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**1. GENERAL**

- 1.1. Definitions. The term "Seller" herein shall mean any subcontractor, supplier, service provider, or other vendor under the contract, (herein the "Agreement"), to which this document is attached and made a part. The term "Owner" refers to the owner of the Project under the construction contract between Buyer and that owner for the Project (the "Prime Contract").
- 1.2. Purchase and Maintain. Prior to the commencement of its work, Seller shall purchase and maintain, from an insurance company(s) lawfully authorized to issue insurance in the jurisdiction where the Project is located and having A.M. Best rating of A-VII or greater, such insurance as will protect it from the claims which may arise out of or result from Seller's operations and/or its work under the Agreement and any modifications thereto whether such operations are performed by Seller or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, to the lowest tier. If Seller fails to secure and/or pay the premiums for any of the policies of insurance required herein, or fails to maintain such insurance, Buyer may, in addition to any other rights it may have under this Agreement or at law or in equity, terminate this Agreement or secure such policies or policies of insurance for the account of Seller and charge Seller for the premiums paid therefore, or withhold the amount thereof from sums otherwise due from Buyer to Seller. Neither the Buyer's rights to secure such policy or policies nor the securing thereof by Buyer shall constitute an undertaking by Buyer on behalf of or for the benefit of Seller or others to determine or warrant that such policies are in effect.
- 1.3. Duration of Coverage. Except as otherwise provided herein, Seller shall maintain the required insurance required under this Attachment, including all endorsements, until the expiration of the period for correction of work under the Prime Contract; the period of time represented by the applicable statute of repose and statute of limitations, taken together; or ten (10) years, whichever is longer.
- 1.4. Certificates of Insurance. Seller shall provide, using the "myCOI" online platform as further described below in Section 6 of this Attachment, certificates of insurance acceptable to Buyer evidencing compliance with the requirements herein at the following times: (i) prior to commencement of work; (ii) upon renewal or replacement of each required policy of insurance; and (iii) upon the Buyer or Owner's written request. Additional certificates evidencing continuation of coverage, including coverage for completed operations, shall be submitted for one (1) year after the Project's substantial completion date. The policy forms or endorsements evidencing additional insured status, primary/non-contributory coverage and waiver of subrogation or transfer of rights of recovery must be attached to the certificate of insurance. Acceptance of the certificates or endorsements by the Buyer shall not constitute a waiver of Seller's obligations hereunder.
- 1.5. Minimum Coverage and Limits. Coverage and limits shall be the broader and/or greater of (i) all the insurance coverage and/or limits carried by or available to the Seller; (ii) the minimum coverages and limits as required herein; or (iii) as required in the Prime Contract. If Seller maintains coverage and/or limits broader and/or greater than the minimums required herein or that of the Prime Contract, such coverage and limits carried become what is required under this Agreement.
- 1.6. Limits are Not a Limitation of Liability. Seller acknowledges and understands that the purchase and maintenance of the insurance required under this Attachment shall not release Seller from its obligations or liabilities in connection with the Agreement. Seller is responsible for any losses, claims, and costs of any kind, which exceed the limits of liability, or which may be outside the coverage scope of the policy required hereunder. Buyer does not warrant or represent that such coverages and limits required herein are appropriate or adequate to protect Seller. Neither Buyer's specification nor approval of the insurance in this attachment shall be construed to relieve Seller from liability in excess of such limits and/or coverages. Seller may, at its expense, purchase larger coverage amounts.

