

001672

ATTACHMENT NO. 18

**GROUND LEASE
(Cedar Gateway Project)**

by and between

**REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO,**

“Landlord”,

and

CEDAR GATEWAY, L.P.

“Tenant”

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EXHIBITS

Exhibit A - Legal Description of the Leased Premises

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- Exhibit B - Site Plan
- Exhibit C - Memorandum of Lease
- Exhibit D - Estoppel Certificate
- Exhibit E - Regulatory Agreement

GROUND LEASE

This Ground Lease ("**Lease**") is dated for identification purposes as of the ___ day of _____, 200___, and is entered into by and between the following (collectively, the "**Parties**"): THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic ("**Landlord**"), and CEDAR GATEWAY, L.P., a California limited partnership ("**Tenant**").

RECITALS

A. The subject property (the "**Property**") is located in the Centre City Redevelopment Project Area, and is a portion of the real property commonly known as [1601 5th Avenue and 1620 6th Avenue]. The Property is depicted on the Site Map attached hereto as Attachment No. 1. The legal description of the Property is set forth in the Legal Description attached hereto as Attachment No. 2.

B. This Ground Lease is entered into pursuant to the Disposition and Development Agreement by and between Landlord (as "**Agency**") and Tenant (as "**Owner**") dated as of _____, 2008 (the "**DDA**"). Any capitalized term not defined herein shall have such meaning ascribed to it in the DDA.

C. This Ground Lease is expressly subject to that certain Agreement Affecting Real Property, Regulatory Agreement, the Covenants, Conditions and Restrictions and the Reciprocal Easement Agreement, all of even date herewith and recorded in the official records of San Diego County concurrently herewith.

NOW, THEREFORE, in consideration of the payments to be made hereunder and the covenants and agreements contained herein, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the real property hereinafter defined as the "Leased Premises" upon the following terms and conditions.

ARTICLE 1 - DEFINITIONS

1.1 Additional Rent. The term "Additional Rent" means all sums of money required to be paid pursuant to the terms of this Lease other than Rent including but not limited to the sums to be paid pursuant to Section 7.4 (regarding liens), Section 10.1 (regarding Impositions), and Section 14.3 (regarding self help).

1.2 Affiliate. The term "Affiliate" as used herein shall mean any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with another person, which, in the case of a partnership, shall include each of the general partners thereof. The term control, as used in the immediately preceding sentence, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled person.

1.3 Agency Note. The term "Agency Note" refers to the residual receipts note by Tenant as maker and Landlord as payee.

1.4 Agency Loan. The term "Agency Loan" refers to the loan to be made by Landlord to Tenant under the DDA, evidenced by the Agency Note.

1.5 Agreed Rate. The term "Agreed Rate" as used herein shall mean an annual rate of interest equal to the lesser of (i) two percent (2%) above the rate of interest announced from time to time by the Bank of America, Downtown San Diego, Main Branch, as the prime or reference rate (or, in the event said bank ceases to announce a prime or reference rate or is acquired or ceases operations and there is no successor bank, another established and financially secure commercial bank, having a headquarters in California, selected by Landlord), or (ii) the highest rate permitted by law, if any.

1.6 Agreement Affecting Real Property. The term "Agreement Affecting Real Property" refers to the Agreement Affecting Real Property (Including Rental Restrictions) encumbering the Property and recorded concurrently herewith.

1.7 Commencement Date. The Commencement Date is the date that a memorandum of this Lease is fully executed by Landlord and Tenant and recorded in the official records of San Diego County.

1.8 Conversion Date. The Conversion Date shall mean the date upon which the Tenant's construction loan is converted to a permanent loan.

1.9 Covenants, Conditions and Restrictions. The term "Covenants, Conditions and

Restrictions" refers to the Covenants, Conditions and Restrictions encumbering the Property and recorded concurrently herewith.

1.10 Default(s). The term "Default(s)" as used herein shall have the meaning described in Section 14.1.

1.11 Effective Gross Income. The term "Effective Gross Income" is defined at Section 4.2.3.

1.12 Environmental Laws. The term "Environmental Laws" means any federal, state or local environmental, health and/or safety-related law, rule, regulation, requirement, order, ordinance, directive, guideline, permit or permit condition, currently existing and as amended, enacted, issued or adopted in the future. The term Environmental Laws includes, but is not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, and similar state or local laws.

1.13 Force Majeure Events. The term "Force Majeure Events" shall have the meaning described in Section 14.8.

1.14 Governmental Restrictions. The term "Governmental Restrictions" as used herein shall mean and include any and all laws, statutes, official policies, ordinances, codes, formal decrees, rulings, regulations, writs, injunctions, orders, rules, conditions of approval or authorizations of any governmental entity, agency or political subdivision, now in force or hereafter adopted, which are applicable to the Leased Premises or the use thereof as of the date such term is being applied.

1.15 Hazardous Materials. The term "Hazardous Materials" or "Hazardous Substances" shall include, but not be limited to, substances defined as "extremely hazardous substances", "hazardous substances", "hazardous materials", "hazardous waste" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. sections 11001-11050; the Hazardous Materials Transportation Act, 49 U.S.C. sections 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901, et seq.; and those substances defined as "hazardous waste" in section 25117 of the California Health and Safety Code, as "infectious waste" in section 25117.5 of the California Health and Safety Code, or as "hazardous substances" in section 25316 of the California Health and Safety Code or "hazardous materials" as defined in section 353 of the California Vehicle Code; or "hazardous substances" as defined in section 33459(c) in the California Health and Safety Code; and in the regulations adopted and publications promulgated pursuant to said laws.

1.16 Improvements. The term "Improvements" shall mean and include all buildings,

structures, fixtures, excavation, parking areas, walkways, drives, landscape areas, underground installations and all other improvements of whatsoever character constructed on, around, under or over the Property by Tenant and shall include the residential development construction on the Property, to consist of 65 dwelling units, including 23 one-bedroom units, 16 two-bedroom units and 26 three-bedroom units, with parking, all as described in the Scope of Development. Twenty three (23) units shall be supportive housing units targeted for the special needs population. The Improvements are owned by Tenant and are not a part of the Leased Premises.

1.17 Index. The term "Index" shall mean means the Consumer Price Index Urban Wage Earners and Clerical Workers (Los Angeles Anaheim Riverside, CA, All Items, Base 1982 84 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics. Should the Bureau discontinue the publication of the Index, or publish the same less frequently or on a different schedule, or alter the same in some other manner including, but not limited to, changing the name of the Index or the geographic area covered by the Index, Landlord and Tenant shall adopt a substitute index or procedure which reasonably reflects and monitors consumer prices.

1.18 Leased Premises. The term "Leased Premises" as used herein shall have the meaning described in Article 2 below.

1.19 Leasehold. The term "Leasehold" refers to tenant's leasehold estate in the Leased Premises created by this Lease.

1.20 Leasehold Mortgage. The term "Leasehold Mortgage" shall mean any mortgage, deed of trust, or other established method of securing real property financing secured by the Leasehold.

1.21 Lease Year. The term "Lease Year" as used herein shall mean each of the consecutive twelve (12) calendar month periods beginning on the first day of the first calendar month following the Commencement Date unless the Commencement Date falls on the first day of a calendar month, in which event the Lease Year shall commence on the Commencement Date.

1.22 Lender. The term "Lender" shall mean the owner and holder of any Mortgage or Leasehold Mortgage permitted by this Lease.

1.23 Losses and Liabilities. The term "Losses and Liabilities" as used herein shall mean all liabilities, claims, losses, causes of action, charges, penalties, damages, costs and expenses (including reasonable attorneys' fees and costs), of whatsoever character, nature and kind, whether to property or person, whether by direct or derivative action, and whether known or unknown, suspected or unsuspected, latent or patent.

1.24 Mortgage. The term "Mortgage" as used herein shall mean and include any mortgage, deed of trust, monetary lien, financing conveyance or other voluntary monetary lien of any kind and all appropriate modes of financing real estate ownership, which encumbers Landlord's fee estate.

1.25 Option to Purchase. The term "Option to Purchase Agreement" shall mean that certain Option to Purchase and Right of First Refusal Agreement in form as attached to the DDA as Attachment No. 20, to be entered into by Agency and Owner pursuant to Article 17 of the Ground Lease. The Option to Purchase Agreement grants to Agency an option to purchase, and a right of first refusal to purchase, the Owner's leasehold interest in the Housing Parcel, and all Improvements within such parcel, at any time from the 55th anniversary of Conversion until the expiration of the extended term of the Ground Lease.

1.26 Party or Parties. The term "Party" shall refer to one of Landlord or Tenant; the term "Parties" shall refer to both Landlord and Tenant.

1.27 Permanent Loan. The term "Permanent Loan" refers to the loan encumbering the Leased Premises as of the Commencement Date and any refinancing thereof.

1.28 Permitted Transfer. The term "Permitted Transfer" means any of the following:

- a. A conveyance of a security interest in the Housing Parcel in connection with any Senior Loan and any transfer of title by foreclosure, deed or other conveyance in lieu of foreclosure in connection therewith;
- b. A conveyance of the Housing Parcel to any Affiliate;
- c. The inclusion of equity participation by Tenant by addition of limited partners to Tenant's limited partnership, or similar mechanism, and the purchase of any such limited partnership interest or interests by the General Partner;
- d. The removal for cause of any General Partner by a limited partner of the Partnership, and the replacement thereof;
- e. The lease for occupancy of all or any part of the Improvements within the Housing Parcel; and
- f. The granting of easements or permits to facilitate the development of the Housing Parcel in accordance with this Ground Lease.

g. The removal of the Managing General Partner by the Co-General Partner and the replacement thereof with a non-profit corporation with 501(c)(3) status.

h. The transfer of shares in ROEM Development Corporation provided that Robert Emami continues to own more than 50% of the issued and outstanding voting shares of, and remains in control of, ROEM Development Corporation.

i. The transfer of membership interests in Squier Properties, LLC, provided that Gary Squier continues to own more than 50% of the membership interests of, and remains in control of, Squier Properties, LLC.

Any transfer described in clauses a., b. and g. shall be subject to the reasonable approval of documentation by the Landlord's Executive Director or designee.

1.29 REA. The term "REA" refers to the Reciprocal Easement Agreement encumbering the Property and recorded concurrently herewith.

1.30 Regulatory Agreement. The term "Regulatory Agreement" refers to that certain Regulatory Agreement encumbering the Property and recorded concurrently herewith, and subjecting the Property to use as affordable housing for a term of 55 years, in form as attached hereto as Exhibit E.

1.31 Rent. The term "Rent" as used herein shall have the meaning described in Section 4.2.

1.32 Representatives. The term "Representatives" as used herein shall mean elected and appointed officials, officers, agents, contractors, employees and attorneys.

1.33 Retail Parcel. The term "Retail Parcel" refers to the parcel on the ground floor of the Improvements containing approximately 4,865 square feet (net) of space, suitable for retail/commercial use.

1.34 Right of First Refusal (Retail). The term "Right of First Refusal" shall mean the right of first refusal of the Agency to purchase the Retail Parcel from Owner together with the Retail Improvements therein as described in Section 226 of the DDA.

1.35 Term. The term "Term" as used herein shall mean the term of this Lease as described in Section 3.1 below.

1.36 Transfer Documents. The term "Transfer Documents" as used herein shall have the

meaning described in Section 9.2.

1.37 Transfer/Transferee. The term "Transfer" as used herein shall mean and include any conveyance, transfer, sale, assignment, lease, Lease, license, concession, franchise, gift, hypothecation, Mortgage, pledge, encumbrance, or the like, to any person or entity ("Transferee"), excluding any Leasehold Mortgage which encumbers Tenant's leasehold estate created by this Lease.

1.38 Uncured Default(s). The term "Uncured Default(s)" as used herein shall have the meaning described in Section 14.2.5.

ARTICLE 2 - LEASED PREMISES

2.1 Leased Premises.

The premises demised and leased hereunder ("**Leased Premises**") consist of the real property located in the City and County of San Diego, State of California, and more particularly described in the legal description for that property attached hereto as Exhibit A, and depicted on the Site Map; together with all right, title and interest of Landlord in and to all rights of way or use, servitudes, licenses, easements, tenements, hereditaments and appurtenances now or hereafter belonging or pertaining to the use of such real property during the Term, including, but not limited to, any easements granted to Tenant pursuant to the REA described in Section 5.5, but expressly excluding all Improvements now or to be located thereon. The parties agree that Tenant alone shall be entitled to all federal tax attributes of ownership of the Improvements, including without limitation, the right to claim depreciation or cost recovery deductions and the right to claim low-income housing tax credits thereon. The Property has been subdivided by a vertical parcel map into the following parcels: the Housing Parcel, the Retail Parcel A, the Retail Parcel B, and the Agency Garage Parcel. (The Retail Parcel A and the Retail Parcel B are referred to collectively as the "Retail Parcels.") The Leased Premises include the Housing Parcel and the Retail Parcels; the Leased Premises do not include the Agency Garage Parcel. Further, that portion of the Improvements within the Agency Garage Parcel are (or will be) owned by Landlord.

2.2 Leased Premises; Condition of Premises; Zoning.

Prior to the Commencement Date, Tenant, at Tenant's sole expense, shall have investigated and approved the physical condition of, and the condition of title with respect to, the Leased Premises and the Improvements. Tenant acknowledges and agrees that Landlord makes no representation or warranty, express or implied, written or oral, with respect to the condition of the Leased Premises or the Improvements, or their fitness or availability for any particular use.

2.2.1 Landlord makes no representations, express or implied, with respect to the legality, fitness, or desirability of the Leased Premises for Tenant's intended use. If Tenant desires to do so, Tenant shall have the right to conduct its own investigation, to its satisfaction, with respect to any matters affecting Tenant's ability to use the Leased Premises for Tenant's intended use. Landlord shall deliver title to the Leased Premises to Tenant in the condition required by Section 210 of the DDA.

2.2.2 Tenant hereby acknowledges and agrees, and represents and warrants to Landlord, that Tenant is taking possession of the Leased Premises and acquiring leasehold title to the Leased Premises "as is" as of the Commencement Date and "with all faults" and without Landlord's covenant, warranty or representation as to physical condition, title, leases, rents, revenues, income, expenses, operation, zoning or other regulation, compliance with law, suitability for particular purposes or any other matter whatsoever. Tenant acknowledges and agrees that Landlord has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to any matter whatsoever, including but not limited to: (a) value; (b) the income to be derived from the Leased Premises; (c) the suitability of the Leased Premises for any and all activities and uses which Tenant may conduct thereon, including the possibilities of future development of the Leased Premises; (d) the fitness for a particular purpose of the Leased Premises; (e) the manner, quality, state of repair or lack of repair of the Leased Premises; (f) the nature, quality or condition of the Leased Premises, including without limitation, soils and geology; (g) the compliance of or by the Leased Premises or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (h) the conformity of the Leased Premises to past, current or future applicable zoning or building requirements; (i) deficiency of any drainage; (j) the proximity of the Leased Premises to, or that the Leased Premises may be on or near an earthquake fault line; (k) the existence or non existence of vested land use, zoning or building entitlements affecting the Leased Premises; or (l) any other matter. Tenant further acknowledges and agrees that having been given the opportunity to inspect the Leased Premises and such information and documentation affecting the Leased Premises as Tenant has deemed necessary or appropriate, Tenant is relying solely on its own investigation of the Leased Premises and review of such files, and not on any information provided or to be provided by

Landlord. Tenant further acknowledges and agrees that any information made available to Tenant or provided or to be provided by or on behalf of Landlord with respect to the Leased Premises was obtained from a variety of sources and that Landlord has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information. Landlord is not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Leased Premises, or the operation thereof, furnished by any real estate broker, agent, employee, servant or other person. Tenant further acknowledges and agrees that to the maximum extent permitted by law and except as otherwise provided herein, the lease of the Leased Premises as provided for herein is made on an "as is" condition and basis, with all faults, and that Landlord has no obligations to make repairs, replacements or improvements.

2.2.3 Effective on the Commencement Date, Tenant releases and discharges Landlord, Centre City Development Corporation ("CCDC") and the City of San Diego ("City") and their respective Representatives, for all costs, claims, demands, expenses, actions, causes of action, liability, loss, or damage, including attorneys' fees and costs ("Claims") Tenant may have at any time against the Landlord, CCDC or City arising from the presence of Hazardous Material on the Leased Premises, or the seismic or geological condition of the Leased Premises, during any period of time after the Commencement Date, except to the extent such Claims arise from the gross negligence or willful misconduct by the Landlord, CCDC or City (as applicable). Tenant expressly waives the benefits of Civil Code Section 1542, which provides as follows:

"A general release does not extend to claims which the creditor does not know or expect to exist in his favor at the time of executing the release which if known by him must have materially affected his settlement with the debtor."

2.2.4 Landlord has provided to Tenant without any representation or warranty all information in Landlord's possession or control regarding the condition of the Leased Premises, including information concerning Hazardous Materials and seismic faulting. Landlord makes no representation or warranty, express or implied regarding any conditions of the Leased Premises. It shall be the sole responsibility of Tenant, at Tenant's expense, to investigate and determine all conditions of the Leased Premises and the suitability of the Leased Premises for the uses to which the Leased Premises is to be put in accordance with this Agreement. If the conditions of the Leased Premises are not in all respects entirely suitable for the uses to which the Leased Premises will be put, then it is the responsibility and obligation of Tenant, as between Landlord and Tenant, without cost to Landlord, to take such action as may be necessary to place the Leased Premises in all respects in a condition entirely suitable for its development and use in accordance with this Agreement. Except as provided in Section 2.1d of the Environmental Indemnity, as between Landlord and Tenant, Tenant agrees to perform and be responsible for the clean-up of any Hazardous Materials on, in, under or within the Leased Premises, at the sole cost, risk and expense

of Tenant as part of the Development Costs. Tenant shall defend, indemnify and hold harmless the Landlord, the City, CCDC and their respective officers, agents, employees, contractors and attorneys from any claims, liability, injury, damages, costs and expenses (including, without limiting the generality of the foregoing, the cost of any required clean up of Hazardous Materials, and the cost of attorneys' fees) which may be sustained as the result of the presence or clean up of Hazardous Materials on, in, or under the Leased Premises.

ARTICLE 3 - TERM

3.1 Term

The Term of this Lease shall be that period of time beginning on the Commencement Date and ending at midnight on the sixty-fifth (65th) anniversary of the Commencement Date, unless the Term of this Lease is sooner terminated as provided for herein.

3.2 Option to Extend.

Provided that Tenant is not in default under this Lease, the Agreement Affecting Real Property, the Agency Loan Documents or the Permanent Loan Documents on the date of exercising the Option and on the last day of the initial Term, Tenant may extend the term of this Lease ("Option") for one (1) additional period of twenty five (25) years ("Extended Term") by giving written notice to Landlord at least one hundred eighty (180) days but not more than three hundred sixty (360) days before expiration of the initial Term. Tenant shall have no other right to extend the term of this Lease beyond the Extended Term. The Option is personal to Tenant and may not be assigned or transferred either voluntarily or by operation of law. If the Retail Improvements are sold, the purchaser of the Retail Improvements (or its assignee) may only extend the term of its lease if Tenant elects to exercise the Option.

3.3 Possession; Covenant of Quiet Enjoyment.

3.3.1 Sole possession of the Leased Premises shall be delivered to Tenant on the Commencement Date free and clear of any other tenancies or rights of occupancy or use, and Tenant shall take possession as of that date.

3.3.2 Landlord covenants that, subject to the limitations expressly set forth herein, Tenant, upon Tenant's timely payment of the Rent and performance of Tenant's covenants and obligations under this Lease, may quietly have, hold, and enjoy the Leased Premises during the Term of this Lease, without hindrance or interruption by Landlord or anyone claiming by or through Landlord, subject to Landlord's right to enter upon the Leased Premises as expressly

provided herein.

