When and why should you add someone as additional insured?

When you are contractually required to do so. For example, typical rental agreements for heavy equipment and office equipment have this requirement. Construction contracts will typically outline such requirements for project owners, general contractors and subs. In addition, most real estate agreements and leases between land owners like the USFS and the ski area or when a ski area rents office space at an off premise location will also contain additional insured language.

Your area will require additional insured language for certain premises operations and activities such as:

- Independent camps and ski schools
- Special events hosted by an independent promoter
- Event you host on property not owned by your area

Why do you want to be named as an additional insured?

Receive defense under a different party's policy or your policy provides defense for the other party. It can go both ways. By transferring the risk to the other party, your policy limits, self insured retention and loss history are protected.
Certificate of insurance (COI)

Certificates of insurance are a snapshot of insurance coverage in force as of the date the certificate was issued. Review certificates and know what to look for. When you are requesting a certificate of insurance of others or preparing one to give to others, review the following:

• The insurance carrier name
• Term of coverage
• Limits of liability
• If requiring to be additional insured – allow for defining the scope of coverage intended
• Require the verbiage “on a primary and non-contributory basis”
• For events, require the organizers insurance to cover participants in the event (some policies have participant exclusions which may not be revealed on the certificate)

Don’t depend on certificates as a stand-alone tool. It should be backed up by a contract outlining your requirements listed above. The certificate should then state the policy has contractual liability, or you should get a copy of an endorsement adding your organization as an additional insured to their insurance policy.

Hold harmless and indemnity releases

Hold harmless agreements are agreements for one entity to assume the legal liabilities of another entity arising out of certain activity as defined in the contract. Their goal is to shift the liability to the person or entity with the most control over the risk. Proper legal wording and adhering to state laws/requirements are important, so consult with your legal counsel. Insurance is a resource to respond to the liabilities transferred through an indemnity agreement.

Indemnification and hold harmless agreement/contract

A contract is an agreement between two or more parties that creates obligations that are enforceable by law. In a ski area setting, such contracts can come into play in areas such as rental units, employee housing, special events, transportation services, construction.

When entering into an agreement/contract with others, ask the question: Do I need to have them protect me or do I need to protect them? When contracts are not in place your area often is the one to pay the claim. Don’t just accept a contract sent to you by the other party. It will almost always favor them. Negotiate! Be sure to have your legal counsel review all contracts to ensure the consequences of the language are what you intend.

Finally, it is best to have one point person at your resort review all contracts and certificate requests, to be sure your organization is consistent in the approach taken. When in doubt, contact your insurance representative! We’re here to help!

For more information, contact Wally Shank at 800.528.7730 or wally_shank@wellsfargois.com

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Prepared by the Sports & Recreation Division of Wells Fargo Special Risks, Inc.