- 1.7. Premiums, Deductibles, and Self-Insured Retentions. Seller shall pay all premiums for the insurance it is required to carry under this Attachment, including any charges for required waivers of subrogation or endorsements. Seller shall disclose to the Buyer any deductible or self-insured retention applicable to any insurance required to be provided by Seller. Deductible and/or self-insured retention amounts are subject to Contractor or Owner's approval. Seller shall be fully and financially responsible for all deductibles, self-insured retentions, or the insolvency of any insurer and all costs and expenses of securing any collection of insurance proceeds arising out of or related to Seller's operations, work, or liability.
- 1.8. Cancellations. Should any of the described policies be cancelled before the expiration date thereof, Seller shall provide notice to Buyer within two (2) business days of receiving notice of cancellation from the insurer. Seller shall not cancel or reduce the scope of any coverage without giving thirty (30) days advanced written notice to Buyer.
- 1.9. Copies of Policies. Buyer reserves the right to request and receive a certified and true copy of any and all insurance policies, together with the declaration page, form schedules, and all applicable endorsements, for all insurance coverages Seller is required to provide.
- 1.10. Sub-Subcontractors.
- 1.10.1. The requirements under this Attachment shall apply to Seller's subcontractors, to the lowest tier and in all respects. Seller shall require by written agreement that all tiers of its Sellers comply with this Attachment and carry all insurance required hereunder in like form and amounts, including any and all additional insured and other requirements. It is Seller's sole responsibility to require all tiers of its sub-Sellers to provide insurance that meets the same requirements as Seller in this attachment and monitor compliance.
- 1.10.2. Upon request from Buyer, Seller shall obtain and submit to Buyer, in a timely manner to allow for sufficient review and follow up if and as necessary, certificates of insurance that demonstrate the proper insurance coverages and amounts (in conformance with this Attachment) from each and every Seller of Seller, to the lowest tier, before any work whatsoever by any of Seller's Sellers may commence on the jobsite.
- 1.11. Insurance as Condition Precedent to Site Access and Payment. Evidence of the insurance coverages required under this Attachment is a condition precedent to Seller's right, and that of its subcontractors and other vendors, to access the Project site, start work, and to receive payment.

## **2. ADDITIONAL INSUREDS ENDORSEMENT REQUIREMENTS**

- 2.1. To the fullest extent of coverage allowed under applicable law, Buyer, Owner, and all other parties required under the Prime Contract to be named by Buyer as an additional insured (the "Additional Insureds") shall be named by Seller as additional insured, on a primary and non-contributory basis, for all required lines of coverage (except Statutory Workers' Compensation, Employers Liability, and Professional Liability) arising out of Seller's ongoing operations and its work as included in Products-Completed Operation performed by or for the Seller on behalf of the Buyer.
- With respect to the endorsements, blanket form endorsements are required to be provided by this Seller. Seller's sub-tier subcontractors are required to provide scheduled endorsements.
- 2.2. Buyer shall accept General Liability Additional Insured forms CG 20 10 11/85, CG 20 10 10/01 and CG 20 37 10/01, or their equivalent. Buyer has the right, in its sole and subjective discretion, to reject any additional insured, primary and non-contributory, and waiver of subrogation forms or endorsements that are deemed not equivalent to what is required herein.
- 2.3. Seller's insurance shall be primary as respects to the Additional Insureds, and any other insurance maintained by the Additional Insureds shall be excess and not contributing insurance with Seller's insurance until such time as all limits under the Seller's insurance policies have been exhausted.
- 2.4. Seller hereby waives all rights of recovery against all parties required under this Attachment to be named as an Additional Insured. Seller shall require all insurance policies required under this Attachment to include clauses providing that each insurer waives all rights of recovery by

subrogation or otherwise against all persons or entities even if such individual or entity (i) would otherwise have a duty of indemnification, contractual, or otherwise; (ii) did not pay the insurance premium directly or indirectly; and (iii) whether or not such individual or entity has an insurable interest in any property damaged.

- 2.5. The additional insured and primary/non-contributory statuses required hereunder shall be for all limits available, not limited to the minimum acceptable as required herein. The Additional Insured, primary/non-contributory, and waiver of subrogation coverage forms or endorsements shall not contain any comparative fault, vicarious liability, or sole negligence limitations of the Buyer, Owner, or any other party.
- 2.6. If any policy provided under this Attachment states that the coverage provided to an Additional Insured shall be no broader than that required by contract, or words of similar meaning, the parties agree that nothing in the Agreement is intended to restrict or limit the breadth of such coverage or limits available.
- 2.7. The Additional Insured coverage required under this Agreement shall not be subject to any Defense Costs Endorsements, such as Form IL 01 23 11 13, allowing for the recovery of defense costs by the insurer if the insurer initially pays defense costs but later determines the claims are not covered.

### 3. LIABILITY INSURANCE

#### 3.1. Commercial General Liability

- 3.1.1. Coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) form CG 00 01 04/13, written on an occurrence basis with policy limits of not less than:

\$1,000,000 Each Occurrence

\$1,000,000 Personal & Advertising Injury

\$2,000,000 General Aggregate with Per Project General Aggregate Endorsement

\$2,000,000 Products/Completed Operations Aggregate

\$2,000,000 Products Liability Insurance

\$1,000,000 Limited Pollution Liability required only if Supplier delivers the products to the Project site.