ARTICLE 4 - RENT PAYMENTS

4.1 Rent.

The Rent payable for each Lease Year (the "**Rent**") shall be as set forth in Section 4.2 hereto. The Rent shall be paid in arrears for each calendar year (or portion of a calendar year for the first and last months of the Term) no later than April 30 of the following calendar year during the Term. The Rent shall be prorated on a per diem basis for the first and last partial years of the Term (assuming the Commencement Date is not January 1). The last payment of Rent shall be due within twenty (20) days following the termination of this Lease.

4.2 Rent Amounts.

4.2.1 Housing Parcel.

In years one (1) through fifty-five (55) of the Lease, Rent shall be one dollar (\$1.00) per annum. Commencing on the 56th anniversary of the Commencement Date, Tenant shall pay Rent in the amount of ten percent (10%) of the Effective Gross Income annually until the end of the Term; provided, however, that the annual Rent for any year shall not be less than the prior year's Rent.

4.2.2 Retail Parcels.

Tenant may either sublease the Retail Parcels or sell the Retail Improvements.

(i) Sublease. If Tenant subleases the Retail Parcels, then Tenant shall pay as Rent twelve and one-half percent (12 1/2%) of the Effective Gross Income from such sublease(s); provided, however, that the annual Rent for any year shall not be less than the prior year's Rent.

(ii) Sale. If Tenant sells the Retail Improvements on or before the second anniversary of the issuance of a temporary certificate of occupancy for the Retail Improvements, then at the close of such sale, Tenant shall pay to Landlord as prepaid rent for the entire Term and, if the Option is exercised, the Extended Term, the amount of three hundred eight thousand dollars (\$308,000). If the Retail Improvements are sold after the second anniversary of the issuance of a temporary certificate of occupancy, the amount of the prepaid rent shall be increased by five percent (5%) per annum from the date of such second anniversary until the closing of the sale of the Retail Improvements. If the Retail Improvements are sold, then this Lease shall be amended to

remove the Retail Parcel from the Legal Description of the Leased Premises, and Landlord shall enter into a separate ground lease with the purchaser of the Retail Improvements, on identical terms and conditions as set forth herein, except that all Rent has been prepaid, for the remainder of the Term and Extended Term. The Retail Parcels shall be subject to the Option to Purchase, as set forth at Article 17.

4.2.3 Effective Gross Income.

The term "Effective Gross Income" means the total gross income derived by Tenant from the rental of apartment units, retail space and parking spaces within the Leased Premises determined on a cash basis, including but not limited to monthly rent and, except as provided below, real property operating expenses of the Leased Premises paid by tenants pursuant to their rental agreements customarily paid by apartment owners and not by apartment renters as of the date of this Lease in first class apartment projects in the San Diego County area, either to Landlord as a reimbursement or to third party providers. Effective Gross Income shall not include amounts paid to Tenant as (i) late charges or interest, (ii) reimbursements for non-sufficient fund charges by banks on subtenants' checks, (iii) security and/or other deposits paid by subtenants until applied in payment of rents and/or other charges to be included in Effective Gross Income, (iv) condemnation proceeds, (v) financing proceeds, (vi) proceeds from the sale and/or rental of personal property including, without limitation, furniture and/or appliances, or from any assignment of the Leasehold under this Lease, (vii) vending machine income and/or rents paid by vending machine companies, (viii) settlements or payments in satisfaction of claims for damage to property, injury or death to persons, faulty construction or maintenance, and in the case of security, cleaning and/or similar deposits, the retention of same to pay for expenses incurred due to a subtenant's failure to surrender its premises in the condition required by its sublease, (ix) real and/or personal property tax refunds and other vendor rebates or adjustments, (x) judgment awards and settlement payments to the extent required to reimburse Tenant for its attorneys' fees and collection costs, (xi) insurance proceeds, (xii) water and other utility expense reimbursements to the extent of utility charges actually paid by Landlord or paid by subtenants to utility providers, and (xiii) consideration for providing access to the Leased Premises and/or subtenants by service providers including, without limitation, telephone and/or cable providers. Effective Gross Income shall also be reduced by any repayments or refunds by Tenant of amounts previously paid to Tenant and included in Effective Gross Income. At the time Tenant pays the Rent, Tenant shall deliver to Landlord an income statement itemizing the Effective Gross Income for the previous calendar year. The Effective Gross Income arising from the Retail Parcel, if any, shall be computed and stated separately from the Effective Gross Income arising from the Housing Parcel and the Garage Parcel.

4.3 Payment of Rent.

The Rent is payable only from the Effective Gross Income from the Improvements. Rent

not paid because of insufficient funds shall accrue and be payable from the first available Effective Gross Income. The annual audited financial statement of Revenue and Operating Expenses and balance sheet for the Improvements, prepared at the Tenant's expense pursuant to the Agency Note, by an independent certified public accountant reasonably acceptable to the Agency, shall form the basis for determining the Effective Gross Income.

4.4 Miscellaneous.

All payments of Rent shall be made to Landlord as they become due in lawful money of the United States of America in cash or by corporate check drawn on sufficient available funds, at such place as is designated herein by Landlord for the receipt of notices or such other place as shall be designated to Tenant by Landlord in writing from time to time.

4.5 Accuracy of Statements

Acceptance by Landlord of any monies paid by Tenant as Rent as shown by any certified or audited statement shall not constitute an admission of the accuracy of such statement or of the amount of such Rent. Landlord shall not have the right to challenge such amount unless it delivers written notice thereof to Tenant within one hundred twenty (120) days of receipt of such monies whereupon Landlord shall have the right to audit Tenant's books and records pursuant to Section 4.6.

4.6 Records and Audit

At all times during the Term, Tenant shall keep and maintain complete, accurate and customary records and books of account relating to the Leased Premises and shall retain such materials for the two (2) most recent completed Lease Years. At all reasonable times during normal business hours, either on the Leasehold or such other office of Tenant at which said records and books of account may be kept, Landlord and its duly authorized agents, attorneys and accountants shall have the right to inspect, audit and make copies of any and all of such records and books of account, including copies of any information returns required by or furnished to any governmental authority, together with any and all other records and documents relating to the Rent. If Tenant does not maintain such books and records at an office within fifty (50) miles of the Property, then Tenant shall prepare and deliver to Landlord certified duplicates of such books and records upon Landlord's request, provided that Landlord shall not make such requests more than once every twelve (12) months.

4.7 Results of Inspection

Landlord shall not be bound by the results of any inspection and/or audit conducted

pursuant to Section 4.6. If, based upon such inspection, Landlord reasonably determines that Rent as previously reported for the period inspected were understated, then Tenant shall pay such amount to Landlord within fifteen (15) days after receipt of a Deficit Notice. If, based upon such inspection, Landlord reasonably determines that Tenant has made an overpayment, then Landlord shall promptly deliver written notice thereof to Tenant, together with a copy of the audit relating thereto, and Tenant shall receive a credit in such amount against any payment(s) due Landlord under this Lease, as selected by Tenant. Landlord shall bear all of its costs associated with the inspection unless (i) it discloses that the Tenant has failed to maintain the books of account and records required by Section 4.6, or (ii) it discloses that the amounts due Landlord for the period inspected were understated by more than four percent (4%). Tenant shall promptly reimburse Landlord for the actual, documented reasonable cost of such inspection if obligated to do so. Tenant shall have the right to challenge the determination of Landlord or its auditors by delivering written notice thereof to Landlord within fifteen (15) days after receipt of a Deficit Notice, whereupon the parties shall arbitrate this matter in accordance with the rules then pertaining of the American Arbitration Association, or its successor, together with the right to take depositions.

4.8 Triple Net Lease; No Counterclaim, Abatement, etc.

All Rent shall be paid absolutely net to Landlord, so that this Lease shall yield to Landlord the full amount of the installments of all Rent throughout the Term, and (unless otherwise expressly provided herein) shall be paid without assertion of any counterclaim, setoff, deduction or defense and, except as otherwise expressly provided herein, without abatement, suspension, deferment, diminution or reduction. Under no circumstances or conditions, whether now existing or hereafter arising, or whether beyond the present contemplation of the parties, shall Landlord be expected or required to make any payment of any kind whatsoever or be under any obligation or liability hereunder, except as herein expressly set forth. Landlord shall have no responsibility for any costs of repair, maintenance or replacement whatsoever. Except as otherwise expressly provided herein, this Lease shall continue in full force and effect, and the obligations of Tenant hereunder shall not be released, discharged or otherwise affected, by reason of: (a) any damage to or destruction of the Leased Premises or Improvements or any part thereof or any Taking of the Leased Premises or the Improvements or any part thereof; (b) any restriction or prevention of or interference with any use of the Leased Premises or the Improvements or any part thereof which materially interferes with Tenant's possession or use of the Leased Premises (other than a breach of Landlord's covenant of quiet enjoyment set forth at Section 3.3); (c) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other proceeding relating to Landlord, or any action taken with respect to this Lease by any trustee or receiver of Landlord with respect to this Lease by any trustee or receiver of Landlord, or by any court, in any proceeding; (d) any claim which Tenant has or might have against Landlord; (e) any failure on the part of Landlord to perform or comply with any of the terms hereof or of any other agreement with Tenant; or (f) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, in

each case, whether or not Tenant shall have notice or knowledge of any of the foregoing. Except as expressly provided in this Lease, the obligations of Tenant shall be separate and independent covenants and agreements.

ARTICLE 5 - USE OF THE LEASED PREMISES, MAINTENANCE AND HAZARDOUS MATERIALS

5.1 Use of the Leased Premises.

5.1.1 General.

Tenant covenants and agrees for itself, its successors and assigns, which covenants shall run with the land and bind every successor or assign in interest of Tenant, that during use of the Leased Premises pursuant to this Lease, neither the Leased Premises nor any portion thereof shall be improved, used or occupied in violation of any Governmental Restrictions.

5.1.2 Affordable Housing.

Tenant, its successors and assigns, shall use the Leased Premises only for the uses permitted in the DDA, the Agreement Affecting Real Property, the Regulatory Agreement and this Lease, specifically including the following:

(1) The Leased Premises shall be used for residential rental uses, consisting of 65 dwelling units, including 23 one-bedroom units, 16 two-bedroom units and 26 three-bedroom units, with parking and amenities, and ground floor retail uses, all as described in the Scope of Development, in accordance with this Agreement.

(2) All of the residential units are reserved for households with Very Low and Extremely Low income (and as such shall be rented to shall be rented at an Affordable Rent to persons of Very Low and Extremely Low Income as defined in the Agreement Affecting Real Property). The number of Units by unit-types and the Affordable Rent applicable to the Units by unit-types, shall be as set forth in the Agreement Affecting Real Property and the Schedule of Affordable Rents attached thereto. Of the 65 units, 23 shall be set aside as supportive housing units targeted for the special needs population.

5.1.3 Unrestricted Housing.

From and after fifty-fifth (55th) anniversary of the Conversion Date, Owner and its successors, assigns, and each successor in interest to Owner's interest in the Property or any part

thereof, hereby may utilize the Housing Parcel as market-rate apartments with no restrictions on the amount of rent that can be charged for the residential units.

5.2 Management

Tenant shall be responsible for the operation of the Improvements either by direct management or by contracting its managerial functions to a third party Leased Premises manager reasonably acceptable to the Landlord which Leased Premises manager will be charged with managing the Improvements on behalf of the Tenant. The Landlord shall have the right to review and approve any such entity prior to its selection by the Tenant. Such approval shall not be unreasonably withheld. Tenant shall include in any such Leased Premises management agreement a provision providing for the termination of the agreement in the event that the Leased Premises manager violates any federal, state or local health and safety laws and regulations which are not cured within thirty (30) days following the giving of notice of such violations by the Landlord or any other governmental entity; provided, however, that in the case of a violation that cannot be cured within such thirty (30) day period, that such cure shall be commenced within thirty (30) days of notification and shall be diligently prosecuted to completion.

5.3 Maintenance

Tenant, its successors and assigns, shall maintain the Improvements on the Leased Premises in the same aesthetic and sound condition (or better) as the condition of the Leased Premises at the time Landlord issues a Release of Construction Covenants pursuant to the Agreement, reasonable wear and tear excepted. This standard for the quality of maintenance of the Leased Premises shall be met whether or not a specific item of maintenance is listed below. However, representative items of maintenance shall include frequent and regular inspection for graffiti or damage or deterioration or failure, and immediate repainting or repair or replacement of all surfaces, fencing, walls, equipment, etc., as necessary; emptying of trash receptacles and removal of litter; sweeping of public sidewalks adjacent to the Leased Premises, on-site walks and paved areas and washing-down as necessary to maintain clean surfaces; maintenance of all landscaping in a healthy and attractive condition, including trimming, fertilizing and replacing vegetation as necessary; cleaning windows on a regular basis; painting the buildings on a regular program and prior to the deterioration of the painted surfaces; conducting a roof inspection on a regular basis and maintaining the roof in a leak-free and weather-tight condition; maintaining security devices in good working order. In the event Tenant, its successors or assigns fails to maintain the Improvements in accordance with the standard for the quality of maintenance, Landlord or its designee shall have the right but not the obligation to enter the Leased Premises upon reasonable notice to Tenant, correct any violation, and hold Tenant, or such successors or assigns responsible for the cost thereof, and such cost, until paid, shall constitute a lien on the Leased Premises.

5.4 No use of Hazardous Materials on the Leased Premises.

Tenant covenants and agrees that it shall not, and that any Lease shall provide that the Subtenant shall not, treat, use, store, dispose, release, handle or otherwise manage Hazardous Materials on the Leased Premises except in connection with any construction, operation, maintenance or repair of the Improvements or in the ordinary course of its business, and that such conduct shall be done in compliance with all applicable federal, state and local laws, including all Environmental Laws. Tenant's violation of the foregoing prohibition shall constitute a breach hereunder and Tenant shall indemnify, hold harmless and defend the Landlord for such violation as provided below.

5.5 Notice and Remediation by Tenant.

Tenant shall promptly give the Landlord written notice of any reportable release of any Hazardous Materials, and/or any notices, demands, claims or orders received by Tenant from any governmental agency pertaining to Hazardous Materials which may affect the Leased Premises.

5.6 Environmental Indemnity.

Tenant agrees to indemnify, protect, defend, save and hold harmless Landlord and its successors and assigns, officers, members, directors, shareholders, and Representatives from and against any and all debts, duties, obligations (including any remediation obligations or clean up costs imposed by any Governmental Restrictions), liabilities, suits, claims, demands, penalties, fines, causes of action, damages, losses, costs and expenses, including, without limitation, attorneys' fees and expenses (and including any allocable costs of any of the foregoing parties' in-house counsel) arising on or accruing as a result of the presence, use, storage, handling, treatment, generation, release, discharge, refining, manufacturing, dumping or disposal of any Hazardous Materials or other kinds of contamination or pollutants of any kind into the air, soil, groundwater or surface water on, under, in or about the Leased Premises (whether legal or illegal, accidental or intentional), that is caused by Tenant, any subtenants, or its Representatives. The indemnity provided in this Section 5.6 shall survive the Termination of the Lease.

5.7 Termination; Subtenants.

The agreements and obligations of Tenant under this Article 5 with regard to indemnification of Landlord shall survive the scheduled termination or sooner expiration of the Term for any reason for five (5) years and all claims relating thereto must be delivered in writing to Tenant within such period. No action by any subtenant in violation of its Lease shall constitute a cause to terminate this Lease provided that Tenant diligently pursues its available remedies

against such subtenant.

5.8 Agreement Affecting Real Property, Reciprocal Easement Agreement, Covenants, Conditions and Restrictions, Regulatory Agreement.

The Leased Premises are subject to that certain Agreement Affecting Real Property, Reciprocal Easement Agreement, Covenants, Conditions and Restrictions and to that certain Regulatory Agreement. Tenant shall comply with all obligations of Owner under the Agreement Affecting Real Property, the REA, the Covenants, Conditions and Restrictions and the Regulatory Agreement, each for the respective term of that agreement.

ARTICLE 6 – CONSTRUCTION AND OWNERSHIP OF IMPROVEMENTS

6.1 Demolition and Site Preparation.

Tenant shall have the sole responsibility for preparing the Leased Premises for constructing the Improvements, including, without limitation, demolishing any existing improvements on it.

6.2 Construction of Improvements.

Tenant shall develop and construct, or shall cause the development and construction of, the Improvements on the Property as set forth in the Scope of Development, in substantial conformance with the Approved Plans and Drawings and upon the schedule set forth in the Schedule of Performance, subject to events of force majeure and written extensions granted by Landlord. All Improvements, together with all off site improvements that may be constructed by reason of governmental requirements as a condition to the construction of Improvements upon the Leased Premises, shall be constructed in a good and workmanlike manner using materials of good quality and in substantial compliance with the Approved Plans and Drawings as modified pursuant to this Article 6, and shall comply with all applicable governmental permits, laws, ordinances and regulations. Landlord agrees to execute such grants of easement, or rights of way, as may be necessary to cause the installation of utility systems which Tenant reasonably considers necessary to the efficient development and operation of the Property in substantial compliance with the Approved Plans and Drawings.

6.3 Construction Cost.

Tenant shall bear the sole cost of developing the Property and constructing the Improvements, including all fees and mitigation measures; provided, however, that as provided in the DDA the Agency shall pay for that portion of the Improvements to be constructed within the Agency Garage Parcel up to the amount of the “Agency Garage Purchase Price” as defined in the

DDA.

6.4 Right of Access.

During normal construction hours, representatives of Landlord shall have the reasonable right of access to the Property without charges or fees for the purpose of inspecting the work being performed in constructing the Improvements; provided, however, that such representatives shall present and identify themselves at Tenant's construction office, be accompanied by a representative of Tenant while on the Property and obey Tenant's, or its contractor's safety rules and regulations.

In addition, Landlord shall have the right to authorize the City and other public agencies to enter the Property upon the same terms after reasonable prior written notice to Tenant, and in a manner which minimizes the interference with Tenant's use thereof, for the purpose of constructing, reconstructing, maintaining or repairing any public improvements or public facilities located on the Property. Landlord shall deliver written notice of the identity of its representatives to Tenant before such representatives enter the Property. Landlord hereby indemnifies and holds Tenant, and its contractors, subcontractors, agents, representatives and employees, and the Property, harmless from and against any loss, cost, damage or liability, including, without limitation, attorneys' fees, which results from the exercise by Landlord, or any party acting under Landlord's authority, of the rights granted by this Section 6.4.

6.5 Governmental Approvals.

If requested by Landlord in writing, Tenant covenants and agrees to deliver to Landlord conformed copies (and certified copies of all recorded instruments) of all governmental approvals and permits obtained by Tenant for the demolition, construction, alteration, razing or reconstruction of any Improvements upon the Leased Premises in accordance with the Approved Plans and Drawings. In no event shall Tenant commence construction of any Improvements pursuant to the provisions of this Article 6 until such time as Tenant shall have obtained all necessary governmental approvals and permits to so construct such Improvements.

6.6 Force Majeure.

All obligations of Tenant to promptly commence and thereafter diligently prosecute to completion construction of the Improvements shall be extended by such number of days as Tenant shall be delayed by reason of events of force majeure pursuant to Section 14.8.

6.7 Release of Construction Covenants.

Following completion of the Improvements on the Leased Premises, and Landlord's determination that the completed Improvements comply with the DDA, Landlord shall record a

Release of Construction Covenants on the Leased Premises in accordance with Section 324 of the DDA. Following the recording of the Release of Construction Covenants, the covenants contained at Sections 6.1 and 6.2 shall terminate and be of no further force and effect with respect to the Leased Premises. Further, following the recording of a Release of Construction Covenants, any successor-in-interest to the Leased Premises or any portion thereof shall have no obligations pursuant to Sections 6.1 and 6.2.

