

18. **INSURANCE.**

Grantor shall incorporate this Section in its entirety as a contractual requirement in any agreement for construction or alterations on or about the Property, and shall include a provision, enforceable by Grantor and Beneficiary, requiring the contractor to comply with all provisions below regarding insurance to be maintained by contractors and to ensure compliance with all provisions regarding insurance to be maintained by subcontractors, and conditioning any right to payment to the contractor on satisfactory evidence of compliance.

Grantor shall maintain in full force and effect so long as this Deed of Trust shall be in effect at Grantor's sole cost and expense, and Grantor's contractor and subcontractors of all tiers shall maintain in full force and effect during the period of construction, minimum types of insurance coverages with such minimum limits of liability and meeting such general conditions as are set forth below. The insurance policies are subject to approval by Beneficiary in its sole discretion as to amount, policy form, endorsements, deductibles and insurer and must cover all risks Beneficiary requires. The specific minimum coverages, limits, general conditions, standards and forms set forth in this Section establish the requirements that shall apply unless the Beneficiary shall, by notice in writing, approve or require different or additional coverages, limits, general conditions, standards or forms.

Capitalized terms used in this Section and not defined in this Deed of Trust or the Loan Agreement shall be construed in accordance with customary usage in the insurance industry as of the date of this Deed of Trust, unless the context clearly requires otherwise.

(a) **Coverages Required during Course of Construction.**

(1) **Builder's Risk Property Insurance.**

Prior to mobilization on-site of its contractor or any subcontractor of any tier, Grantor shall maintain, or cause to be maintained by its contractor, not at Beneficiary's expense, Builder's Risk Property insurance, and Grantor shall ensure that such insurance shall be in effect at all times during new construction or structural alteration and not be terminated until the physical completion thereof. Such insurance shall:

- i. Cover all portions of the Property, including all new structures and existing structures that are to be structurally altered (but excluding existing structures to be demolished) and all materials, equipment, supplies and temporary structures being built or stored at or near the construction site, or while in transit;
- ii. Provide "All Risk" coverage in an amount equal to the current 100% completed value replacement cost of all property required to be covered, including the value of existing structures that have been structurally altered (including allowance for "soft costs") against loss from

- the perils of fire and other risks of direct physical loss not less broad than provided by the insurance industry standard Causes of Loss - Special Form CP 10 30;
- iii. Include Delay of Opening (loss of income) Endorsement equal to 100% of projected gross annual rents, Soft Cost Endorsement (indemnification of finance charges) and Permission to Occupy Endorsement (permission is automatically granted for occupancy of the insured project for the purpose it was intended);
 - iv. If so required in writing by the Beneficiary, include earthquake and flood perils and such other endorsements and coverages as Beneficiary may from time to time reasonably require and any other insurance required by law or by the terms of any Other Financing Documents (as defined in the Loan Agreement); and
 - v. Remain in force until coverage for Grantor's Permanent Property Insurance complying with this Section is bound.

(2) Commercial General Liability Insurance.

- i. Grantor shall maintain at all times from initial mobilization on the Property of any contractor to final completion of all Construction, Commercial General Liability (CGL) insurance, written on Insurance Services Office (ISO) form CG 00 01 or its equivalent, including Premises/Operations and Contractual Liability. The minimum limits of liability shall be not less than \$1,000,000 each occurrence Bodily Injury and Property Damage Combined Single Limit (CSL).
- ii. Grantor shall ensure that its contractor, and each of Grantor's contractor's subcontractors of any tier, maintain at all times from initial mobilization on the Property to final physical completion of all Construction, and for three years thereafter, Commercial General Liability (CGL) insurance, written on Insurance Services Office (ISO) form CG 00 01 or its equivalent, including Premises/Operations; Products/Completed Operations; and Contractual Liability and with no exclusion for Independent Contractors Liability. The minimum limits of liability shall be not less than \$1,000,000 each occurrence Bodily Injury and Property Damage Combined Single Limit (CSL) and \$2,000,000 General and Products/Completed Operations aggregate.

(3) Workers Compensation.

Grantor shall ensure that its contractor and each of Grantor's contractor's subcontractors maintain Worker's Compensation for the State of Washington ("Industrial Insurance") as required by Title 51 of the Revised Code of Washington.

(4) Subcontractor Insurance.

Each of Grantor's contractor's subcontractors of any tier shall maintain CGL insurance with minimum limits of liability of \$1,000,000 CSL with "The City of Seattle, its officers, elected officials, employees, agents, and volunteers" as additional insureds for primary and non-contributory limits of liability per the ISO CG 20 26 designated additional insured endorsement or its designated or blanket additional insured equivalent. Upon Beneficiary's request to Grantor, Grantor shall cause its contractor to require any subcontractor of any tier to submit to Beneficiary evidence of insurance as specified in paragraph (d) "Evidence of Insurance."