- 3.1.2. The Commercial General Liability policy shall **NOT** contain an exclusion or restriction of coverage for claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim;

#### 3.2. Business Auto Coverage

- 3.2.1. Coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) form CA 00 01, written on an occurrence basis to apply to “any auto” or at a minimum “all owned, hired and non-owned autos”, with policy limits of not less than:

\$1,000,000 per accident, for bodily injury, death of any person and property damage (combined single limit)

- 3.2.2. The Business Auto policy shall **NOT** contain an exclusion or restriction of coverage for any of the following:
  - 3.2.2.1. Claims related to any statutorily required automobile coverage;
  - 3.2.2.2. Claims related to discharges of pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto, if applicable to the work; and

### 3.3. Workers' Compensation and Employers Liability

- 3.3.1. All sellers of every tier shall provide coverage for industrial injury to their employees (or leased / borrowed employees as applicable) in strict accordance with the provisions of the State or States in which project work is performed or where jurisdiction is deemed to be applicable. Workers' Compensation shall be provided in a statutory form on either a state or, where applicable, federal (U.S. Longshore & Harbor Workers Act, Maritime – Jones Act, etc.) basis as required in the applicable jurisdiction. Minimum limits of liability, not less than:

Workers' Compensation: Statutory

Employers Liability:

\$1,000,000 Bodily Injury by Accident – Each Accident

\$1,000,000 Bodily Injury by Disease – Total Limit

\$1,000,000 Bodily Injury by Disease – Each Employee

- 3.3.2. If Seller leases one or more employees through use of a payroll, employee management or other company, and workers' compensation / employer's liability coverage is not provided by the payroll, employee, management or other company, then the Seller must directly procure workers' compensation / employer's liability insurance as required in the applicable jurisdiction.

3.3.2.1. The workers' compensation and employer's liability coverage provided to and for the leased employees by the payroll, employee management or other company shall be evidenced and include an Alternate Employer/Leased Employee Endorsement, naming Seller as the alternate employer. The employer's liability policy must be scheduled under an applicable umbrella liability policy as required by this Attachment.

- 3.3.3. A Seller employer, qualified as a self-insurer, will be so certified by a letter signed by a corporate officer setting forth the specific and aggregate limits of any policy of excess insurance covering their employees and the amount of any self-insured retention.

- 3.3.4. All sellers are required to furnish Workers' Compensation Insurance, notwithstanding any statutory exemptions. This includes but is not limited to sole proprietors, partners, executive officers, and limited liability companies. For states that do not require Workers' Compensation coverage, owner/operators shall elect into coverage under the Workers' Compensation laws of the governing state.

### 3.4. Commercial Umbrella or Excess Liability Insurance

- 3.4.1. Coverage shall be no less broad than that provided by the required Commercial General Liability, Business Auto and Employers Liability shown above, written on an occurrence basis, with policy limits not less than:

\$1,000,000 Each Occurrence

\$1,000,000 Aggregate

- 3.4.2. In the event where the General Liability, Automobile Liability, and/or Employers Liability Limits cannot be met, Umbrella/Excess Liability may be used to meet the required limits. Coverage must be on a follow form basis over all coverages and limits required herein on underlying policies and be written on a primary and non-contributory basis over any other insurance maintained by the Additional Insureds.

### 3.5. Professional Liability and/or Errors & Omissions

- 3.5.1. If Seller's work includes professional services (including but not limited to design and engineering), Seller shall provide evidence of Professional Liability Insurance covering claims that arise from the actual or alleged errors, omissions, or acts of the Seller or any entity for which the Seller is legally responsible, for the provision of all professional services

necessary or incidental to the fulfillment of all contract obligations hereunder. Such insurance shall be in an amount of not less than:

\$5,000,000 each claim / \$5,000,000 aggregate

- 3.5.2. The policy shall be effective from the date of commencement of all professional services in connection with the fulfillment of all contract obligations hereunder. The retroactive date in the current and future policies shall be prior to the commencement of all professional services.
- 3.5.3. Coverage shall not include any exclusion or other limitations related to scopes of services or project type or construction type, or delays in project completion and cost overruns. Seller is required to provide notice to the Buyer if their Professional Liability limits are impaired by payments or reserves for claims or expenses in excess of twenty percent (20%) of the policy limit, regardless of whether such payments or reserves are related to work performed for this Project.
- 3.5.4. In the event the professional services are provided by a sub-tier design consultant, Seller and each sub-tier design consultant in the chain of privity, to the lowest tier to and including the actual designer of record, shall each provide such insurance.
- 3.5.5. Buyer reserves the right, in its sole discretion, to specify higher limits for such insurance depending upon the circumstances; provided, however, Buyer shall be obligated to pay the reasonable increase in premium actually incurred as a result.

#### 4. PROPERTY INSURANCE

##### 4.1. Insurance on the Goods.

- 4.1.1. Seller shall purchase and maintain, at Seller's expense, property insurance covering destruction, theft, vandalism, and/or other damage or loss to, of, or for all materials, equipment, goods, and other property purchased and sold under this Purchase Agreement, whether stored off the site, in transit, or otherwise, until the conforming materials, equipment, goods, and/or other property are properly delivered to and accepted by Buyer as set forth under the Purchase Agreement. Seller and Seller's insurance carrier(s) hereby waive all claims against Buyer, including by way of subrogation, for damage including loss of use.
- 4.1.2. Seller shall be responsible for any insurance policy deductible or self-insured retention amount applicable to such insurance.

- 4.2. Seller's Personal Property. Seller is solely responsible for any loss, damage, or theft to its personal property including, without limitation, its tools, equipment, scaffolding, vehicles, cranes, and temporary structures, whether rented or owned, whatever the cause, including whether caused by Seller, Buyer, and/or any other party. Seller shall provide property insurance to cover any such damage, loss, or theft for the full value of the property. Regardless of whether or not Seller provides such insurance, Seller hereby waives and releases any and all rights of indemnity, contribution, reimbursement, exoneration, subrogation, or other rights of recovery it may ever have against Buyer and/or any other party (except any right of indemnity Seller may have against its insurer(s)) for any such loss, damage, or theft. Seller shall require similar requirements and waivers in favor of Buyer and third parties from its subcontractors to the lowest tier. Any insurance provided by Seller covering its personal property shall include a waiver of subrogation from the insurer(s) in favor of Buyer, Owner, and other third parties required by this Agreement.

#### 5. CERTIFICATES OF INSURANCE SUBMISSION, MYCOI

- 5.1. BNBuilders is utilizing myCOI, an online certificate of insurance tracking website to review and manage Seller insurance certificates. There is no cost to Sellers to use myCOI.



## 5.2. Enrollment and Registration.

5.2.1. Enrollment in myCOI is a simple one-time process. If Seller has not used myCOI, an automated email will be sent directly from [certificatecompliance@imacorp.com](mailto:certificatecompliance@imacorp.com) with enrollment instructions.

5.2.2. During the initial registration, the following contact information will be collected from Seller regarding Seller's insurance agent(s):

5.2.2.1. Agency Name

5.2.2.2. Agent Name

5.2.2.3. Address

5.2.2.4. Phone Number

5.2.2.5. Email Address

5.2.2.6. Policy Lines Written by Each Agent

## 5.3. Submitting the Certificate of Insurance.

5.3.1. Once Seller is enrolled, a notification will be sent to each insurance agent requesting certificates for each new project. The notification will include a link to upload certificates for each project.

5.3.2. A complete certificate of insurance must include all endorsements (additional insured, primary and non-contributory, and waiver of subrogation) in one .pdf file.

5.3.3. The certificate holder address is:

BNBuilders, Inc.  
c/o IMA Certificate Compliance  
1705 17<sup>th</sup> Street, Suite 100  
Denver, CO 80202

5.3.4. Notifications of any issues with the certificates will be sent from [certificatecompliance@imacorp.com](mailto:certificatecompliance@imacorp.com), to the appropriate agent.

5.3.5. If Seller has multiple subcontracts with BNBuilders, separate certificates must be uploaded for each respective project.

## 5.4. Questions

5.4.1. If you have any questions, please contact Buyer at [riskcoordinator@bnbbuilders.com](mailto:riskcoordinator@bnbbuilders.com).