6.8 Title to Improvements.

Notwithstanding anything that is or appears to be to the contrary herein, any and all Improvements erected on the Leased Premises (which do not include the Agency Garage Parcel) as permitted by this Lease, as well as any and all alterations or additions thereto or any other Improvements or fixtures on the Leased Premises, shall be owned by Tenant until the expiration of the Term or sooner termination of this Lease. That portion of the Improvements constructed within the Agency Garage Parcel, as well as any and all alterations or additions thereto or any other Improvements or fixtures within the Agency Garage Parcel, shall be owned by Landlord. Upon the expiration or sooner termination of this Lease, all Improvements and all alterations, additions or improvements thereto that are made to or placed on the Leased Premises by Tenant or any other person shall be considered part of the real property of the Leased Premises and shall remain on the Leased Premises and become the property of Landlord; provided that Tenant (or its Subtenants, as the case may be) shall retain ownership of and shall be required to remove furniture, equipment, machinery, trade fixtures and removable personal property except as may be left on the Leased Premises with Landlord's prior written approval. Except as otherwise expressly provided in this Lease, any non-disturbance agreement approved by Landlord, any easement approved by Landlord, or any written instrument executed by Landlord which expressly states that Landlord is waiving its rights under this Section 6.8 to receive such Improvements free and clear of all other claims, said Improvements shall become Landlord's property free and clear of any and all rights to possession and all claims to or against them by Tenant or any third person or entity. Tenant hereby covenants and agrees to promptly execute and acknowledge a quitclaim deed or any other documentation reasonably required by Landlord to effectuate the provisions of this Section, which covenant shall survive termination of this Lease.

6.9 Notice of Non Responsibility.

After the recordation of the Release of Construction Covenants for the Improvements in the Official Records, Tenant shall provide Landlord with prior written notice of not less than fifteen (15) days before commencing construction of any structural alteration of the Improvements, or any non structural alteration which will cost more than Fifty Thousand Dollars (\$50,000.00), and shall permit Ground Landlord to record and post appropriate notices of non responsibility on the Property. The foregoing Fifty Thousand Dollar (\$50,000.00) limitation shall be increased each

calendar year by the corresponding increase in the Index.

6.10 Subsequent Alterations.

Following the initial construction of the Improvements in accordance with the Scope of Development, Tenant may from time to time, at its sole expense, make improvements and other alterations to the Property which Tenant reasonably determines to be beneficial. Tenant shall not make any alteration or improvement to the Property the cost of which exceeds one hundred thousand dollars (\$100,000) without Landlord's prior written consent, which shall not be unreasonably withheld or delayed. The foregoing dollar amount limitations shall be increased each calendar year by the corresponding increase in the Index. Landlord acknowledges that various of the standards set forth in the Scope of Development with respect to materials, aesthetic styles and other matters, while appropriate in 2008 with respect to the initial Improvements, may become outdated or otherwise inappropriate over the Term, and Landlord agrees that it shall not be entitled to prevent Tenant from varying from such standards from time to time with respect to the Improvements to the extent that Tenant reasonably determines that alternative materials, designs, technologies and etc. are at least comparable (if not preferable) with respect to the image and operation of the Property at the time Tenant proposes to make any alterations. Tenant shall timely pay any obligation incurred by Tenant with respect to any such alterations or improvements that could become a lien against the Property and shall defend, indemnify and hold Landlord harmless in connection therewith.

ARTICLE 7 - REPAIRS AND MAINTENANCE; LIENS

7.1 Landlord's Nonresponsibility.

During the Term of this Lease, Landlord shall not be required to maintain or make any repairs or replacements of any nature or description whatsoever to the Leased Premises or the Improvements thereon, except as expressly provided elsewhere herein.

7.2 Tenant's Duty to Maintain Premises.

Except as expressly otherwise provided for herein, throughout the Term of this Lease, Tenant shall, at Tenant's sole cost and expense, maintain or cause to be maintained the Leased Premises and the Improvements now or hereafter located on the Leased Premises in good and clean condition and repair, free of debris, and in compliance with (i) all Governmental Restrictions and (ii) all applicable rules, orders, and regulations of any insurance company insuring all or any part of the Leased Premises or the Improvements thereon or both, and Tenant shall make or cause to be made whatever repairs and replacements are required by such enactments or provisions or future

enactments or provisions.

7.3 Damage or Destruction.

7.3.1 In the event any of the Improvements are damaged by an insured casualty, Tenant promptly shall remove the debris resulting from such event, and within a reasonable time, not to exceed ninety (90) days from date of casualty, thereafter shall apply insurance proceeds to the repair or restoration of the Improvements so damaged to their condition immediately prior to such casualty, such repair or restoration to be performed in accordance with all provisions of this Lease.

7.3.2 In the event any of the Improvements are damaged by an uninsured casualty, Tenant promptly shall remove the debris resulting from such event, and within a reasonable time thereafter, not to exceed one hundred eighty (180) days from date of casualty, shall either (i) repair or restore the Improvements so damaged, to the extent economically feasible, such repair or restoration to be performed in accordance with all provisions of this Lease, or (ii) erect other Improvements in such location, provided all provisions of this Lease are complied with, or (iii) demolish the damaged portion of such Improvements, restore any remaining Improvements to an architectural whole, remove all rubbish, and pave or plant grass and otherwise restore the area to a neat, orderly, sanitary and attractive condition. Landlord shall have the option to choose among the aforesaid alternatives subject to rights of permitted Lenders secured by the Lease, but Tenant shall be obligated to perform one of such alternatives. Tenant shall give notice to Landlord within a reasonable time, not to exceed thirty (30) days from date of casualty, of which alternative it elects. Nothing contained in subsections 7.3.1 or 7.3.2 shall be construed as permitting the abatement or reduction of Rent, or the termination of this Lease.

7.3.3 Notwithstanding anything to the contrary contained in this Lease, and if permitted by the Lender and Tenant's tax credit investor, if (i) there is damage to or destruction of the Improvements on the Leased Premises during the last five (5) years of the Term (including all exercised options) and the cost of repairing said damage or destruction exceeds the cost of demolishing and removing the remaining Improvements on the Leased Premises, or (ii) there is damage to or destruction of the Improvements on the Leased Premises which (1) arises from a cause which is not required to be insured against under any provision of this Lease, or (2) arises from a cause which is in fact insured against in compliance with the terms of this Lease, but for which the recoverable proceeds of such insurance are less than 90% of the cost to repair said damage or destruction, and (3) the cost to Tenant (which is not covered by insurance proceeds) of repairing said damage or destruction exceeds the cost of demolishing and removing the remaining Improvements on the Leased Premises, or (iii) there is damage to or destruction of the Improvements on the Leased Premises and the Governmental Restrictions then in effect with respect to the Leased Premises prohibit the construction of economically viable replacement

Improvements with respect to a use which Tenant either has the right to engage in under this Lease or which Tenant desires to engage in and Landlord will permit to be engaged in, then Tenant shall have the option to terminate this Lease, subject to Tenant's satisfaction of all of the following requirements: (A) Tenant shall, within ninety (90) days after the event giving rise to such right to terminate, give Landlord written notice of its election to terminate ("Notice of Election to Terminate"); and (B) Tenant shall, at the election of Landlord (which election shall be communicated in writing to Tenant ("Demolition Notice") within thirty (30) days of Landlord's receipt of the Notice of Election to Terminate), raze and remove the damaged or destroyed Improvements and any other Improvements on the Leased Premises that Landlord may designate in the Demolition Notice, and shall complete said demolition and removal and shall vacate the Improvements on the Leased Premises within ninety (90) days of Landlord's delivery of the Demolition Notice (which vacation date shall fix the termination date of this Lease); and (c) Tenant shall comply with all provisions of Article 15 of this Lease consistent with this Section 7.3 prior to or concurrent with Tenant's vacation of the Improvements on the Leased Premises. If Tenant fails to satisfy the requirements set forth in (b) or (c) above, the failure to meet such conditions shall not invalidate the termination of this Lease, although, in that event and notwithstanding anything else in this Lease that may be or appear to be to the contrary, Tenant shall remain liable to Landlord in damages for such breach. Any and all property damage insurance proceeds (exclusive of any proceeds applicable to Tenant's trade fixtures, equipment or personal property that would be retained by Tenant at the end of the Term) paid to Tenant as a result of the damage or destruction giving rise to the termination, shall be distributed to the Parties, and any Lender, as their interest are determined.

7.3.4 Except as expressly provided in this Lease, no deprivation, impairment, or limitation of use resulting from any damage or destruction or event or work contemplated by this Section shall entitle Tenant to any offset, abatement, or reduction in Rent, nor to any termination or extension of the Term hereof.

7.4 Liens.

Tenant covenants and agrees to keep the Property and each part thereof, free and clear of and from any and all mechanic's, materialmen's and other liens of record for work or labor done, services performed, materials, appliances or power contributed, used or furnished to be used in or about the Property for or in connection with any operations of Tenant, the construction of Improvements, any alterations, repairs or additions which Tenant may make, permit or cause to be made to the Improvements, or any work or construction by, for or permitted by Tenant on or about the Property. Tenant shall at all times promptly and fully pay and discharge any and all lawful claims upon which any such liens may or could be based, and save and hold Landlord and the Property free and harmless of and from any and all such liens and claims of liens and suits or other proceedings pertaining thereto.

7.4.1 Contesting Liens. Tenant may contest any lien of the nature set forth in this Section in accordance with Section 10.4, and no default shall be deemed to have occurred under this Section.

7.4.2 Participation in Contest. If Tenant shall be involved in any dispute with respect to the payment of any claim as set forth in this Section in excess of Fifty Thousand Dollars (\$50,000), Landlord may, at its option, elect to observe or passively participate in any suit, arbitration, or other settlement procedure with respect thereto. Any such participation by Landlord shall be at Landlord's sole cost and expense, and Landlord shall have no right or power to control the conduct or outcome of such suit, arbitration or settlement.

ARTICLE 8 - LEASEHOLD FINANCING

8.1 Conditions To Obtaining Leasehold Mortgage.

8.1.1 Notwithstanding anything which is or appears to be to the contrary in this Lease, Tenant shall not encumber the estate created by this Lease, except as expressly provided in this Article 8.

8.1.2 Tenant shall have the right, with Landlord's prior written consent, to encumber its Leasehold with any Leasehold Mortgage; provided, that such Leasehold Mortgage shall meet each of the following terms, conditions and requirements:

(i) The Leasehold Mortgage shall contain provisions requiring that copies of all notices of default under said Leasehold Mortgage must be sent to Landlord;

(ii) The Leasehold Mortgage shall not permit or authorize, or be construed to permit or authorize, any Lender to devote the Leased Premises to any uses, or to construct any Improvements thereon, other than those uses and Improvements provided for and authorized by this Lease.

8.2 Lender's Rights.

So long as any Leasehold Mortgage permitted by this Lease exists, or as Lender (or its nominee) owns all or any portion of the Leasehold estate granted hereunder, and until such time as the lien of any Leasehold Mortgage has been extinguished (which provisions shall be for the benefit of the Leasehold Mortgagee):

8.2.1 Acquisition by Lender. Following Lender's acquisition of Tenant's interest in this Lease pursuant to a foreclosure or an assignment in lieu of foreclosure, the Lender shall be entitled to assign its interest in this Lease without Landlord's prior consent, subject to compliance with the terms and conditions of this Article 8. All subsequent Transfers by the Transferee of Lender shall comply with the provisions of this Lease, including all restrictions on Transfer set forth in Article 9 hereof; and

8.2.2 Lender Amendments. If, in connection with securing by Tenant of any Leasehold Mortgage, the affected Lender requests an amendment with respect to the Lender protection rights set forth in this Article 8, Landlord agrees not to unreasonably withhold its consent to any such amendment; provided, that Landlord shall not be required to consent to such an amendment if it would, in Landlord's reasonable determination, materially impair any of Landlord's rights or materially increase any of Landlord's obligations under this Lease.

8.2.3 Default Notice. Landlord, upon providing Tenant with any "Notice of Default" (as defined below) under this Lease, shall, at the same time, provide a copy of such notice to every Lender who has given written notice to Landlord of its interest in the leasehold estate. From and after such notice has been given to a Lender, such Lender shall have the same period for remedying the Default complained of as the cure period provided to Tenant pursuant to Section 14.2, plus the additional period provided to such Lender as specified below. Landlord shall accept performance by or at the instigation of such Lender as if the same had been done by Tenant.

8.3 Lender Cure Rights.

Notwithstanding anything to the contrary contained in this Lease, Landlord shall have no right to terminate this Lease on account of an Uncured Default of Tenant unless, following expiration of Tenant's applicable cure period, Landlord first provides each Lender not less than ninety (90) days notice of its intent to terminate, if Tenant's Default can be cured by the payment of money (a "Monetary Default"), and not less than ninety (90) days notice of its intent to terminate, if Tenant's Default is of any other type (a "Non-monetary Default"), and Lender fails to cure such Monetary Default within ninety (90) days after receipt of such notice or cure or, in good faith and with reasonable diligence and continuity, commence to cure such Non-monetary Default within said ninety (90) day period. If such Non-monetary Default cannot reasonably be cured within said ninety (90) day period (or is such that possession of the Leased Premises is necessary for Lender to obtain possession and to remedy the Default), the date for termination shall be extended for such period of time as may be reasonably required to remedy such Default, if (a) Lender shall have fully cured any default in the payment of any monetary obligations of Tenant under this Lease within ninety (90) days after its receipt of notice of Landlord's intent to terminate, and shall continue to pay currently such monetary obligations as and when the same are due, and

(b) Lender continues its good faith and diligent efforts to remedy such nonmonetary Default (including its acquisition of possession of the Leased Premises if necessary to the cure of such Default). Nothing in this Section 8.3 shall be construed to require a Lender to continue any foreclosure proceeding it may have commenced against Tenant after all Defaults have been cured by Lender, and if such Defaults shall be cured and the Lender shall discontinue such foreclosure proceedings, this Lease shall continue in full force and effect as if Tenant had not defaulted under this Lease. Nothing herein shall require a Lender who has acquired Tenant's leasehold interest and has taken possession of the Leased Premises to cure any Non-monetary Default which is not capable of being cured by such Lender, and such Default shall be deemed to be waived following Lender's acquisition of Tenant's leasehold interest and such Lender's timely cure of all Monetary Defaults and all Non-monetary Defaults which are capable of cure by such Lender in accordance with the foregoing provisions.

8.4 Obligations of Lender and Purchaser.

8.4.1 No Lender, acting in such capacity, shall be deemed to be an assignee or transferee of this Lease or of the leasehold estate hereby created so as to require such Lender, in that capacity, to assume the performance of any of the terms, covenants or conditions on the part of the Tenant to be performed hereunder, unless and until it acquires the interest of Tenant hereunder. Upon acquiring Tenant's leasehold, Lender may, without the consent of Landlord, sell and assign the leasehold estate on such terms and to such persons and entities as are acceptable to such Lender and thereafter be relieved of all obligations of Tenant first arising under this Lease after the date of such sale or assignment; provided, that such assignee of the Lender shall have delivered to Landlord an assumption agreement, approved in form and substance by Landlord, as provided by Section 9.1.1(iii) of this Lease. Any such assignee of Lender or any other assignee of this Lease or of the leasehold estate created hereby by a conveyance in lieu of foreclosure or any purchaser at any foreclosure sale of this Lease or of the leasehold estate hereby created (other than the Lender), shall be deemed to be a Transferee of this Lease, and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of the Tenant to be performed hereunder from and after the date of such purchase and assignment and, from and after such date, shall be subject to all the terms of this Lease, including all restrictions on further Transfer set forth in Article 9; provided, however, nothing herein shall require an assignee or transferee who has acquired Tenant's leasehold interest and has taken possession of the Leased Premises to cure any Non-monetary Default which is not capable of being cured by such assignee or transferee, and such Default shall be deemed to be waived following such assignee's or transferee's acquisition of Tenant's leasehold interest.

8.4.2 Notwithstanding any other provision of this Lease, any bona fide sale of this Lease and of the leasehold estate hereby created in any proceedings for the foreclosure of any Leasehold Mortgage or a bona fide assignment or transfer of this Lease and of the leasehold estate

hereby created in lieu of foreclosure of a Leasehold Mortgage shall be deemed to be a permitted sale, transfer or assignment of this Lease and of the leasehold estate hereby created so long as such Transfer has not been undertaken for the purpose or with the intent of circumventing any otherwise applicable restrictions upon Transfers of Tenant's interest under this Lease.

8.5 New Lease.

Except as expressly provided in the last sentence of this Section, in the event of a termination of this Lease for any reason including, without limitation, by reason of any Default or the rejection or disaffirmance of this Lease pursuant to bankruptcy law or other law affecting creditors rights, Landlord shall give prompt notice thereof to any Lenders who have requested notice from Landlord in writing and furnished their names and addresses to Landlord. Landlord shall, on written request of any such Lender, made at any time within ninety (90) days after the giving of such notice by Landlord, enter into a new lease of the Leased Premises with such Lender within twenty (20) days after the receipt of such request, which new lease shall be effective as of the date of such termination of this Lease and shall be for the remainder of the Term of this Lease, at the rent provided for herein, and upon the same terms, covenants, conditions and agreements as are herein contained; provided that such Lender shall: (i) pay to Landlord at the time of the *execution and delivery of said new lease any and all sums for Rent payable by Tenant hereunder to and including the date thereof, less the net amount (i.e., net of all reasonable expenses) of all sums received by Landlord from any Subtenants in occupancy of any part or parts of the Leased Premises and/or Improvements up to the date of commencement of such new lease;* (ii) pay all reasonable costs resulting from the preparation and execution of such new lease; and (iii) on or prior to the execution and delivery of said new lease, agree in writing that promptly following the delivery of such new lease, such Lender will perform or cause to be performed all of the other covenants and agreements herein contained on Tenant's part to be performed to the extent that Tenant shall have failed to perform the same to the date of delivery of such new lease, except where such failure to perform by Tenant is, by its nature, a Non-monetary Default not reasonably susceptible of cure by such Lender. Nothing herein contained shall be deemed to impose any obligation on the part of Landlord to deliver physical possession of the Leased Premises to such Lender unless Landlord at the time of the execution and delivery of such new lease shall have obtained physical possession thereof. Notwithstanding anything contained in this Section 8.5 to the contrary, Lender's leasehold interest in the Leased Premises pursuant to the new lease shall be subject to any claims by Tenant that it has a right to possession of the Leased Premises.

8.6 New Lease Priority.

8.6.1 It is the intent of the Parties that any new lease made pursuant to Section 8.5 shall have the same priority with respect to any lien, charge or encumbrance on the fee of the Leased Premises as did this Lease and that the Tenant under such new lease shall have the same

right, title and interest in and to the Leased Premises as Tenant had under this Lease.

8.6.2 The provisions of this Section 8.6 and Sections 8.4 and 8.5 shall survive the termination, rejection or disaffirmance of this Lease and shall continue in full force and effect thereafter to the same extent as if Sections 8.4, 8.5 and this Section 8.6 were a separate and independent contract made by Landlord, Tenant and such Lender.

8.7 Liability of New Tenant.

The Lender which becomes the tenant under any such new lease made pursuant to Sections 8.4 or 8.5 shall be liable to perform the obligations imposed on the tenant by such new lease as well as those arising under Sections 8.4 or 8.5 to the same extent as a Lender which acquires Tenant's estate under this Lease by the foreclosure thereof.