(b) Coverages Required of Grantor after Physical Completion

(1) Permanent Property Insurance.

Except while Builders Risk Property insurance is in effect in full compliance with subsection 18(a) above, Grantor shall maintain at all times Permanent Property insurance on all buildings, improvements and fixtures on an "All Risk" basis in an amount at least equal to the current 100% replacement cost thereof, as established no less frequently than annually, that covers:

- i. Loss from the perils of fire and other risks of direct physical loss (including earthquake if required in writing by the Beneficiary and flood damage if the Property is in a flood hazard area) not less broad than provided by the insurance industry standard Causes of Loss - Special Form CP 10 30;
- ii. Loss or damage from water damage, or sprinkler systems now or hereafter installed in any building on the premises;
- iii. Loss or damage by abrupt and accidental breakdown, electrical injury and explosion of a steam boiler, steam piping or steam engine of steam boilers, pressure vessels, oil, or gasoline storage tanks; machinery, heating or air conditioning, elevator and escalator equipment or similar apparatus, in each case if the Property contains equipment of such nature; and,
- iv. Business Interruption and Extra Expense coverage with sufficient limits of liability to provide for the loss of rent and other fixed costs during any interruption of Grantor's business, loss of occupancy, or use because of fire or other peril, in an amount equivalent to projected gross annual rents.

(2) Commercial General Liability Insurance.

Grantor shall maintain at all times CGL insurance, written on an Insurance Services Office (ISO) occurrence form CG 00 01 or equivalent, including Premises/Operations; Products/Completed Operations; Contractual Liability; and, Independent Contractors Liability. The minimum limits of liability shall be not less than \$1,000,000 CSL and \$2,000,000 General and Products/Completed Operations Aggregate.

(c) **General Conditions (Not Applicable to Washington State Workers Compensation).**

- (1) Deductibles or Self-Insured Retentions. Deductibles or Self-Insured Retentions shall be disclosed in the evidence of insurance and are subject to approval of Beneficiary. Grantor or its contractors as appropriate shall be responsible for payment of any claims or expenses incurred within a deductible or self-insured retention.
- (2) Security of Insurers. Insurers shall be licensed to do business in the State of Washington and shall maintain not less than an A- VII A.M. Best's ratings unless coverage is procured as surplus lines under Revised Code of Washington (RCW) chapter 48.15 ("Unauthorized insurers").
- (3) Cancellation. Coverage shall not be cancellable without at least thirty (30) days advance written notice of cancellation, except ten (10) days with respect to cancellation for non-payment of premium.
- (4) Property Insurance Waiver of Subrogation. Property insurance required to be maintained hereunder shall contain a waiver of subrogation in favor of the Trustee and Beneficiary.
- (5) CGL Insurance Additional Insured.

- i. GRANTOR'S CONTRACTOR: CGL insurance maintained by each contractor of Grantor shall include "The City of Seattle, its officers, elected officials, employees, agents, and volunteers" as additional insureds for primary and non-contributory limits of liability per the ISO CG 20 26 11 85 designated additional insured endorsement or its equivalent with products additional insured status for not less than three (3) years following physical completion.
- ii. GRANTOR'S CONTRACTOR'S SUBCONTRACTORS (ALL TIERS): CGL insurance maintained by each of Grantor's contractor's subcontractors at all tiers shall include "The City of Seattle, its officers, elected officials, employees, agents, and volunteers" as additional insureds for primary and non-contributory limits of liability per the ISO CG 20 26 designated additional insured endorsement or its equivalent.
- iii. GRANTOR: CGL insurance maintained by Grantor shall include "The City of Seattle, its officers, elected officials, employees, agents, and volunteers" as additional insureds for primary and non-contributory limits of liability per the ISO CG 20 26 designated additional insured endorsement or its equivalent.

NOTE: "OWNERS, LESSEES OR CONTRACTORS" ADDITIONAL INSURED FORMS, INCLUDING THE CG 20 09, CG 20 10 and CG 20 33, OR THEIR EQUIVALENTS, ARE NOT ACCEPTABLE AS NO WORK IS BEING PERFORMED FOR BENEFICIARY.

- (6) CGL Additional Insured Limits of Liability. The limits of liability stated for CGL insurance are for demonstrating compliance with minimum acceptable limits of liability only. Beneficiary shall be an

additional insured under the full limits of liability available under Grantor's and Grantor's contractor's and each subcontractor's CGL insurance program, whether such limits are for primary or excess coverage, contingent coverage or otherwise. The statement of minimum limits of liability herein shall not serve to limit the liability of Grantor or Grantor's contractor or subcontractor(s), or of any of their respective liability insurers except for the limit(s) of liability shown in the declarations in each respective CGL, Excess, Umbrella or any other Liability insurance policy.

