurance meeting all the requirements of this Part 230 and ensure City is an additional insured on insurance required for subcontractors.

### **230.8 Governmental Immunity**

City, its officers, officials, employees, and agents are relying on and do not waive or intend to waive by any provisions of this Part 230, monetary limitations, or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., or otherwise available to City, its officers, officials, and employees.

### **230.9 Economic Viability**

Unless otherwise expressly stated in an agreement, City makes no warranty, promises, or representations as to the economic viability of DEN, commercial business operations at DEN, or any other matter pertinent to the potential or likelihood for success or failure of a commercial operator/businesses at DEN. In no event will City be liable for any: (i) business interruption or other consequential damages sustained by commercial operators at DEN; (ii) damage, theft, or destruction of commercial operators' inventory, improvements, or property of any kind; or (iii) damage, theft, or destruction of an automobile, whether or not insured.

### **230.10 Indemnification**

All commercial users of DEN shall indemnify, defend and hold harmless City, its elected or appointed officials, officers, representatives, directors, commissioners, agents, and employees from and against all damages, claims, suits, actions, losses, and expenses

(including court costs and attorney's fees) for personal injury or death or property damage or loss arising out of their commercial operations at DEN.

### **230.11 Reservation of Rights**

The CEO, in their sole and absolute discretion, expressly reserves the right, through lease, license, permit, or other written agreement with the City, to add to, modify, amend, or otherwise change the minimum requirements as stated in this Part 230.