8.8 Leases and Rents.

After the termination of this Lease and during the period thereafter during which any Lender is entitled to enter into a new lease of the Leased Premises, Landlord will not voluntarily terminate any Lease or the rights of the Subtenant thereunder (provided such lease is a permissible Lease under this Lease), unless such Subtenant is in default under such lease and has failed to cure same within the time provided under such lease. During such periods Landlord shall receive all rent and other payments due from Subtenants (subject to Landlord's right to not accept such rent and other payments as set forth below), including Subtenants whose attornment it shall have agreed to accept, as agent of such Lender and shall deposit such rents and payments in a separate and segregated account, but may withdraw and pay to Landlord such sums as are required or were required to be paid to Landlord under this Lease, at the time and in the amounts due hereunder, and may withdraw and expend such amounts as are necessary for the maintenance, operation, and management of the Leased Premises in accordance with the requirements of this Lease; and, upon the execution and delivery of such new lease, Landlord shall account to the lessee under the said new lease for the balance, if any (after application as aforesaid), of the rent and other payments made under said leases. The collection of rent by Landlord acting as an agent pursuant to this Section shall not be deemed an acceptance by Landlord for its own account of the attornment of any Subtenant unless Landlord shall have agreed in writing with such Subtenant that its tenancy shall be continued following the expiration of any period during which a Lender may be granted a new lease, in which case such attornment shall take place upon such expiration but not before; provided, however, in the event Landlord determines that it cannot accept rent payments from a Subtenant without risk of being deemed to have accepted such Subtenant's attornment (and Landlord has not previously agreed to recognize such Subtenant in the event of a Default under this Lease by Tenant), Landlord shall have the right to direct such Subtenant to pay such rents directly to Lender. If all Lenders fail to exercise their rights to enter into a new lease or fail to timely

execute such new lease, all rents collected by Landlord on behalf of such Lenders pursuant to this Section shall become Landlord's property free and clear of any claim by such Lenders and such Lenders shall have no further rights with respect thereto.

8.9 Legal Proceedings.

Landlord shall give each Lender who has given written notice of its interest in the leasehold estate to Landlord prompt notice of any legal proceedings between Landlord and Tenant involving obligations under this Lease. Each said Lender shall have the right to intervene in any such proceeding to protect its interest and be made a party thereto, and the parties hereto do hereby consent to such intervention. In the event that any such Lender shall not elect to intervene or become a party to any such proceedings, Landlord shall give such Lender notice of, and a copy of, any award or decision made in any such proceedings, which shall be binding on all Lenders not intervening after receipt of notice of the legal proceeding.

8.10 Encumbrance of Landlord's Leasehold Interest.

Tenant acknowledges that Landlord may encumber, pledge or otherwise hypothecate its leasehold interest in the Leased Premises; provided that any such encumbrance holder will enter into a commercially reasonable non-disturbance and attornment agreement with Tenant. No such trustee or beneficiary under a deed of trust, or holder of the rights and interest of Landlord hereunder ("Landlord's Lender") shall be or become liable to Tenant solely as a result of an assignment of this Lease as security.

8.10.1 Landlord's Lender shall not, in the exercise of any of its rights arising or which may arise out of such encumbrance, or any instrument modifying or amending the same or entered into in substitution or replacement thereof, disturb or deprive Tenant in or of its possession or its right to possession of the Leased Premises, or of any part thereof under this Lease, or any right or privilege created for or inuring to the benefit of Tenant under this Lease, provided this Lease is then in full force and effect.

8.10.2 If a default has not occurred under any such encumbrance, and if this Lease shall not have been terminated, then, and in such event, Tenant shall not be made a party in any action or proceeding to foreclose said encumbrance, nor shall Tenant be evicted or removed or its possession or right of possession be disturbed or in any manner interfered with, and this Lease shall continue in full force and effect as a direct lease from the purchaser in foreclosure or transferee in lieu thereof.

8.10.3 Any such encumbrance shall provide that Landlord's Lender, upon serving the Landlord with any notice under such encumbrance will simultaneously serve a copy of such

notice upon the Tenant.

8.10.4 Landlord shall, upon request, execute, acknowledge and deliver to Tenant an agreement in form satisfactory to Landlord and Tenant, between Landlord, Tenant and Landlord's Lender, agreeing to all of the provisions of this Section.

8.10.5 Tenant shall give notice in writing of the existence and nature of any default of Landlord hereunder to Landlord's Lender; provided that Landlord's Lender has given Tenant a written request for such notice including the name and address of Landlord's Lender. Tenant shall not terminate this Lease if Landlord's Lender has cured such default within thirty (30) days after receipt of such notice. Tenant agrees that Landlord's Lender may, in the event of a default by Landlord in the performance of any obligations of Landlord which are contained in any instrument of hypothecation or evidence of indebtedness, the repayment of which is secured by Landlord's interest hereunder, elect to cause Landlord's leasehold estate in and to all or a portion of the Leased Premises to be sold, to hold foreclosure proceedings thereon, or to accept from Landlord an assignment, transfer or other conveyance of those interests which are thus hypothecated, all without prejudice to Tenant.

8.10.6 Notices. Notices from Landlord to any Lender shall be mailed to the address of the Lender set forth in the Leasehold Mortgage furnished to Landlord or at such other address as may have been furnished to Landlord by such Lender. All notices from the Lender to Landlord shall be mailed to the address designated pursuant to the provisions of Section 18.6 or such other address as Landlord may designate in writing from time to time. All such notices to the Lender or to the Landlord shall be given in the manner described in Section 18.6 and shall in all respects be governed by the provisions of such Section.

8.11 Encumbrance of Landlord's Fee Estate.

It is expressly understood and agreed that there shall be no subordination or encumbrance of any kind under this Lease or otherwise of (i) the Landlord's fee title ownership of the Property; (ii) the Landlord's interest in this Lease; (iii) rent and (iv) the Landlord's right to require prompt payment of costs by Tenant as set forth herein.

ARTICLE 9 - ASSIGNMENT AND TRANSFER

9.1 Transfer of the Lease, the Leased Premises or the Improvements Thereon.

9.1.1 (i) Tenant shall not Transfer all or any part of its interest in or rights under this Lease and/or any part of its interest in or rights to the Leased Premises and/or any of the

Improvements constructed thereon, without the prior written consent of Landlord, which consent will not be unreasonably withheld or delayed. If the stock, partnership interests or membership interests of Tenant are not publicly traded, the transfer of more than twenty percent (20%) of Tenant's stock, partnership interests or membership interests shall be deemed to be a Transfer requiring Landlord's consent. If the stock, partnership interests or membership interests of Tenant are publicly traded, any transfer of Tenant's stock, partnership interests or membership interests or the sale of all or substantially all of Tenant's assets shall not be a Transfer requiring Landlord's consent.

(ii) Landlord shall have the right to consider the following factors (among others Landlord reasonably determines are necessary to consider in evaluating the proposed Transferee) in determining whether or not to consent to any proposed Transfer of Tenant's rights under or interest in this Lease, the Leased Premises, or the Improvements constructed thereon: (1) The financial condition of the proposed Transferee and its ability to perform all of the financial and other obligations of Tenant under this Lease, (2) the Transferee's business reputation, and (3) the Transferee's ability to demonstrate its capability to manage or provide for the management of the Improvements located on the Leased Premises in accordance with this Lease.

(iii) Upon any approved or permitted Transfer of this Lease or the Leased Premises (other than for security purposes), said Transferee shall expressly assume in writing liability for all of Tenant's obligations accruing under this Lease after the date of such Transfer. Upon any Transfer prior to completion of construction of the Improvements (including a Transfer to an Affiliate) Tenant shall not be released of its obligations under this Lease. Upon any Transfer after completion of construction of the Improvements (including a Transfer to an Affiliate) Tenant shall not be released of its obligations under this Lease unless either (A) pursuant to the process described in subparagraph (ii) immediately above, Tenant has demonstrated to Landlord's reasonable satisfaction that Transferee's net worth at the time of the Transfer is equal to or greater than the net worth of Tenant as of the Commencement Date (adjusted to correspond to any changes in the Index since the Commencement Date), or (B) an individual(s) or an entity(ies) with substantially equal or greater net worth than that of Tenant have guaranteed Tenant's obligations under this Lease. If Transferee's net worth satisfies the foregoing test, or if Tenant has delivered (or maintained) its guarantee of this Lease, then Tenant (as well as former Tenants still liable hereunder) shall be released of all liability under this Lease accruing after the date of such Transfer.

(iv) At any time Tenant desires to effect a Transfer which requires Landlord's consent pursuant to clause (ii) or (iii) above, Tenant shall request consent from Landlord in writing and shall submit to Landlord in connection with such request all proposed agreements and documents (collectively, the "Transfer Documents") memorializing, facilitating and/or evidencing such proposed Transfer, as well as all other information Tenant reasonably

believes is necessary for Landlord to properly evaluate the proposed Transferee pursuant to the criteria set forth in Section 9.2(a)(ii) and, if applicable, Section 9.2(a)(iii) above. Landlord agrees to advise Tenant in writing of its decision on Tenant's request for consent to such Transfer, as promptly as possible, and, in any event, not later than thirty (30) days after Landlord receives all of the items required by the preceding sentence. If such request is denied, Landlord shall state the reasons for such denial in its notice of denial of Tenant's request. If Landlord fails to respond to Tenant's request within thirty (30) days after its receipt of all of the items required above, Tenant's request shall be deemed disapproved. Upon a deemed disapproval, Tenant may deliver a notice to Landlord which states that there has been a deemed disapproval, requesting that Landlord consent to the proposed Transfer, stating that Landlord must consent to or deny the proposed Transfer within thirty (30) days after Landlord's receipt of this notice, and that failure by Landlord to either consent to or deny such Transfer within such 30 day period will result in deemed consent. If Landlord fails to consent to or deny the proposed Transfer within such second thirty (30) day period, the Transfer shall then be deemed approved by Landlord.

9.2.1 Notwithstanding anything to the contrary in this Lease, and provided that Tenant is not requesting that it be released from its obligations hereunder, Landlord agrees to allow Permitted Transfers as set forth in Section 1.28 herein.

9.3 Transfer of Tenant's Interest in Lease and Tenant's Ownership.

The restrictions on Transfer contained in this Article 9 shall be binding on any successors, heirs or permitted Transferees of Tenant. The provisions of this Article 9 shall apply to each successive Transfer and Transferee in the same manner as initially applicable to Tenant under the terms set forth herein.

9.4 Leases.

Notwithstanding anything above which is or appears to be to the contrary, including any restrictions on Transfer contained in Section 9.2 of this Lease, but subject to the terms and conditions of this Section 9.4, Tenant shall be entitled to enter into leases of the Housing Improvements without Landlord's consent; provided that such leases are in conformity with the Regulatory Agreement and this Lease, and Tenant shall be entitled to enter into leases of the Retail Improvements without Landlord's consent; provided that such leases are in conformity with this Lease.

ARTICLE 10 - TAXES AND IMPOSITIONS

10.1 Tenant To Pay Impositions.

10.1.1 In addition to the Rent and other payments required to be paid under this Lease, Tenant shall pay or cause to be paid any and all taxes (including possessory interest taxes) and assessments (collectively, "Impositions") levied or assessed from the Commencement Date until the termination of this Lease by any governmental agency or entity on or against the Leased Premises or any portion thereof, or on or against any interest in the Leased Premises (including the leasehold interest created by this Lease), or any Improvements or other property in or on the Leased Premises. The timely payment of the Impositions is a material term of this Lease, and, to the extent the above-referenced items are payable to Landlord or its successors or assigns, they shall constitute Additional Rent hereunder.

10.1.2 If, by law, any such Imposition is payable, or may, at the option of Tenant be paid, in installments, Tenant may pay the same, together with any accrued interest on the unpaid balance of such Imposition, in such installments as those installments respectively become due and before any fine, penalty, interest, or cost may be added thereto for the nonpayment of any such installment and interest.

10.2 Proration of Impositions.

All Impositions levied or assessed on or against the Leased Premises shall be prorated, based on a 365-day year, between Landlord and Tenant as of the Commencement Date of this Lease, and as of the expiration or earlier termination of this Lease. On service of written request by Landlord, Tenant shall promptly pay to Landlord Tenant's share of such Impositions paid by Landlord on Tenant's behalf and, on service of written request by Tenant, Landlord shall promptly pay to Tenant Landlord's share of such Impositions paid by Tenant on Landlord's behalf.

10.3 Payment Before Delinquency.

Subject to Tenant's right to contest under Section 10.4, any and all Impositions and installments of Impositions required to be paid by Tenant under this Lease shall be paid by Tenant prior to delinquency, and, upon Landlord's written request, copies of the official and original receipt for the payment of each such Imposition or installment thereof or other reasonably satisfactory evidence of payment shall promptly be given to Landlord.

10.4 Contest of Imposition.

Tenant shall have the right to contest, oppose, or object to the amount or validity of any

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Imposition levied on or assessed against the Leased Premises or any portion thereof and may in good faith diligently conduct any necessary proceeding to prevent or void or reduce the same; provided, however, that the contest, opposition, or objection must be filed before the Imposition at which it is directed becomes delinquent if such contest, opposition or objection is required to be made or filed prior to payment of the Imposition being challenged, and written notice of the contest, opposition, or objection must be given to Landlord at least thirty (30) days before the date the Imposition becomes delinquent. No such contest, opposition, or objection shall be continued or maintained after the date on which the Imposition at which it is directed becomes delinquent unless Tenant has met one of the following conditions: (i) Paid such Imposition under protest prior to its becoming delinquent; or (ii) Posted such bond or other security, reasonably satisfactory to Landlord, as is necessary to protect Landlord and the Leased Premises from any lien arising from such Imposition. Landlord shall not be required to join in any proceeding or contest brought by Tenant unless the provisions of any law require that the proceeding or contest be brought by or in the name of Landlord or any owner of the Leased Premises. In that case, Landlord shall join in the proceeding or contest or permit it to be brought in Landlord's name, but such action shall be without cost to Landlord and Tenant shall reimburse Landlord upon demand for any reasonable attorneys' fees and costs incurred therein.

10.5 Tax Returns And Statements.

Tenant shall, as between Landlord and Tenant, have the duty of attending to, preparing, making, and filing any statement, return, report, or other instrument required or permitted by law in connection with the determination, equalization, reduction, or payment of any Imposition that is or may be levied on or assessed against the Leased Premises, or any portion thereof, or any interest therein, or any Improvements or other property on the Leased Premises.

10.6 Possessory Interest Taxes.

Landlord is a public entity, and as such, Landlord's underlying fee in the Leased Premises is, or may be, exempt from property tax assessments. In accordance with California Revenue and Taxation Code Section 107.6(a), Landlord states that by entering into this Lease, a Possessory interest in Tenant subject to property taxes will be created. Tenant or any other party in whom the Possessory interest is vested may be subject to the payment of property taxes levied on such interest. In addition, pursuant to Health and Safety Code Section 33673, the Leased Premises shall be assessed and taxed in the same manner as privately owned property, and Tenant shall pay taxes upon the assessed value of the entire Leased Premises and not merely the assessed value of its leasehold interest; provided however, that Landlord recognizes that Tenant will apply for and may receive a welfare exemption for all or a portion of the Improvements.

ARTICLE 11 - UTILITY SERVICES

11.1 Tenant's Responsibility.

During the Term of this Lease, Tenant shall pay, or cause to be paid, and shall indemnify, defend and hold Landlord and the property of Landlord harmless from all charges for water, sewage, gas, heat, air conditioning, light, power, steam, telephone service and all other services and utilities used, rendered or supplied to, on or in the Leased Premises during the Term.

11.2 Landlord Has No Responsibility.

Landlord shall not be required to furnish to Tenant or any other occupant of the Leased Premises during the Term of this Lease, any water, sewage, gas, heat, air conditioning, light, power, steam, telephone, or any other utilities, equipment, labor, materials or services of any kind whatsoever.

ARTICLE 12 - INSURANCE

12.1 Fire and Extended Coverage Insurance.

Throughout the term of this Lease, Tenant, at no cost or expense to Landlord, shall keep or cause to be kept, for the mutual benefit of Landlord and Tenant, a policy of standard fire insurance, with extended coverage and vandalism and malicious mischief endorsements, including earthquake insurance if such insurance is commercially available at commercially reasonable rates with commercially reasonable deductibles. The amount of insurance required hereunder shall in no event be less than one hundred percent (100%) of the full replacement cost of the Improvements on the Leased Premises (exclusive of foundations and footings), including tenant improvements or betterments. Tenant shall not be obligated to obtain flood insurance as part of the extended coverage required hereunder. Coverage shall be "property broad form" and shall include rent interruption insurance, which insurance shall also cover all real estate taxes and insurance costs for the purposes of continuing rental payments to the landlord for the duration of the Lease. Coverage shall not include a coinsurance penalty provision.

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12.2 Commercial General Liability Insurance.

Tenant, commencing on the Commencement Date and continuing throughout the Term hereof, shall maintain or cause to be maintained, at no cost or expense to Landlord, comprehensive broad form commercial general liability insurance or an equivalent owner contractor protective policy insuring against claims and liability for personal injury, death, or property damage arising from the use, occupancy or condition of the Leased Premises, the Improvements thereon, which insurance shall provide combined single limit protection of at least Two Million Dollars (\$2,000,000) for bodily injury or death to one or more persons, and at least One Million Dollars (\$1,000,000) for property damage, which limits shall be increased by Tenant from time to time based upon Tenant's reasonable assessment of the limits carried by prudent and responsible property owners of similar property in the geographic area of the Leased Premises.

12.3 Worker's Compensation Insurance.

Tenant shall carry worker's compensation insurance for any employees it has as required by the State of California, and employer's liability insurance with a liability insurance minimum of \$1,000,000 per accident for bodily injury or disease.

12.4 Course of Construction Insurance.

Course of construction insurance coverage for all risk of loss shall be maintained at one hundred percent of the completed value basis on the insurable portion of the work including materials at the project site, stored off the project site, or in transit. Tenant shall include the interests of the Landlord and subcontractors in the work and shall insure against the perils of physical loss or damage. Nothing in this Article, however, shall be construed to relieve the Tenant of full responsibility for loss of or damage to materials not yet incorporated in the work or the Tenant's tools and equipment used to perform the work, whether on the project site or elsewhere, or to relieve the Tenant of any other responsibility under the Lease. If the Landlord is damaged by the failure of the Tenant to purchase or maintain such insurance, the Tenant shall bear all losses attributable thereto and indemnify the Landlord therefrom.

12.5 Business Automobile Liability Insurance.

If not covered by its other insurance policies, Tenant shall carry business liability insurance on an occurrence form covering owned, hired, leased and non-owned automobiles used by or on behalf of the Tenant and providing insurance for bodily injury, property damage and contractual liability.

12.6 Policy Form, Content And Insurer.

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12.6.1 All insurance required by the provisions of this Lease shall be carried only with insurance companies licensed to do business in this state with Best's Financial Rating of A VII or better or otherwise acceptable to Landlord.

12.6.2 All such policies required by the provisions of this Lease shall be nonassessable and shall contain language to the effect that (i) the policies are primary and noncontributing with any insurance that may be carried by Landlord, (ii) the policies cannot be canceled or materially changed except after thirty (30) days notice by the insurer to Landlord and (iii) Landlord shall not be liable for any premiums or assessments. The insurer under the policy of property insurance for the Leased Premises shall also waive its rights of subrogation against Landlord and Landlord's Representatives.

12.6.3 All deductibles or self-insured retentions shall be commercially reasonable for companies of similar net worth as Tenant.