- (7) Property Insurance Mortgagee Clause.
- i. BUILDER'S RISK. Builder's Risk Property insurance shall include the Standard Mortgagee Clause 438BFU or equivalent acceptable to Beneficiary designating "The City of Seattle" as mortgagee;
 - ii. PERMANENT PROPERTY INSURANCE: All Permanent Property insurance and any other property insurance required by law or by the terms of any Other Financing Documents (as defined in the Loan Agreement) shall include the Standard Mortgagee Clause 438BFU or equivalent acceptable to Beneficiary designating "The City of Seattle" as mortgagee.
- (8) Failure to Comply with Insurance Requirements. Failure of the Grantor or Grantor's contractor to fully comply with the insurance requirements of this Section shall be considered a material breach of contract.
- (9) Right of Beneficiary to Procure Insurance. Notwithstanding anything to the contrary herein, in the event that Grantor or Grantor's contractor fails to pay any premium required for any policy when required hereunder or otherwise fails to provide, maintain, keep in full force and effect or, after not less than ten (10) days prior written notice to Grantor, to deliver and furnish to Beneficiary evidence of insurance required hereunder, in addition to all other remedies available under this Deed of Trust, Beneficiary, in its sole and absolute discretion and without obligation with respect thereto, may pay such premiums or procure such insurance or single-interest insurance of such risks covering Beneficiary's interest as Beneficiary shall elect, and Grantor will reimburse Beneficiary for all premiums thereon (with interest thereon at the rate of twelve percent (12%) per annum from the date of expenditure by Beneficiary until the date of payment by Grantor) promptly upon demand by Beneficiary, and until such payment is made by Grantor the amount of all such premiums together with interest thereon shall be secured by this Deed of Trust.
- (10) Successor-in-Interest. Notwithstanding anything to the contrary herein, in the event of foreclosure of this Deed of Trust or other transfer of title or assignment of the Property in extinguishment, in whole or in part, of the debt secured hereby, all right, title and interest of Grantor in and to all policies of insurance required herein or the proceeds thereof shall inure to the benefit of and pass

to the successor-in-interest to Grantor or the purchaser or grantee of the Property.

(d) **Evidence of Insurance.**

- (1) When Evidence of Insurance is to Submitted and Approved. Builder's Risk and CGL insurance as specified in subsection 18(a) (1) and (2) shall be submitted to Beneficiary prior to the earlier of:
- i. Mobilization on site of any Grantor contractor of any tier, or
 - ii. Request for disbursement for Construction on the loan secured by this Deed of Trust.

During the period of construction, Grantor and/or its contractor (as applicable) shall continuously maintain current satisfactory evidence of required Builder's Risk Property Insurance and CGL insurance on file with Beneficiary. Without any gap in coverage, Grantor shall thereafter continuously maintain current satisfactory evidence of Permanent Property insurance and CGL insurance on file with Beneficiary. Grantor shall cause satisfactory evidence of renewal of all such expiring required insurance coverage to be issued and delivered to Beneficiary as specified below prior to the actual expiration thereof.

- (2) Manner of Submission of Evidence of Insurance. Evidence of insurance shall be issued and delivered to:

The City of Seattle
Office of Housing
Attention: Director
P.O. Box 94725
Seattle, WA 98124-4725

Grantor shall also cause evidence of insurance to be sent electronically as an email attachment in PDF or XLS format to riskmanagement@seattle.gov or by facsimile transmission to (206) 470-1270, at or before the time when delivery is required under this Section.

- (3) Form of Evidence of Insurance. Current evidence of insurance shall consist of the following for both Grantor and Grantor's contractor:
- i. Certificates of Liability and Property insurance issued in conformance with prevailing established market practice evidencing compliance with the minimum levels of coverages and limits of liability and meeting general conditions stated herein, including but not limited to provision for notice of cancellation as specified herein.
 - ii. Copies of declarations pages and schedules of forms and endorsements for each CGL and Property insurance policy.
 - iii. Copies of the actual CGL additional insured policy provision per the ISO CG 20 26 endorsement for Grantor and CG 20 26 11 85 for Grantor's contractor or equivalent designated or blanket additional insured policy provisions acceptable to Beneficiary and the Property Insurance Standard Mortgagee Clause 438BFU or equivalent acceptable to Beneficiary.

- iv. Should any policy not have been issued and delivered to Grantor or Grantor's contractor, a currently effective binder evidencing to Beneficiary's satisfaction compliance with all applicable requirements shall be provided, but Grantor shall cause evidence of insurance as set forth above to be provided as soon as available.

(4) Policies. In the event that any liability or property insurance claim shall be denied or coverage made subject to reservation of rights, or if Beneficiary shall otherwise request at any time, Grantor or Grantor's contractor of any tier shall cause a complete, true and certified copy of the requested insurance policy(ies) to be promptly delivered to Beneficiary.