

**CONSTRUCTION FINANCE:
THE CONSTRUCTION MORTGAGEE
DRILLS DOWN ON CONTRACTOR
AGREEMENT AND THE ARCHITECT
CONTRACT**

October 15, 2014

Peter J. Norman, Esquire
1835 Market Street
Philadelphia, PA 19103
Tel.: 215-569-3596
pnorman@klehr.com

Gregory G. Gosfield, Esquire
1835 Market Street
Philadelphia, PA 19103
Tel.: 215-569-4164
ggosfield@klehr.com

STRUCTURE AND USE OF CONSTRUCTION FINANCING

Table of Contents

1.	Mechanic’s Liens	3
1.1.	Mechanics Liens - Law Summary.....	3
1.2.	Loan Agreement.....	10
1.3.	Form: Contract Summary Waiver and Subordination – Construction Contract.....	11
1.4.	Form: Contract Summary and Waiver of Liens – Construction Contract.....	12
1.5.	Form: Partial Release; Final Release – Construction Contract.....	16
2.	Payment Protocols	20
2.1.	Loan Agreement.....	20
2.2.	Construction Contract.....	21
3.	Retainage.....	24
3.1.	Loan Agreement.....	24
3.2.	Construction Contract.....	25
4.	Contingency	26
4.1.	Loan Agreement.....	26
4.2.	Construction Contract.....	28
5.	Assignments	29
5.1.	Loan Agreement.....	29
5.2.	Construction Contract.....	30
5.3.	Form of Assignment Agreement	31
6.	Payment and Performance Bonds	34
6.1.	Loan Agreement.....	34
6.2.	Contractor Agreement.....	35
6.3.	Form.....	36
7.	Subguard Insurance.....	40
7.1.	Subguard Insurance - Commentary.....	40
7.2.	Loan Agreement.....	43
7.3.	Construction Contract.....	44
8.	Substantial Completion	45
8.1.	Loan Agreement.....	45
8.2.	Construction Contract.....	46
9.	Delay Damages.....	48
9.1.	Loan Agreement - Limitation of Liability for Consequential Damages.....	48

9.2.	Construction Contract	49
10.	Change Orders	50
10.1.	Loan Agreement - Project Improvements Budget.	50
10.2.	Loan Documents	51
10.3.	Construction Contract	52
11.	Stored Materials	55
11.1.	Loan Agreement	55
11.2.	Construction Contract	56

For complete content please contact Gregory Gosfield
215-569-4164 | ggosfield@klehr.com