12.6.4 Upon Tenant's execution and delivery of this Lease, Tenant shall deliver to Landlord certificates of insurance evidencing the insurance coverages specified in this Article. Tenant shall thereafter deliver to Landlord original certificates and amendatory endorsements evidencing the insurance coverages required by this Article upon renewal of any insurance policy. Full copies of the policies shall be made available to Landlord upon request. Tenant may provide any insurance required under this Lease by blanket insurance covering the Leased Premises and any other location or locations, provided that the specific policy of blanket insurance proposed by Tenant provides the coverages required by this Agreement taking into account the other properties, persons and risks covered by such blanket policy. All policies shall name Landlord, City of San Diego and each Lender as an additional insured as their interests may appear, and shall contain the following special endorsements:

"The Redevelopment Agency of the City of San Diego and their officers, employees and agents are hereby declared to be additional insureds under the terms of this policy as to the activities of Landlord, Tenant and its sublessees, if any.

"This insurance policy will not be canceled without 30 days prior written notice to the Trustees and the Corporation. The Redevelopment Agency of the City of San Diego is not liable for the payment of premiums or assessments on this policy."

2.6.5 For any claims related to this project, the Tenant's insurance coverage shall be primary insurance as respects the Landlord. Any insurance or self-insurance maintained by the Landlord shall be excess of the Tenant's insurance and shall not contribute with it.

2.6.6 Tenant shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all requirements stated herein.

12.7 Waiver of Subrogation.

Without limiting Section 7.3 herein, Landlord and Tenant hereby release the other and its Representatives from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation or otherwise for any insured loss or damage to the Leased Premises, any Improvements thereon, or any of Landlord's or Tenant's property thereon caused by or arising from a fire or any other event even if such fire or other casualty shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible.

12.8 Indemnification.

12.8.1 Tenant shall indemnify, defend and hold harmless Landlord and its Representatives, and the property of Landlord, including the Leased Premises, from and against any and all Losses and Liabilities of every nature arising out of or in connection with the use, occupancy or enjoyment of the Leased Premises by Tenant or any person thereon or holding under Tenant arising from any action, inaction, events or facts occurring during the Term from any cause; provided, that nothing in this Section 12.8.1 or this Lease shall be construed to require Tenant to rebuild the Improvements or to pay charges to Landlord in connection therewith as a result of damage to or destruction of the Improvements or any Taking of the Improvements except to the extent expressly provided in the other Sections of this Lease. The above indemnification includes, without limitation, any Losses and Liabilities arising by reason of:

(1) The death or injury of any person, including Tenant or any person who is an employee or agent of Tenant, or damage to or destruction of any property, including property owned by Tenant or by any person who is an employee or agent of Tenant, from any cause whatever while such person or property is in or on the Leased Premises;

(2) The death or injury of any person, including Tenant or any person who is an employee or agent of Tenant, or damage to or destruction of any property, including property owned by Tenant or any person who is an employee or agent of Tenant, caused or allegedly caused by either (A) the condition of the Leased Premises or some Improvements on said premises, or (B) some act or omission on the Leased Premises by Tenant or any person in, on, or about the Leased Premises with the permission and consent of Tenant;

(3) Any work performed on the Leased Premises or materials furnished to said premises at the insistence or request of Tenant or any person or entity acting for or on behalf of Tenant; or

(4) Tenant's failure to perform any provision of this Lease or to comply with any Governmental Restriction.

However, the foregoing indemnification shall not extend to any Loss or Liability to the extent (5) it arises out of the gross negligence or intentional or willful misconduct of Landlord or its Representatives; or (6) it arises from a claim for personal injury or property damage asserted by the owners of any properties adjacent or proximate to the Leased Premises, or their guests, invitees, employees, tenants or other like person or entity claiming through them, which are based upon the migration of any Hazardous Materials deposited on the Leased Premises prior to the Commencement Date of this Lease onto such properties adjacent or proximate to the Leased Premises.

ARTICLE 13 - CONDEMNATION

13.1 General.

If any portion of or interest in the Leased Premises shall be condemned (including, without limitation, inverse condemnation) or taken by any public authority or by any other person or entity with the power of condemnation, by eminent domain or by purchase in lieu thereof (a "Taking"), and such Taking renders the Leased Premises unsuitable in the commercially reasonable judgment of Tenant for Tenant's business operations, Tenant may terminate this Lease by giving notice to Landlord, such termination to be effective as of the date specified in such notice. If this Lease is not terminated, Tenant's condemnation award shall be used for the purpose of repairing or restoring the Improvements in accordance with Section 7.3.

13.2 Award.

Whether or not this Lease is terminated as a result of any Taking, Landlord and Tenant shall together make one claim for an award for their combined interests in the Leased Premises including an award for severance damages if less than the whole shall be so taken. The condemnation proceeds shall be distributed to Landlord and Tenant as their respective interests appear. Both parties shall have the right to appear in and defend against such action as they deem proper in accordance with their own interests at their own expense. To the extent possible, the parties shall cooperate to maximize the condemnation proceeds payable by reason of the condemnation. Issues between Landlord and Tenant required to be resolved pursuant to this

Article shall be joined in any such condemnation proceeding to the extent permissible under then applicable procedural rules of such court of law or equity for the purpose of avoiding multiplicity of actions and minimizing the expenses of the parties. If this Lease is not terminated pursuant to this Article, it shall continue, except that commencing with the date on which Tenant is deprived of the use of any portion of the Leased Premises or of any rights under this Lease, Rent shall be abated or reduced according to the extent to which Tenant is deprived of the use or benefit of the Leased Premises or of any rights under this Lease. If the Taking occurs in the last five (5) years of the Term, either Landlord or Tenant, by written notice to the other, may terminate this Lease, such termination to be effective as of the date that the condemnor acquires title to all or a portion of the Leased Premises.

13.3 Taking for Temporary Use.

If there is a Taking of the Leased Premises for temporary use for a period equal to or less than eight (8) months, this Lease shall continue in full force and effect, Tenant shall continue to comply with Tenant's obligations under this Lease not rendered physically impossible by such Taking, neither the Term nor the Rent shall be reduced or affected in any way, but the Rent shall continue at the level of the last Rent paid prior to the Taking (including any subsequent increases in such Rent provided for under this Lease), and Tenant shall be entitled to any and all Awards for the use or estate taken. If any such Taking is for a period extending beyond such eight (8) month period, the Taking shall be treated as a total, substantial or partial taking, as appropriate.

ARTICLE 14 - DEFAULT

14.1 Default.

The occurrence of any one or more of the following events shall, after the giving of the Notice of Default required by Section 14.2 or 14.4 (nonpayment of Rent does not require a Notice of Default), constitute a default ("Default(s)") under this Lease by Tenant or Landlord, as applicable:

14.1.1 If, prior to the issuance of the Release of Construction Covenants, Tenant shall:

(1) Fail to commence construction of the improvements as required by the DDA and this Lease for a period of ninety (90) days after written notice from the Landlord pursuant to Section 601;

(2) Abandon or substantially suspend construction of the Improvements for a period of ninety (90) days after written notice of the abandonment or suspension from the Landlord;

(3) Transfer, or suffer any involuntary transfer of, the Leasehold, or any part of it, in violation of this Lease, and the violation will not be cured within ninety (90) days after written demand by Landlord to Tenant; or

14.1.2 Any failure by Tenant to pay the Rent or make any other payment required to be made by Tenant hereunder, on the date the payment is due; or

14.1.3 Any failure by Tenant to pay any amount due under the Permanent Loan or the Agency Loan and the failure to cure such default under the terms of such loans; or

14.1.4 Any breach by Tenant of its obligations under the Agreement Affecting Real Property and the failure to cure such default under the terms of such documents; or

14.1.5 Any breach by Tenant of its obligations under the Regulatory Agreement and the failure to cure such breach under the terms of the Regulatory Agreement; or

14.1.6 Any breach by Tenant of its obligations under the Covenants, Conditions and Restrictions and the failure to cure such breach under the terms of the Covenants, Conditions and Restrictions; or

14.1.7 Any breach by Tenant of its obligations under the Reciprocal Easement Agreement and the failure to cure such breach under the terms of the Reciprocal Easement Agreement; or

14.1.8 A failure by Tenant or Landlord to observe and perform any other condition, restriction, covenant, obligation or provision of this Lease to be observed or performed by Tenant or Landlord, as applicable.

14.2 Notice of Default; Tenant's Right to Cure.

14.2.1 If Tenant has committed or permitted to exist a breach of any provision of this Lease (other than nonpayment of Rent) or has committed or permitted any other breach described above in Section 14.1, Landlord shall give notice of said breach ("Notice of Default") to Tenant.

14.2.2 Tenant shall be in default hereunder without notice from Landlord if Rent is not paid by the twentieth (20th) day of May of each calendar year (or if the twentieth day falls on a Saturday or Sunday, the first Monday following the twentieth (20th) day of May).

14.2.3 If the alleged Default is nonpayment of Additional Rent, Impositions or other sums to be paid by Tenant as provided in this Lease, Tenant shall have thirty (30) days after the Notice of Default is given to cure the Default. For any other Default other than a default under Section 14.1.1, Tenant shall, after the Notice of Default, promptly and diligently commence curing the Default and shall have ninety (90) days after the Notice of Default to complete the cure of said Default; provided, however, that if the nature of said Default is such that the same cannot reasonably be cured within said ninety (90) day period, Tenant shall have such additional time as is reasonably necessary to cure such Default, provided that at all times prior to the expiration of said ninety (90) day period and for the period thereafter that the Default remains uncured, Tenant is exercising reasonable diligence in its efforts to cure such Default.

14.2.4 If the alleged Default is an event of nonperformance under Section 14.1.1, failure to timely commence and complete construction of the Improvements, Landlord shall provide Tenant with written notice specifying in detail (i) that an event of nonperformance has occurred, (ii) the nature of such event of nonperformance, (iii) the actions required to be taken by Tenant to remedy or cure the event of nonperformance, (iv) the date on which the event of nonperformance will become an Event of Default if not sooner cured or remedied, and (v) that failure to cure or remedy the event of nonperformance prior to such date may result in termination of this Lease, or at Landlord's election, injunctive or other monetary relief for Landlord. In the event Tenant has not remedied or cured such event of nonperformance within sixty (60) days after Tenant's receipt of such written notice (or, if it is not practicable to remedy or cure such event of nonperformance within such period, in the event Tenant has not commenced to remedy or cure such event of nonperformance within such period), the same shall constitute an Event of Default. In no event shall an Event of Default exist with respect to any event of nonperformance for which it is not practicable to remedy or cure within the period set forth in the immediately preceding sentence, provided Tenant has commenced the remedy or cure of such event of nonperformance prior to the lapse of such period and diligently prosecutes such remedy or cure to completion.

14.2.5 As used in this Lease, the term "Uncured Default" shall mean any Default by Tenant which continues uncured, following the giving of a Notice of Default as required by this Lease, for the cure period applicable to that Default under the provisions of this Lease.

14.2.6 Copies of all notices hereunder shall be sent to the limited partner of Tenant pursuant to Section 18.6. Cures offered on behalf of Tenant by the limited partner of Tenant shall be received by Landlord as if offered by Tenant itself hereunder.

14.3 Good Faith Dispute.

Notwithstanding the foregoing, in the event that Tenant or Tenant's Lienholder disputes Landlord's determination that an Event of Default has occurred and delivers notice of such dispute to Landlord within thirty (30) days after the occurrence of an Event of Default (or with respect to Tenant's Lienholder, within its time period to cure an Event of Default) pertaining to such event of nonperformance, and if such dispute is made in good faith, then no such termination of this Lease by Landlord shall be permitted during the pendency of any action or proceeding to determine such dispute; provided, however, that if such action or proceeding results in a final determination unfavorable to Tenant, Tenant must cure such event of nonperformance within thirty (30) days following such determination or, if it is not practicable to cure or remedy such event of nonperformance within such thirty (30)-day period, then Tenant must commence the curing or remedying of such Event of Nonperformance within said thirty (30)-day period and diligently prosecute such cure or remedy to completion). Failure of Tenant or Tenant's Lienholder to cure such event of nonperformance within the aforesaid period shall entitle Landlord to terminate this Lease and any such determination in such action or proceeding may provide for the termination of this Lease conditioned upon permitting Tenant to cure such event of nonperformance as herein provided.

14.4 Landlord's Right to Cure Tenant's Defaults.

After expiration of the applicable time granted to Tenant for curing a particular Default and upon not less than five (5) business days' notice (unless a longer period of time is otherwise expressly provided by this Lease, in which case such longer period shall apply), Landlord may, at Landlord's election, make any payment (other than Rent payable to Landlord) required of Tenant under this Lease or perform or comply with any covenant or condition imposed on Tenant under this Lease, and the amount so paid, plus the reasonable cost of any such performance or compliance, plus interest on such sum at the Agreed Rate, from the date of payment, performance, or compliance until the date of repayment by Tenant, shall be due and payable by Tenant on the first day of the next calendar month following any such payment, performance or compliance by Landlord as Additional Rent hereunder. No such act shall constitute a waiver of any Default or of any remedy for Default or render Landlord liable for any loss or damage resulting from any such act (except to the extent such loss or damage arises from Landlord's or Landlord's Representatives' gross negligence or intentional or willful misconduct).

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14.5 Notice of Landlord's Default; Tenant Waiver.

14.5.1 If Landlord has committed a breach under this Lease, as described in Section 14.1, Tenant shall deliver a Notice of Default to Landlord. Each Notice of Default shall specify the alleged Default.

14.5.2 Landlord shall, after notice, promptly and diligently commence curing the Default and shall have sixty (60) days after notice is given to complete the cure of said Default; provided, however, that if (i) the nature of said Default is such that the same cannot reasonably be cured within said sixty (60) day period, and (ii) Landlord shall have in good faith commenced and diligently and continuously pursued such cure, then Landlord shall have such time as is reasonably necessary to complete the cure of said Default. If it is determined that Landlord is liable to Tenant for damages pursuant to this Lease Landlord shall pay such damages to Tenant in accordance with such judgment within 30 days after such determination. Tenant shall have no right to offset any amount of damages owed by Landlord to Tenant against the Rent owed by Tenant to Landlord under this Lease. If any amount owed to the Tenant by Landlord is not paid when due, interest shall accrue on such amount at the Agreed Rate from the date due until the date that such amount is paid. After expiration of the applicable time for Landlord to cure a particular Default and upon not less than five (5) business days' notice (unless a longer period of time is otherwise expressly provided by this Lease, in which case such longer period shall apply), Tenant may, at Tenant's election, make any payment required of Landlord under this Lease or perform or comply with any covenant or condition imposed on Landlord under this Lease, and the amount so paid, plus the reasonable cost of any such performance or compliance, plus interest on such sum at the Agreed Rate, from the date of payment, performance, or compliance until the date of repayment by Landlord, shall be due and payable by Landlord on the first day of the next calendar month following any such payment, performance or compliance by Tenant. No such act shall constitute a waiver of any Default or of any remedy for Default or render Tenant liable for any loss or damage resulting from any such act (except to the extent such loss or damage arises from Tenant's or Tenant's Representatives' negligence or intentional or willful misconduct).

14.6 Landlord's Remedies.14.6.1 Right of Termination.

Upon the occurrence of any Event of Default under Section 14.1.1, 14.1.4, 14.1.6 or failure to pay Rent for two (2) or more consecutive years, Landlord may, at its option and in addition to any other remedy provided for in this Lease, but subject to the rights of Lienholders, and provided Landlord has given Tenant at least thirty (30) days' additional notice of its intent to do so and Tenant has failed to cure the Event of Default within such period, reenter and repossess the Improvements, terminate the Lease and revest in Landlord the leasehold interest theretofore transferred to Tenant, by written notice to Tenant of its intention to do so. Such notice by Landlord shall expressly state that an Event of Default has occurred and that Landlord's remedies include the right to terminate this Lease. The right to reenter, repossess, terminate and revest will be subject to and be limited by and will not defeat, render invalid, or limit:

- (1) Any mortgage, deed of trust or other financing interest permitted by this Lease;
- (2) Any rights or interests provided in this Lease for the protection of the holders of mortgages, deeds of trust or other financing interests.

14.6.2 Revesting Prior to Issuance of Release of Construction Covenants.

Prior to the issuance of a Release of Construction Covenants in accordance with Section 324 of the DDA for the Improvements to be constructed on the Premises, upon the revesting in Landlord of the leasehold estate in the Leased Premises, Landlord shall use its best efforts to re-lease or sell the Leased Premises as soon as possible and in such manner as Landlord shall find feasible to a qualified and responsible party or parties (as reasonably determined by Landlord) as shall be reasonably satisfactory to Landlord, who will assume the obligation of making or completing the Improvements, or such other improvements in their stead, or operate and maintain the Improvements on the Leased Premises, or otherwise use the Premises and in accordance with the uses specified for the Leased Premises. Tenant shall have the right to secure prospective purchasers meeting the qualifications set forth in this section and Landlord agrees that it will not unreasonably withhold its consent to the sale or lease of the Premises to any prospective purchaser/lessee secured by Tenant who qualifies as a "permitted assignee" under Section 9.1. Upon such re-leasing or sale of the Leased Premises, the proceeds thereof shall be applied:

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(a) First, to reimburse Landlord on its own behalf for all reasonable costs and expenses of Landlord incident to such re-lease or sale and/or conveyance; all taxes, assessments, and water and sewer charges with respect thereto; any payments made, or necessary to be made, to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of the Tenant, its successors or transferees, any expenditures made or obligations incurred by Landlord with respect to the making or completion of the Improvements or any part thereof on the Leased Premises; and any amounts otherwise owing Landlord by Tenant or by its successor or transferee to the date of termination of this Lease.

(b) Second, to reimburse the Tenant, its successor or transferee, the costs incurred for the development of the Property and the Improvements existing thereon at the time of reentry and repossession including the Costs, less any gains or income withdrawn or made by, the Tenant therefrom or from the Improvements thereon after all operating expenses, debt service and annual Rent has been paid.

Any balance remaining after such reimbursements shall be retained by Landlord as its property.

The rights established in this section are to be interpreted in light of the fact that Landlord will convey the Premises to Tenant for development and not for speculation in undeveloped land.

14.6.3 Termination of Lease.

No ejectment, reentry or other act by or on behalf of Landlord shall constitute a termination unless Landlord gives Tenant notice of termination in writing. Such termination shall not relieve or release Tenant from any obligation incurred pursuant to this Lease with respect to the period prior to the date of such termination.

14.6.4 Late Payment Charge.

Tenant hereby acknowledges that late payment by Tenant to Landlord of Rent and other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges and late charges which may be imposed on Landlord by the terms of any mortgage, deed of trust, or bonded indebtedness. Accordingly, if any installment of Rent shall not be received by Landlord or its designee within ten (10) days after Rent is due, or if any Additional Rent or Impositions shall not be received by Landlord within twenty (20) days after the Notice of Default is given, then without any requirement for notice to Tenant, Tenant shall pay to Landlord a late charge equal to five percent (5%) of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs

Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge to Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for three (3) consecutive installments of Rent, then Rent shall automatically become due and payable quarterly in advance, rather than monthly, notwithstanding Article 4 or any other provision of this Lease to the contrary.

14.6.5 Availability of Remedies.

In the event Tenant fails to pay Rent to Landlord, Landlord shall have the right to pursue all of its legal and equitable remedies against Tenant for collection of such amounts, including without limitation the remedy described in California Civil Code Section 1951.4 which provides that a lessor may continue a lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if the lessee has the right to sublet or assign, subject only to reasonable limitations.

14.6.6 Landlord Remedies Cumulative.

Except as expressly provided elsewhere in this Lease the following provisions shall apply. Termination of the Lease (pursuant to Sections 14.1.1, 14.1.3 or 14.1.4), under this Section 14.5 shall not relieve Tenant from the obligation to pay any sum due to Landlord or from any claim for damages against Tenant. Landlord may, at its option, enforce all of its rights and remedies under this Lease, including the right to recover any rent and all other sums payable hereunder as the same become due hereunder. Additionally, Landlord shall be entitled to recover from Tenant all costs of maintenance and preservation of the Premises, and all costs, including attorneys' and receiver's fees, incurred in connection with the appointment of and performance by a receiver to protect the Premises and Landlord's interest under this Lease (only in the case of an Event of Default under Sections 14.1.1, 14.1.3 or 14.1.4). The right of termination provided by this Section 14.5 is not exclusive and shall be cumulative to all other rights and remedies possessed by Landlord, and nothing contained herein shall be construed so as to defeat any other rights or remedies to which Landlord may be entitled, provided such rights or remedies are contained in this Lease and any other remedy available to it at law and equity

14.7 Tenant Remedies; Remedies Cumulative.

Except as otherwise expressly provided in this Lease, Tenant shall have all rights and remedies at law or equity upon the occurrence of an Uncured Default by Landlord hereunder including, but not limited to, the remedies provided under California Civil Code Sections 1951.2 (pursuant to California Civil Code Section 1951.2, the damages Landlord may recover against

Tenant include, but are not limited to, the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award, exceeds the amount of such rental loss for the same period that the Tenant proves could be reasonably avoided). Each right and remedy of Landlord and Tenant provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease except as otherwise limited by this Lease, and the exercise or the beginning of the exercise by Landlord or Tenant of any one or more of the rights or remedies provided for in this Lease, except as otherwise limited by this Lease, shall not preclude the simultaneous or later exercise by Landlord or Tenant of any or all other rights or remedies provided for in this Lease, except as otherwise limited by this Lease.

14.8 No Waiver.

Landlord's or Tenant's failure to enforce any provision of this Lease with respect to a Default hereunder shall not constitute a waiver of Landlord's or Tenant's right to enforce such provision or any other provision with respect to any future Default. The acceptance of Rent by Landlord shall not be deemed a waiver of Landlord's right to enforce any term or provision hereof.

The waiver of any term or condition of this Lease shall not be deemed to be a waiver of any other term or condition hereof or of any subsequent failure of any term or condition hereof.

14.9 Delays in Performance.

The time within which the Parties hereto shall be required to perform any obligation under this Lease shall be extended by a period of time equal to the number of days during which performance of such act is delayed due to an act of God, strikes, lockouts, fire, earthquake, flood, explosion, war, invasion, insurrection, riot, mob violence, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, unusually severe weather, application of governmental restrictions, regulations or controls not contemplated by this Lease or otherwise reasonably foreseeable, court order, delays or inaction of independent contractors, remediation of Hazardous Materials located upon the Leased Premises, litigation brought against the Leased Premises or a Party without that Party's consent, or other like events which are completely and strictly beyond a Party's control (the "Force Majeure Events"). The additional grace period or extension of time provided above shall be equal to the period of delay caused by the above-described event, which period shall commence to run from the time of the commencement of the cause for delay and shall terminate upon termination of that cause. A Party wishing to invoke this Section must notify in writing the other Party to this Lease of that intention within sixty (60) days of the commencement of any such cause for delay and shall, at that time, specify the reasons therefor, the specific provision of this Lease which will be delayed as a result, and the period of such extension, if known, or if not known, a reasonable estimate thereof.

ARTICLE 15 - EXPIRATION; TERMINATION

At the expiration or earlier termination of this Lease, Tenant shall surrender to Landlord possession of the Leased Premises and all Improvements, free and clear of all liens, encumbrances and Mortgages other than those, if any, created by Landlord, those which both extend beyond the Term of this Lease and were expressly approved in writing by Landlord, or those which encumbered the Leased Premises prior to the Commencement Date of this Lease. Tenant shall leave the Leased Premises and any other property surrendered in its then existing "as is" condition.

As provided above at Section 6.8, all property that Tenant is required to surrender shall become Landlord's property at termination or expiration of this Lease. In addition, Tenant shall surrender to Landlord all residential leases, and all records related to the residential leases and compliance with the Agreement Affecting Real Property and the Regulatory Agreement. All property that Tenant is not required to surrender but that Tenant does abandon by failure to remove said property within sixty (60) days after the expiration or earlier termination of this Lease shall, at Landlord's election, become Landlord's property. At Landlord's request Tenant shall execute and deliver to Landlord assignments of leases and a quitclaim deed, both in commercially reasonable form and as prepared by Landlord. By the quitclaim deed Tenant shall quitclaim any right, title or interest which Tenant may have or claim to have in the Improvements.

ARTICLE 16 – NO DISCRIMINATION

16.1 Tenant herein covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through them, and this Lease is made and accepted upon and subject to the following conditions: There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the Property.

16.2 Tenant, its successors and assigns, shall refrain from restricting the rental, sale, or lease of the Property or any portion thereof, on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry of any person. Every deed, lease, and contract entered into with respect to the Property, or any portion thereof, after the date of this Lease shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(1) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

(2) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

(3) In contracts: There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land."

ARTICLE 17 – OPTION AND RIGHT OF FIRST REFUSAL

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Landlord and Tenant have entered into that certain Option to Purchase Agreement (Housing) in form as attached to the DDA as Attachment No. 20, and that certain Right of First Refusal (Retail) in form as attached to the DDA as Attachment No. 21, and memoranda thereof, concurrently with delivery of this Lease. The terms of these agreements are summarized below for convenience. In the event of a conflict between these summaries, on the one hand, and the Option to Purchase Agreement (Housing) and the Right of First Refusal (Retail), on the other, the terms of the Option to Purchase Agreement (Housing) and the Right of First Refusal (Retail) shall control.

17.1 Option to Purchase and Right of First Refusal (Housing)

The Option to Purchase Agreement (Housing) grants to Landlord an option to purchase and a right of first refusal to purchase the Leasehold (other than the Retail Parcels) and all Improvements therein at any time after the 55th anniversary of Conversion.

17.1.1 The option granted to Landlord pursuant to the Option to Purchase Agreement (Housing), provides that upon written notice by Landlord to Tenant at any time after the 55th anniversary of Conversion, Landlord shall have the right to exercise its option to acquire the Leasehold (other than the Retail Parcels) and all Improvements therein for a price equal to the greater of (a) the fair market value of the Leasehold and all Improvements therein taking into consideration the remaining term of the Ground Lease, determined in accordance with the procedures set forth in the Option to Purchase Agreement (Housing), or (b) the sum of the remaining unpaid principal and all accrued but unpaid interest on loans secured by an encumbrance on said Leasehold outstanding, other than amounts owing on the Agency Loan, and taxes, as of the date Landlord will close the purchase of the Leasehold and all improvements therein.

17.1.2 The right of first refusal granted to Landlord pursuant to the Option to Purchase Agreement (Housing), provides that at any time after the 55th anniversary of Conversion, Landlord shall have the right of first refusal to acquire the Leasehold and all Improvements therein for a price equal to the outstanding amount of debt on the Housing Parcel plus the amount of income taxes that would be incurred by the partners of Tenant upon a sale of the Leasehold (other than the Retail Parcels) and all Improvements therein. Landlord shall have the right to take steps to minimize the amount of said tax liability so long as there is no material adverse financial impact on the Tenant or its partners and so long as such steps do not materially affect the Landlord's ability to operate the Housing Improvements in accordance with the terms of this Lease.

17.2 Right of First Refusal (Retail)

The Right of First Refusal (Retail) grants to Landlord a right of first refusal to purchase the

Retail Parcels and the Retail Improvements at any time after the 55th anniversary of Conversion on the same terms and conditions as contained in a bona fide offer.

ARTICLE 18 – MISCELLANEOUS

18.1 Landlord’s Representations and Warranties.

Landlord covenants, represents and warrants to Tenant as of the date of execution of this Lease, as follows:

18.1.1 Landlord is a public body corporate and politic under the laws of the State of California, has full legal right, power, and authority to enter into this Lease and to carry out and consummate all transactions contemplated by this Lease, and by appropriate corporate action has duly authorized the execution and delivery of this Lease. Further, Landlord will take those actions required to remain in good standing under the laws of the state of California during the term of this Lease.

18.1.2 To Landlord’s actual knowledge, the execution, delivery and performance of this Lease by Landlord does not result in a material violation of, or constitute a material default under, any provision of any existing agreement, judgment or court order.

18.1.3 Except as revealed in writing by Landlord to Tenant, Landlord has not been served with any pending, and knows of no threatened, litigation or claims against the Leased Premises or against Landlord in connection with the Leased Premises which would have an adverse effect on the transactions contemplated herein.

18.1.4 Copies of all documents heretofore delivered by Landlord to Tenant are true, correct and complete copies of such documents in all material respects.

18.1.5 Landlord makes no representation or warranty as to the condition of the title to the Leased Premises except that Landlord is vested with the fee simple title thereto, subject to all recorded and unrecorded encumbrances, liens, encroachments, rights of way, easements and other possible claims of interest that may be discovered by examination of the public records and by survey and inspection.

18.2 Tenant’s Representations and Warranties.

Tenant covenants, represents and warrants to Landlord, as of the date of execution of this Lease, as follows:

18.2.1 Tenant is a limited partnership or corporation duly formed and in good standing under the laws of the State of California, has full legal right, power, and authority to enter into this Lease and to carry out and consummate all transactions contemplated by this Lease, and by appropriate action has duly authorized the execution and delivery of this Lease. Further, Tenant will take those actions required to remain in good standing under the laws of the state of California during the term of this Lease.

18.2.2 *The Representatives of Tenant executing this Lease are fully authorized to execute the same.*

18.2.3 This Lease has been duly authorized, executed, and delivered by Tenant, and will constitute a legal, valid, and binding agreement of Tenant, enforceable against Tenant in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and by the application of equitable principles if equitable remedies are sought.

18.2.4 Except as may be revealed in writing by Tenant to Landlord, Tenant has not been served with any pending, and knows of no threatened, litigation or claims against Tenant which would have an adverse effect on the transactions contemplated herein.

18.2.5 Copies of all documents heretofore delivered by Tenant to Landlord are true, correct and complete copies of such documents in all material respects;

18.2.6 Tenant acknowledges that it owned the Property immediately prior to Landlord and sold Landlord the Property and Tenant states that it has examined the Leased Premises and hereby accepts possession of the Leased Premises in its "as is" condition, with all faults and defects subject to the terms of this Lease.

18.3 Survival of Representations, Warranties and Covenants.

The respective representations, warranties and covenants contained herein shall survive the Commencement Date and continue throughout the Term.

18.4 Further Assurances

Each party hereto will promptly execute and deliver without further consideration such additional agreement, assignments, endorsements and other documents as the other party hereto may reasonably request to carry out the purposes of this Lease.

18.5 Estoppel Certificate.

Within thirty (30) days after request by Landlord or Tenant (which request may be from time to time as often as reasonably required by Landlord or Tenant) Landlord or Tenant shall execute and deliver to the other, without charge, a statement (the "Estoppel Certificate") in the form of Exhibit D attached hereto or in such other similar form as Landlord or Tenant may reasonably request. Any such statement may be conclusively relied upon by any Lender, Subtenant or prospective purchaser of the Leased Premises.

18.6 Notices.

All notices, requests, demands and other communications under this Lease shall be in writing and shall be deemed to have been given on (a) the date of service if served personally on the Party to whom notice is to be given, (b) the date of actual or attempted delivery provided such attempted delivery is made on a business day, if served by Federal Express, Express Mail or another like overnight delivery service, (c) the date of actual delivery as shown by the addressee's registry or certification of receipt or the fourth business day after the date of mailing, whichever is earlier, if mailed to the person to whom notice is to be given, by first class U.S. mail, registered or certified, postage prepaid, return receipt requested and properly addressed as follows (or to such other address as either Party may from time to time direct by written notice given in the manner herein prescribed), or (d) one day after receipt of a confirmed facsimile transmission provided any such communication is concurrently given by one of the above methods:

If to Landlord: The Redevelopment Agency of the City Of San Diego
 c/o Centre City Development Corporation
 225 Broadway, Suite 1100
 San Diego, CA 92101
 Tel: 619-533-7108
 Fax: 619-236-9148

With a copy to: Kane, Ballmer & Berkman
 515 S. Figueroa Street
 Suite 1850
 Los Angeles, California 90071

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Tel: 213-617-0480
Fax: 213-625-0931

and, if to Tenant: Cedar Gateway, L.P.

Tel: 310-850-9043
Fax: 310-392-5831

With a copy to:

Tel: _____
Fax: _____

18.7 Attorneys' Fees.

In the event that either Party hereto brings any action or files any proceeding in connection with the enforcement of its respective rights under this Lease or as a consequence of any breach by the other party of its obligations under this Lease, the prevailing party in such action or proceeding shall be entitled to have its reasonable attorneys' fees (including allocable costs for any in-house counsel) and out-of-pocket expenditures paid by the losing Party. The attorneys' fees so recovered shall include fees for prosecuting or defending any appeal and shall be awarded for any supplemental proceedings until the final judgment is satisfied in full. In addition to the foregoing award of attorneys' fees to the prevailing party, the prevailing party in any lawsuit on this Lease shall be entitled to its attorneys' fees incurred in any post judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Lease into any judgment on this Lease.

18.8 Headings.

The headings used in this Lease are inserted for reference purposes only and do not affect the interpretation of the terms and conditions hereof.

18.9 Rights of Successors.

All of the rights and obligations of the Parties under this Lease shall bind and inure to the benefit of their respective heirs, successors and assigns; provided, however, that nothing in this Section 18.9 shall be construed to limit or waive the provisions concerning restrictions on Transfer

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set forth in Article 9 hereof.

18.10 Amendments in Writing.

This Lease cannot be orally amended or modified. Any modification or amendment hereof must be in writing and signed by the Party to be charged.

18.11 No Brokers.

Each Party shall defend, indemnify, and hold the other harmless from all costs and expenses, including attorneys' fees, arising out of any and all claims for broker's agent's or finder's fees or commissions in connection with the negotiation, execution or consummation of this transaction incurred as a result of any statement, representation or agreement alleged to have been made or entered into by the indemnifying Party. Neither Tenant nor Landlord is entitled to receive any brokerage commission as a consequence of this transaction.

18.12 Negation of Partnership.

Nothing in this Lease shall be construed to render Landlord, a partner, joint venturer, or associate in any relationship or for any purpose with Tenant, other than that of Landlord and Tenant, nor shall this Lease be construed to authorize either to act as agent for the other.

18.13 Time of Essence.

Time is of the essence of each provision in this Lease, subject to delays caused by any of the force majeure events set forth in Section 14.8.

18.14 Interpretation.

When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural, and the masculine shall include the feminine and neuter and vice versa. The term "Person" as used in this Lease means a natural person, corporation, limited liability company, association, partnership, organization, business, trust, individual, or a governmental authority, agency, instrumentality or political subdivision, and whenever the word "day" or "days" is used herein, such shall refer to calendar day or days, unless otherwise specifically provided herein. Whenever a reference is made herein to a particular Section of this Lease, it shall mean and include all subsections and subparts thereof. The word "include" or "including" shall describe examples of the antecedent clause, and shall not be construed to limit the scope of such clause.

18.15 Applicable Law; Severability.

The interpretation and enforcement of this Lease shall be governed by the laws of the State of California. Should any part, term, portion or provision of this Lease, or the application thereof to any person or circumstances be held to be illegal or in conflict with any Governmental Restrictions, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions, or the application thereof to other persons or circumstances, shall be deemed severable and the same shall remain enforceable and valid to the fullest extent permitted by law.

18.16 Exhibits.

All exhibits referred to in this Lease are attached hereto and incorporated herein by reference.

18.17 Short Form of Lease.

Concurrently with the execution of this Ground Lease, the Parties shall execute and thereafter record with the County Recorder of San Diego County a Memorandum of Lease, in form as attached hereto as Exhibit C, giving notice of the existence of this Ground Lease and the Term hereof. The date the Memorandum of Lease is recorded in the Official Records is the Commencement Date of this Lease.

18.18 Landlord's Rights of Inspection.

Landlord and its authorized Representatives shall have the right during business hours, upon not less than twenty-four (24) hours' oral or written notice to Tenant (except that in the case of an emergency, the existence of which shall be determined by Landlord in its reasonable discretion, no advance notice shall be required) to enter upon the Leased Premises for purposes of inspecting the same and exercising its rights under this Lease, provided that such inspections shall not unreasonably interfere with Tenant's or its Subtenant's construction or business activities.

18.19 Nonmerger of Fee and Leasehold Estates.

If both Landlord's and Tenant's estates in the Leased Premises become vested in the same owner (other than by termination of this Lease following an Uncured Default hereunder, subject to the rights, if any, of a Lender pursuant to Article 8 above), this Lease shall not be terminated by application of the doctrine of merger except at the express election of Landlord and with the consent of any Lender(s) of a Leasehold Mortgage.

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18.20 Counterparts.

This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

18.21 Interest On Past Due Obligations.

Except where another rate of interest is specifically provided for in this Lease, any amount due from either Party to the other under this Lease which is not paid within ten (10) days after receipt of written notice that such amount is due (or in the case of Rent, within three (3) days after such Rent is due), shall bear interest at the Agreed Rate from the date such amount was originally due to and including the date of payment.

18.22 Holding Over.

Any holding over by Tenant after the expiration of the Term shall be construed as a tenancy from month to month and shall be subject to all of the terms and conditions which are provided for in this Lease except that the Rent shall be in an amount equal to 150% of the Rent in effect immediately prior to the expiration of the Term.

(Signatures follow)

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IN WITNESS WHEREOF, the parties have executed this Lease as of the date first above written.

TENANT:

CEDAR GATEWAY, L.P., a California limited partnership

Date: _____

By: SQUIER PROPERTIES, LLC, a California limited liability company, its _____

By: _____

Name: Gary Squier

Its: Member

Date: _____

By: ROEM Development Corporation, a _____ corporation, its _____

By: _____

Name: _____

Title: _____

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LANDLORD:

REDEVELOPMENT AGENCY OF THE CITY OF
SAN DIEGO

Date: _____

By: _____

Print Name: _____

Its: _____

APPROVED AS TO FORM AND LEGALITY

Michael J. Aguirre
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____

Murray O. Kane

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State of California
County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California
County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

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EXHIBIT A

Legal Description of the Leased Premises

[To refer to relevant parcels in the Parcel Map; does not include the Agency Garage Parcel]

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EXHIBIT B

Site Plan

EXHIBIT B
TO ATTACHMENT NO. 18

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EXHIBIT C

Memorandum of Lease

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Cedar Gateway, L.P.

MEMORANDUM OF LEASE

1. Parties. This Memorandum of Lease is entered into by REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO ("Landlord"), and CEDAR GATEWAY, L.P. ("Tenant"). The Lease (as defined below) was executed by Landlord on _____. The "Commencement Date" of the Lease is the date this Memorandum of Lease is recorded in the official records.

2. Grant of Lease: Term. For good and valuable consideration received, Landlord leases to Tenant, and Tenant leases from Landlord, that certain real property (the "Property") located in the County of San Diego, State of California, described in Exhibit A attached hereto and incorporated herein by this reference, for a term ("Term") commencing on the Commencement Date and ending on the sixty-fifth (65th) anniversary of the Commencement Date. Tenant has one option to extend the Term for an additional twenty-five (25) years. All of the terms, provisions and covenants of the Lease are incorporated in this Memorandum of Lease by reference as though written out at length herein, and the Lease and this Memorandum of Lease shall be deemed to constitute a single instrument or document.

3. Purpose of Memorandum of Lease. This Memorandum of Lease is prepared for recordation purposes only, and it in no way modifies the terms, conditions, provisions and covenants of the Lease. In the event of any inconsistency between the

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terms, conditions, provisions and covenants of this Memorandum of Lease and the Lease, the terms, conditions and covenants of the Lease shall prevail.

The parties hereto have executed this Memorandum of Lease on the dates specified immediately below their respective signatures.

"Landlord"

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO

By: _____

Print Name: _____

Its: _____

Dated: _____

APPROVED AS TO FORM AND LEGALITY

Michael J. Aguirre
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____

Murray O. Kane

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State of California
County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California
County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT D

Estoppel Certificate

The undersigned, as Tenant [Landlord] under that lease dated _____ (the "Lease") made between REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO ("Landlord"), and CEDAR GATEWAY, L.P., a California limited partnership ("Tenant"), hereby certifies as follows:

(1) That Tenant has entered into occupancy of the premises described in said lease (the "Leased Premises");

(2) That the Lease is in full force and effect and has not been assigned, modified, supplemented or amended in any way, except as follows: _____;

(3) That the Commencement Date of the Lease is _____;

(4) That there is an unexpired term thereunder of _____ years;

(5) That to the knowledge of the undersigned there are no defaults by either Tenant or Landlord thereunder, except as follows: _____;

(6) That no rents have been prepaid, other than as provided in the Lease.

EXECUTED THIS _____ day of _____, _____.

[Tenant] [Landlord]
By: _____
Print Name: _____
Its: _____

By: _____
Print Name: _____
Its: _____

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EXHIBIT E
REGULATORY AGREEMENT

EXHIBIT E
TO ATTACHMENT NO. 18

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ATTACHMENT NO. 19

RIGHT TO ENTER FOR CONSTRUCTION

Recording Requested by and
When Recorded Return to:

Cedar Gateway, L.P.
c/o Squier Properties
3129 6th St.
Santa Monica, CA 90405

Space above this line for Recorder's use only

THIS RIGHT TO ENTER FOR CONSTRUCTION ("Agreement") is made and entered as of _____, 2008 by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic ("Agency"), and CEDAR GATEWAY, L.P., a California limited partnership ("Licensee").

WHEREAS, Agency and Licensee have entered into that certain Disposition and Development Agreement, dated as of _____, 2008 (the "DDA") to which this Agreement is attached as Attachment No. 19, which DDA is incorporated herein by this reference. Any capitalized term not defined herein shall have such meaning ascribed to it in the DDA.

WHEREAS, pursuant to the DDA, Licensee is to ground lease from Agency the Leasehold Parcels and develop the Leasehold Parcels, together with the Agency Garage Parcel, as affordable housing, retail and parking (the "Project").

WHEREAS, Agency owns real property adjacent to the Leasehold Parcels known as the Chapel Parcel, as legally described in Exhibit A attached hereto.

WHEREAS, in order to develop the Project, Licensee is required to enter the Chapel Parcel, excavate a portion of the Chapel Parcel, construct the improvements within the Housing Parcel and the Agency Garage Parcel, and restore the surface of the Chapel Parcel in accordance with plans approved by the Executive Director (collectively, the "Work").

NOW, THEREFORE, in consideration of the mutual terms and conditions contained herein, the parties agree as follows:

1. The Agency authorizes Licensee, its agents and contractors to enter the Chapel Parcel during the term of this Agreement for the purposes of developing the Project and performing the Work, and for no other purpose. The Agency acknowledges that access to certain portions of the Chapel Parcel may be interrupted as Licensee is performing its Work.

2. Licensee shall defend, indemnify and hold harmless the Agency, its officials, and

employees from any claims, demands, causes of action, loss, damage, and liability (collectively in this Section "claim") which may be asserted against the Agency and its employees arising from or attributable to entry by Licensee, its agents and contractors on the Chapel Parcel under this Agreement. Licensee shall give notice of any such claim within ten (10) days.

3. The term of this Agreement shall begin on the date a memorandum of the Ground Lease is recorded in the official records of San Diego County (the "Commencement Date") and shall end upon the earlier of (i) completion of the Garage and restoration of the surface of the Chapel Parcel to its condition prior to excavation and to the reasonable satisfaction of the Executive Director, or (ii) the second anniversary of the Commencement Date. Licensee's obligations relating to or arising out of this Agreement shall survive termination of this Agreement.

4. While on the Chapel Parcel and doing the Work, Licensee shall comply with applicable federal, state and local laws, rules and regulations. Licensee shall obtain all necessary permits for its activities on the Chapel Parcel.

5. Agency shall have no duty to make any improvement or repair to the Chapel Parcel or the improvements thereof. Any and all uses of the Chapel Parcel by Licensee, its agents, contractors and their employees shall be at their sole cost and expense.

6. Licensee acknowledges and agrees that, by this Agreement, Licensee does not acquire any right, title, or interest of any kind in the Chapel Parcel.

7. All personal property belonging to Licensee, its agents and contractors shall be kept or used on the Chapel Parcel at the sole risk of Licensee, its agents and contractors and the Agency shall not be liable for any damage or loss to said property (including but not limited to damage or loss caused by theft, burglary, acts of God, misappropriation, or vandalism) except as caused by the sole negligence of Agency.

8. Concurrent with the execution of this Agreement, Licensee shall procure and maintain, at its cost, during the term of this Agreement, the insurance coverages from insurance carriers as required by the Ground Lease. Licensee shall require any contractors and subcontractors of Licensee to meet the insurance requirements herein. City's Risk Manager or designee shall consider contractors' and subcontractors' written requests for modification of the insurance requirements based on the scope of work to be performed. With respect to damage to property, Agency and Licensee hereby waive all rights of subrogation, one against the other, but only to the extent that collectible commercial insurance is available for said damage.

a. Prior to the start of performance under this Agreement, Licensee shall deliver to Agency certificates of insurance and required endorsements evidencing the insurance coverage required by this Agreement for approval as to sufficiency and form, including any insurance required of Licensee's contractors or subcontractors. The certificates and endorsements shall contain the original signature of a person authorized by that insurer to bind coverage on its behalf. Licensee shall, at least thirty (30) days prior to expiration of the policies of insurance required herein, furnish Agency with certificates of insurance and endorsements evidencing renewal of the insurance required herein.

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b. The insurance required herein shall not be deemed to limit Licensee's liability relating to performance under this Agreement. The procuring of insurance shall not be construed as a limitation on liability or as full performance of the indemnification and hold harmless provisions of this Agreement.

c. Any modification or waiver of the insurance requirements herein shall be made only with the written approval of the City's Risk Manager or designee.

9. Licensee shall not assign this Agreement or any interest herein nor allow the transfer thereof whether by operation of law or otherwise. Any attempted transfer or assignment shall be void and confer no right whatsoever upon a transferee or assignee.

10. In the event Licensee shall fail or refuse to perform any term, covenant or condition on its part to be performed within three (3) days' notice from the Agency, the Agency may terminate this Agreement without further notice.

11. Any notice hereunder shall be in form and delivered as required by the Ground Lease.

12. Time is of the essence with respect to the performance of every provision of this Agreement in which time or performance is a factor.

13. If there is any legal proceeding between the parties to enforce or interpret this Agreement or to protect or establish any rights or remedies hereunder, the non-prevailing party shall pay to the prevailing party its costs and expenses, including reasonable attorneys fees.

14. This Agreement shall be governed by and construed in accordance with the laws of the State of California. This Agreement shall not be amended nor any provision or breach waived except in writing signed by the parties. This Agreement constitutes the entire understanding between the parties and supersedes all other agreements, oral or written, with respect to the subject matter herein.

15. The covenants, indemnities and obligations of Licensee pursuant to the Indemnity Agreement apply with full force and effect to Licensee while on or in the Chapel Parcel pursuant to its rights under this Agreement.

[Signature Page Follows]

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IN WITNESS WHEREOF, the parties have caused these presents to be executed with all of the formalities required by law as of the date first stated above.

**REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO**

Dated: _____

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM AND LEGALITY

Michael J. Aguirre
Agency General Counsel

By: _____

KANE, BALLMER &
BERKMAN
Agency Special Counsel

By: _____

Murray O. Kane

CEDAR GATEWAY, L.P.,
a California limited partnership

By: CEDAR SQUIER ROEM, LLC,
a California limited liability company,
its General Partner

By: ROEM DEVELOPMENT
CORPORATION,
a California corporation, its Manager

By: _____

Name: Jonathan Emami

Its: Vice President

By: SQUIER PROPERTIES, LLC,
a California limited liability company,
its Manager

By: _____

Name: Gary Squier

Its: President

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State of California
County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies); and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California
County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

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EXHIBIT A

LEGAL DESCRIPTION OF THE CHAPEL PARCEL

ATTACHMENT NO. 20

**OPTION TO PURCHASE AND RIGHT OF FIRST REFUSAL AGREEMENT
(HOUSING)**

This Option to Purchase and Right of First Refusal Agreement (this "Option Agreement") is entered into as of _____, 200__ between the Redevelopment Agency of the City of San Diego (the "Agency" or "Optionee"), an agency organized under Chapter 2 of the Community Redevelopment Law of the State of California, and Cedar Gateway, L.P., a California limited partnership ("Partnership" or "Optionor").

RECITALS

A. The Agency owns in fee simple certain real property situated in the City of San Diego, County of San Diego, and State of California, more particularly described in Exhibit A attached hereto (the "Property").

B. The Agency has ground leased the Property to Optionor pursuant to a Ground Lease of even date herewith (the "Ground Lease") between Agency as Landlord and Optionor as Tenant. This Option Agreement is the Option Agreement referred to in Article 17 of the Ground Lease.

C. Pursuant to a Disposition and Development Agreement dated as of _____, 2008 (the "Agreement"), Optionor has agreed to construct an approximately 65 unit affordable housing complex with ground floor retail and related parking facilities (the "Project").

D. Optionor, with the consent of the Agency and the City of San Diego, has subdivided the Property into four legal parcels referred to herein as: (1) the "Housing Parcel"; (2) the "Agency Garage Parcel," (3) the "Retail Parcel A"; and (4) the "Retail Parcel B" (collectively, the "Parcels"). The term "Ground Lease" shall also include any new lease between Agency and the then owner(s) of the Housing Parcel, as well as any new lease between Agency and a mortgagee of any of such Parcels.

E. The Agency Garage Parcel is not subject to the Ground Lease, and all Improvements within the Agency Garage Parcel are owned by Agency. Retail Parcel A and Retail Parcel B are not a part of this Option Agreement.

F. The Optionor desires to grant to Agency an option to purchase Optionor's leasehold interest in the Optioned Property (as defined below), and a right of first refusal with respect to the Optioned Property, on the terms and conditions set forth below.

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NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Grant of Option.

The Optionor hereby grants to the Optionee an option (the "Option") to purchase the Housing Parcel, including without limitation all improvements and fixtures within the Housing Parcel, and the remaining term of the Leasehold (the "Optioned Property"), on the terms and conditions set forth in this Option Agreement and subject to the conditions precedent to the exercise of the Option specified herein. The Optioned Property is legally described in Exhibit A attached hereto and made a part hereof.

2. Grant of Right of First Refusal.

In the event that the Partnership receives a bona fide offer to purchase the Optioned Property, which offer the Partnership intends to accept, Agency shall have a right of first refusal to purchase the Optioned Property (the "Refusal Right") on the terms and conditions set forth in this Option Agreement and subject to the conditions precedent to exercise of the Refusal Right specified herein. In addition to all other applicable conditions set forth in this Option Agreement, (a) the foregoing grant of the Refusal Right shall be effective only if Agency is currently and remains at all times hereafter, until (i) the Refusal Right has been exercised and the resulting purchase and sale has been closed or (ii) the Refusal Right has been assigned to a Permitted Assignee described in Section 8 hereof, whichever first occurs, a qualified nonprofit organization, as defined in Section 42(h)(5)(C) of the Code, and (b) any assignment of the Refusal Right permitted under this Option Agreement and the Refusal Right so assigned shall be effective only if the assignee is at the time of the assignment and remains at all times thereafter, until the Refusal Right has been exercised and the resulting purchase and sale has been closed, a Permitted Assignee described in Section 8 hereof meeting the requirements of Section 42(i)(7)(A) of the Code as determined in its judgment by Optionor's tax counsel. Prior to accepting any such bona fide offer to purchase the Optioned Property, the Partnership shall notify Agency of such offer and deliver to it a copy thereof. The Partnership shall not accept any such offer unless and until the Refusal Right has expired without exercise by Agency under Section 5 hereof.

3. Term of Option and Right of First Refusal.

The term of this Option and Right of First Refusal shall commence on the fifty-fifth (55th) anniversary of the Conversion (the "Exercise Start Date") until expiration of the extended term of the Ground Lease on the terms set forth in this Agreement and subject to the conditions precedent to the exercise of the Option or the Refusal Right as specified herein.

4. Purchase Price Under Option.

The purchase price for the Optioned Property (the "Option Price") shall be the greater of the following amounts:

(a) Fair Market Value. The fair market value of the Property shall be appraised as low-income housing to the extent continuation of such use is required under any use restrictions. Any such appraisal is to be made by a licensed appraiser, selected by the Optionor's regular certified public accountants, who is a member of the Appraisal Institute and who has experience in the geographic area in which the Housing Parcel is located. The fair market value shall be reduced by customary costs of a sale, including customary sales commissions; provided, however, that if prior to exercise of the Option the Internal Revenue Service (the "Service") has issued a revenue ruling or provided a private letter ruling to the Optionor, the applicability of which ruling shall be determined in its judgment by tax counsel to the Optionor's limited partner, or tax counsel to the Optionor's limited partner has issued an opinion letter concluding that property of the nature and use of the Property may be sold under circumstances described in this Option Agreement at the greater of the price determined under Section 42(i)(7) of the Code or the price determined under subsection 4.b. without limiting tax credits or deductions that would otherwise be available to Optionor's limited partner, then the Option Price shall be such price; or

(b) Debt and Taxes. The sum of (1) the outstanding principal, accrued interest, any prepayment penalty and any other amounts due under all mortgage documents relating to the Optioned Property, whether or not such amounts are due upon sale, and the total amount of all other indebtedness of Optionor as of the date of Closing, and (2) an amount sufficient to assure receipt by the Optionor or its constituent general partners or members ("Partners") from the proceeds of the sale of the Project of an amount not less than the sum of all federal, state and local taxes, including without limitation, all income taxes due upon sale, incurred or to be incurred by the Optionor or its Partners as a result of such sale.

5. Purchase Price Under Refusal Right. The purchase price for the Property pursuant to the Refusal Right shall be equal to the sum of (a) an amount sufficient to pay all debts (including partner loans) and liabilities of the Partnership upon its termination and liquidation as projected to occur immediately following the sale pursuant to the Refusal Right, and (b) an amount sufficient to distribute to the Partners cash proceeds equal to the taxes projected to be imposed on the Partners of the Partnership as a result of the sale pursuant to the Refusal Right.

6. Exercise of Option or Refusal Right. The Option and the Refusal Right may each be exercised by Agency by (a) giving prior written notice of its intent to exercise the Option or the Refusal Right to the Partnership and each of its partners in the manner provided in the Agreement and in compliance with the requirements of this Section 6 (the "Exercise Option Notice"), and (b) complying with the contract and closing requirements of Section 7 hereof. Any such notice of intent to exercise the Option shall be given during the period commencing upon the Exercise Start Date and terminating at the expiration of the Ground Lease. Any such notice of intent to exercise the Refusal Right shall be given within one hundred eighty (180) days after Agency has received the Partnership's notice of a bona fide offer pursuant to Section 2 hereof. If the foregoing requirements (including those of Section 7 hereof) are not met as and when provided herein, the Option or the Refusal Right, or both, as applicable, shall expire and be of no further force or effect. Upon notice by Agency of its intent to exercise the Option or the Refusal Right, all rights under the other shall be subordinate to the rights then being so exercised unless and until such exercise is withdrawn or discontinued, and upon the closing of any sale of the Optioned Property pursuant to such notice shall expire and be of no further force or effect,

provided that in the event that the Option and the Refusal Right are hereafter held by different parties by reason of any permitted assignment or otherwise, Agency in its assignment(s) or such parties by written agreement may specify any other order of priority consistent with the other terms and conditions of this Option Agreement.

7. Contract and Closing.

Upon determination of the purchase price, the Partnership and Agency shall enter into a written contract for the purchase and sale of the Optioned Property in accordance with the terms of this Option Agreement and containing such other terms and conditions as are standard and customary for similar commercial transactions in San Diego County, California, providing for a closing not later than the date specified in the Option Exercise Notice or thirty (30) days after the Option Price has been determined, whichever is later. In the absence of any such contract, this Option Agreement shall be specifically enforceable upon the exercise of the Option. The purchase and sale hereunder shall be closed through a deed-and-money escrow with the title insurer for the Optioned Property or another mutually acceptable title company. Upon closing, the Optionor shall deliver to the Optionee, along with the deed to the Optioned Property, an ALTA Owner's Policy dated as of the close of escrow in the amount of the Option Price (or price pursuant to the Refusal Right), subject to the liens, encumbrances and other exceptions then affecting the title. The Optionee shall be responsible for all costs including, but not limited to, transfer taxes, if any, title policy premiums and recording costs.

8. Rights Subordinate.

This Option Agreement is subordinate in all respects to the Ground Lease, any regulatory agreements and to the terms and conditions of any leasehold mortgages necessary to develop the Project.

9. Applicable Law; Severability.

This Option Agreement shall be construed in accordance with the laws of the State of California. Should any part, term, portion or provision of this Option Agreement, or the application thereof to any person or circumstances be held to be illegal or in conflict with any governmental restrictions, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions, or the application thereof to other persons or circumstances, shall be deemed severable and the same shall remain enforceable and valid to the fullest extent permitted by law.

10. Assignment.

Agency may assign all or any of its rights under this Option Agreement to (a) a qualified nonprofit organization, as defined in Section 42(h)(5)(C) of the Code, (b) a government agency, or (c) a tenant organization (in cooperative form or otherwise) or resident management corporation of the Optioned Property (each a "Permitted Assignee"), subject to the conditions precedent to the Refusal Right grant and the Option price set forth herein. Prior to any assignment or proposed assignment of its rights hereunder, Agency shall give written notice

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thereof to the Partnership. Upon any permitted assignment hereunder, references in this Option Agreement to Agency shall mean the permitted Assignee where the context so requires, subject to all applicable conditions to the effectiveness of the rights granted under this Option Agreement and so assigned. No assignment of Agency's rights hereunder shall be effective unless and until the permitted Assignee enters into a written agreement accepting the assignment and assuming all of Agency's obligations under this Option Agreement and copies of such written agreement are delivered to the Partnership.

11. Notices.

All notices, requests, demands and other communications under this Option Agreement shall be in writing and shall be deemed to have been given on (a) the date of service if served personally on the Party to whom notice is to be given, (b) the date of actual or attempted delivery provided such attempted delivery is made on a business day, if served by Federal Express, Express Mail or another like overnight delivery service, (c) the date of actual delivery as shown by the addressee's registry or certification of receipt or the third business day after the date of mailing, whichever is earlier, if mailed to the person to whom notice is to be given, by first class U.S. mail, registered or certified, postage prepaid, return receipt requested and properly addressed as follows (or to such other address as either Party may from time to time direct by written notice given in the manner herein prescribed), or (d) one day after receipt of a confirmed facsimile transmission provided any such communication is concurrently given by one of the above methods:

If to Agency: The Redevelopment Agency of the City Of San Diego
 c/o Centre City Development Corporation
 225 Broadway, Suite 1100
 San Diego, CA 92101
 Tel: 619-533-7108
 Fax: 619-236-9148

With a copy to: Kane, Ballmer & Berkman
 515 S. Figueroa Street
 Suite 1850
 Los Angeles, California 90071
 Tel: 213-617-0480
 Fax: 213-625-0931

and, if to Partnership:

Cedar Gateway, L.P.
c/o Squier Properties
3129 6th St., Santa. Monica
Santa Monica, CA 90405
Tel: 310-581-9043
Fax: 310-392-5831

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With a copy to:

Cox, Castle & Nicholson LLP
Attn: Stephen C. Ryan, Esq.
555 California Street, 10th Floor
San Francisco, CA 94104-1513
Tel: (415) 392-4200
Fax: (415) 392-4250

12. Attorneys' Fees.

In the event that either Party hereto brings any action or files any proceeding in connection with the enforcement of its respective rights under this Option Agreement or as a consequence of any breach by the other party of its obligations under this Option Agreement, the prevailing party in such action or proceeding shall be entitled to have its reasonable attorneys' fees (including allocable costs for any in-house counsel) and out-of-pocket expenditures paid by the losing Party. The attorneys' fees so recovered shall include fees for prosecuting or defending any appeal and shall be awarded for any supplemental proceedings until the final judgment is satisfied in full. In addition to the foregoing award of attorneys' fees to the prevailing party, the prevailing party in any lawsuit on this Option Agreement shall be entitled to its attorneys' fees incurred in any post judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Option Agreement into any judgment on this Option Agreement.

13. Binding Provisions.

The covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the heirs, legal representatives, successors and assignees of the respective parties hereto, except in each case as expressly provided to the contrary in this Option Agreement.

14. Covenants Running with the Land.

This Option Agreement shall be a restrictive covenant that runs with the land and shall be binding upon Optionor.

15. Memorandum of Option.

Either Optionor or Optionee may cause an appropriate memorandum of this Option Agreement to be recorded in the official records of San Diego County.

16. Counterparts.

This Option Agreement may be executed in several counterparts and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties have not signed the original or the same counterpart.

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17. Amendments.

This Option Agreement may be amended only by a written instrument executed in one or more counterparts by the parties hereto.

18. Time.

Time is of the essence with respect to this Option Agreement, and all provisions relating thereto shall be so construed.

OPTIONOR / PARTNERSHIP:

CEDAR GATEWAY, L.P.,
a California limited partnership

By: CEDAR SQUIER ROEM, LLC,
a California limited liability company,
its General Partner

By: ROEM DEVELOPMENT CORPORATION,
a California corporation,
its Manager

Date: _____

By: _____

Name: Jonathan Emami
Its: Vice President

By: SQUIER PROPERTIES, LLC,
a California limited liability company,
its Manager

Date: _____

By: _____

Name: Gary Squier
Its: President

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OPTIONEE / AGENCY:

REDEVELOPMENT AGENCY OF THE CITY OF
SAN DIEGO, a public body corporate and politic

Date: _____

By: _____

Print Name: _____

Its: _____

APPROVED AS TO FORM AND LEGALITY

Michael J. Aguirre
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____

Murray O. Kane

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State of California

County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

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EXHIBIT A

The land located in the City of San Diego, County of San Diego, State of California described as follows:

[Attached Hereto]

ATTACHMENT NO. 21

**RIGHT OF FIRST REFUSAL
(Retail Parcels)**

This Right of First Refusal (this "Right of First Refusal") is entered into as of _____, 2008 between the Redevelopment Agency of the City of San Diego ("Agency"), a public body corporate and politic, and Cedar Gateway, L.P., a California limited partnership ("Owner").

R E C I T A L S

A. Owner and Agency are parties to that certain Ground Lease of even date herewith (the "Ground Lease"). Capitalized terms when used herein shall have the meanings ascribed to them in the Ground Lease unless otherwise defined herein.

B. Pursuant to the Ground Lease, the Owner owns a leasehold estate in certain real property situated in the City of San Diego, County of San Diego, and State of California, more particularly described in Exhibit A attached hereto (the "Retail Parcel A" and the "Retail Parcel B," together the "Retail Parcels").

C. During the term of the Ground Lease, the Owner or a third-party successor in interest shall own a fee interest in the improvements constructed within the Retail Parcels (the "Improvements"); together the Retail Parcels and the Improvements are referred to as the "Subject Property"; the Subject Property may include one or both of the Retail Parcels.

D. This Right of First Refusal is the "Right of First Refusal (Retail)" referred to in Article 17 of the Ground Lease.

E. The Owner desires to grant to Agency a right of first refusal to purchase the Subject Property, on the terms and conditions set forth below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Right of First Refusal. The Owner hereby grants to Agency or its designee a right of first refusal (the "Right of First Refusal") to purchase all right, title and interest held by the Owner in the Subject Property, at the time, for the price and subject to such other terms and conditions as are set forth below.

2. Exercise of Right of First Refusal.

(a) The term of this Option shall commence after the close of the 55th year of the term of the Ground Lease and thereafter during the remaining Term of the Ground Lease, in the event that the Owner or a third-party successor in interest receives a bona fide offer to

purchase the Subject Property (an "Offer") and elects to accept the offer to purchase the Subject Property, the Owner shall give Agency notice of its receipt of such offer to purchase the Subject Property (the "Offer Notice"). The Offer Notice shall refer to this Right of First Refusal (Retail), summarize the terms of the accepted offer, state that unless Agency responds to the Offer Notice within sixty (60) days of receipt Agency shall waive its rights under the Right of First Refusal, and contain a copy of the purchase and sale agreement. Agency or its qualified designee shall have a period of sixty (60) days from the date of receipt of the Offer Notice to elect to exercise its Right of First Refusal by delivering written notice to the Owner of its election to do so (the "Election Notice"). All costs of the exercise of the Right of First Refusal, including without limitation any filing or recording fees and applicable transfer taxes, shall be paid by Agency or its designee.

(b) If Agency or its designee fails to deliver the Election Notice within sixty (60) days of receipt of the Offer Notice, or if such Election Notice is delivered but Agency or its designee does not consummate the purchase of the Subject Property within sixty (60) days from the date of delivery of the Election Notice, then Agency shall be deemed to have waived its Right of First Refusal with regard to that Offer.

(c) If the sale of the Subject Property pursuant to the Offer includes terms which are materially more favorable to such third party purchaser, as reasonably determined by the Executive Director, or if the proposed agreement is not entered into between Owner and said third party purchaser within one hundred eighty (180) days after delivery of the Offer Notice, or if such agreement has not been consummated pursuant to the terms of the applicable Offer, then Owner must resubmit the Offer to Agency so that Agency may, at its option, within thirty (30) days thereafter, elect to exercise its Right of First Refusal in accordance with the foregoing provisions.

(d) The terms and conditions of Agency's purchase of the Subject Property shall be identical to the price, contingencies, conditions and time periods as set forth in the Offer, except that the close of escrow ("Closing") shall be within sixty (60) days after delivery of the Election Notice.

3. Termination. If Agency elects not to exercise its Right of First Refusal with respect to the Retail Parcels subject to the Offer, or if Agency has waived (or be deemed to have waived) its Right of First Refusal, Agency agrees to promptly provide Owner with a release of its Right of First Refusal to the property subject to the Offer (that is, either one or both of the Retail Parcels, as applicable), upon the buyer's request.

4. Covenants Running with the Land. This Right of First Refusal shall be a restrictive covenant that runs with the land and shall be binding upon Owner.

5. Subordination. Owner and Agency shall subordinate this Right of First Refusal to the lien of any deed of trust necessary to develop the Property.

6. Applicable Law; Severability. This Right of First Refusal shall be construed in accordance with the laws of the State of California. Should any part, term, portion or provision

of this Right of First Refusal, or the application thereof to any person or circumstances be held to be illegal or in conflict with any governmental restrictions, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions, or the application thereof to other persons or circumstances, shall be deemed severable and the same shall remain enforceable and valid to the fullest extent permitted by law.

7. Notices. All notices, requests, demands and other communications under this Right of First Refusal shall be in writing and shall be deemed to have been given on (a) the date of service if served personally on the Party to whom notice is to be given, (b) the date of actual or attempted delivery provided such attempted delivery is made on a business day, if served by Federal Express, Express Mail or another like overnight delivery service, (c) the date of actual delivery as shown by the addressee's registry or certification of receipt or the third business day after the date of mailing, whichever is earlier, if mailed to the person to whom notice is to be given, by first class U.S. mail, registered or certified, postage prepaid, return receipt requested and properly addressed as follows (or to such other address as either Party may from time to time direct by written notice given in the manner herein prescribed), or (d) one day after receipt of a confirmed facsimile transmission provided any such communication is concurrently given by one of the above methods:

If to Agency: The Redevelopment Agency of the City Of San Diego
 c/o Centre City Development Corporation
 225 Broadway, Suite 1100
 San Diego, CA 92101
 Tel: 619-533-7108
 Fax: 619-236-9148

With a copy to: Kane, Ballmer & Berkman
 515 S. Figueroa Street
 Suite 1850
 Los Angeles, California 90071
 Tel: 213-617-0480
 Fax: 213-625-0931

and, if to Cedar Gateway:

Cedar Gateway, L.P.
 c/o ROEM Development Corporation
 1650 Lafayette Street
 Santa Clara, California 95050
 Attn: Robert Emami
 Tel: (408) 984-5600
 Fax: (408) 984-311

With a copy to: Squier Properties
 3129 6th Street
 Santa Monica, California 90405
 Attn: Gary Squier

00-766

Tel: (310) 850-9043
Fax: 310-392-5831

And to: Cox, Castle & Nicholson LLP
Attn: Stephen C. Ryan, Esq.
555 California Street, 10th Floor
San Francisco, CA 94104-1513
Tel: (415) 392-4200
Fax: (415) 392-4250

8. Attorneys' Fees. In the event that either Party hereto brings any action or files any proceeding in connection with the enforcement of its respective rights under this Right of First Refusal or as a consequence of any breach by the other party of its obligations under this Right of First Refusal, the prevailing party in such action or proceeding shall be entitled to have its reasonable attorneys' fees (including allocable costs for any in-house counsel) and out-of-pocket expenditures paid by the losing Party. The attorneys' fees so recovered shall include fees for prosecuting or defending any appeal and shall be awarded for any supplemental proceedings until the final judgment is satisfied in full. In addition to the foregoing award of attorneys' fees to the prevailing party, the prevailing party in any lawsuit on this Right of First Refusal shall be entitled to its attorneys' fees incurred in any post judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Right of First Refusal into any judgment on this Right of First Refusal.

9. Binding Provisions. The covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the heirs, legal representatives, successors and assignees of the respective parties hereto, except in each case as expressly provided to the contrary in this Right of First Refusal.

10. Memorandum of Right of First Refusal. Either Owner or Agency may cause an appropriate memorandum of this Right of First Refusal to be recorded in the official records of San Diego County.

11. Counterparts. This Right of First Refusal may be executed in several counterparts and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties have not signed the original or the same counterpart.

12. Amendments. This Right of First Refusal may be amended only by a written instrument executed in one or more counterparts by the parties hereto.

13. Time. Time is of the essence with respect to this Right of First Refusal, and all provisions relating thereto shall be so construed.

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IN WITNESS WHEREOF, the parties hereto have executed this Right of First Refusal as of the date first stated above.

OWNER:

CEDAR GATEWAY, L.P.,
a California limited partnership

By: CEDAR SQUIER ROEM, LLC,
a California limited liability company,
its General Partner

By: ROEM DEVELOPMENT
CORPORATION,
a California corporation, its Manager

By: _____
Name: Jonathan Emami
Its: Vice President

By: SQUIER PROPERTIES, LLC,
a California limited liability company,
its Manager

By: _____
Name: Gary Squier
Its: President

(Signatures continue)

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AGENCY:

REDEVELOPMENT AGENCY OF THE CITY OF
SAN DIEGO, a public body corporate and politic

Date: _____

By: _____

Print Name: _____

Its: _____

APPROVED AS TO FORM AND LEGALITY

Michael J. Aguirre
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____

Murray O. Kane

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State of California

County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

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EXHIBIT A

The land located in the City of San Diego, County of San Diego, State of California described as follows:

[Attached Hereto]

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ATTACHMENT No. 22

RECORDING REQUESTED BY)
 AND WHEN RECORDED MAIL TO:)
)
)
)
 THE REDEVELOPMENT AGENCY)
 OF THE CITY OF SAN DIEGO)
 c/o Centre City Development Corporation)
 225 Broadway, Suite 1100)
 San Diego, California 92101.)
)

Space above this line for Recorder's Office

Recording of this document is fee-exempt under
 Government Code § 6103
 No documentary transfer tax is due on this transfer
 Pursuant to Revenue and Taxation Code § 11922

GRANT DEED

Assessor's Parcel Nos.: _____

The undersigned Grantor declares:

FOR VALUABLE CONSIDERATION, CEDAR GATEWAY, L.P., a California limited partnership ("GRANTOR"), hereby grants to the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic, all of its right, title and interest in and to the real property situated in the City of San Diego, County of San Diego, State of California and more particularly described in Exhibit A hereto.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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IN WITNESS WHEREOF, the Grantor has executed this Grant Deed as of _____,
200__.

GRANTOR

CEDAR GATEWAY, L.P.,
a California limited partnership

By: CEDAR SQUIER ROEM, LLC,
a California limited liability company,
its General Partner

By: ROEM DEVELOPMENT CORPORATION,
a California corporation, its Manager

By: _____
Name: Jonathan Emami
Its: Vice President

By: SQUIER PROPERTIES, LLC,
a California limited liability company,
its Manager

By: _____
Name: Gary Squier
Its: President

State of California 661773

County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

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EXHIBIT "A"
LEGAL DESCRIPTION

All that certain real property located in the County of San Diego, State of California, described as follows:

EXHIBIT A

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OFFICIAL BUSINESS Document entitled to free recording per
Government Code Section 6103

Recording Requested by and When
Recorded Return to:

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO
c/o Centre City Development Corporation
225 Broadway, Suite 1100
San Diego, California 92101

Attn: _____

Space above this line for Recorder's use only

NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY

In accordance with Health and Safety Code Section 33334.3(f)(3)(B), notice is hereby given that certain real property located at _____, in the City of San Diego, County of San Diego, State of California, and known as Assessor's Parcel Number _____, and more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, is subject to certain affordability covenants and restrictions identified in that certain **AGREEMENT AFFECTING REAL PROPERTY (INCLUDING RENTAL RESTRICTIONS)** ("Agreement Affecting Real Property") dated as of _____, 200__, made by and between **THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO**, a public body corporate and politic, and **CEDAR GATEWAY, L.P.**, recorded concurrently herewith and incorporated herein by this reference. The affordability covenants and restrictions will expire on the fifty-fifth (55th) anniversary of issuance of the certificate of occupancy for the project.

This notice is prepared for notice and recordation purposes only, and in no way modifies the terms, conditions, provisions and covenants set forth in the Agreement Affecting Real Property. In the event of any inconsistency between the terms, conditions, provisions and covenants set forth in the Agreement Affecting Real Property and this notice, the terms, conditions,

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provisions and covenants set forth in the Agreement Affecting Real Property shall prevail.

IN WITNESS WHEREOF, the parties have duly executed this Notice of Affordability Restrictions on Transfer of Property.

REDEVELOPMENT
AGENCY OF THE CITY
OF SAN DIEGO

By: _____

APPROVED AS TO FORM AND
LEGALITY Michael J. Aguirre
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____

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CEDAR GATEWAY, L.P.,
a California limited partnership

By: CEDAR SQUIER ROEM, LLC,
a California limited liability company,
its General Partner

By: ROEM DEVELOPMENT
CORPORATION,
a California corporation, its Manager

By: _____
Name: Jonathan Emami
Its: Vice President

By: SQUIER PROPERTIES, LLC,
a California limited liability company,
its Manager

By: _____
Name: Gary Squier
Its: President

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EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

STATE OF CALIFORNIA)
)ss
COUNTY OF _____)

On _____, before me, _____,
personally appeared _____, who proved to me
on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and
that by his/her/their signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the state of
California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

ATTACHMENT NO. 24

OPTION AGREEMENT FOR GROUND LEASE OF LEASEHOLD PARCELS

THIS OPTION AGREEMENT FOR GROUND LEASE OF LEASEHOLD PARCELS (this "Agreement") dated as of _____, 2008, is made and entered into by and between the **REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO**, a public body corporate and politic ("Agency") and **CEDAR GATEWAY, L.P.**, a California limited partnership ("Optionee").

This Option is made with reference to the following:

A. Agency is the owner in fee of that certain real property located in the City of San Diego, County of San Diego, State of California, more particularly described in the legal description attached hereto as Exhibit "A" and incorporated herein by this reference (the "Property").

B. The Property has been subdivided into four parcels: (1) the "Housing Parcel"; (2) the "Agency Garage Parcel," (3) the "Retail Parcel A"; and (4) the "Retail Parcel B" (collectively, the "Parcels").

C. On or about _____, 2008, Agency and Optionee entered into that certain Disposition and Development Agreement (the "DDA") that provides for, among other matters, the Option of Optionee to ground lease the Housing Parcel, the Retail Parcel A and the Retail Parcel B (the "Leasehold Parcels"), as depicted on the Site Map attached hereto as Exhibit "B" and incorporated herein by this reference, and commence development on the Property. The Agency Garage Parcel shall not be ground leased to Optionee. Any capitalized term not defined herein shall have the meaning ascribed to it in the DDA.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Grant of Option.

The Agency hereby grants to the Optionee an option (the "Option") to ground lease the Leasehold Parcels on the terms and conditions, and for the consideration, set forth in the Ground Lease (Attachment 18 to the Agreement), the DDA, and this Agreement.

The Leasehold shall be conveyed to Optionee by the execution of the Ground Lease and the memorandum thereof, and recordation of the memorandum of ground lease in the official records of San Diego County. Optionee shall accept the Leasehold Parcels in the condition and with such representations and warranties as provided in the Agreement.

2. Term of Option.

The term of this Option shall commence on the date Agency acquires the Property, and shall expire at 11:59 p.m. (Pacific Standard Time) _____ months thereafter (the "Option

Period"). The Executive Director or designee of Agency may, in his or her reasonable discretion, extend the Option Period for an additional _____ months.

3. Exercise of Option.

The Option may be exercised by the Optionee pursuant to the terms and conditions of this Agreement during the Option Period including any extensions. To exercise the Option, Optionee must, not later than _____ days prior to the expiration of the Option Period, including any extensions, deliver written notice to Agency stating its intent to exercise the Option upon the terms and conditions of this Agreement (the "Option Exercise Notice"). Any such Option Exercise Notice shall be given during the Option Period. If the foregoing requirements (including those of Section 5 hereof) are not satisfied as and when provided herein, the Option shall expire and be of no further force or effect. All notices to be provided as set forth herein shall be sent in the manner required by Section 601 of the DDA.

4. Opening of Escrow.

Subject to Paragraph 3 above, Agency and Optionee shall deliver to _____, (the "Escrow Holder") a fully executed duplicate original of this Agreement within five (5) business days after the Option Notice Date (as defined below). As used in this Agreement the term "Option Notice Date" shall mean the date on which Optionee shall have delivered the Option Notice to Agency, provided that in no event shall the Option Notice Date be late than the Option Period, including any extensions. When this Agreement, fully signed, is delivered to the Escrow Holder, escrow shall be deemed open (the "Opening of Escrow"). Escrow Holder shall immediately notify Agency and Optionee, in writing, of the date of Opening of Escrow.

5. Conditions Precedent to Agency's Performance. Agency's obligation to convey a leasehold interest in the Leasehold Parcels and close the Escrow is subject to the satisfaction or waiver (in Agency's sole and absolute discretion) of all conditions set forth in Section 209 of the DDA within the applicable time periods specified (collectively, the "Agency's Conditions"). For convenience of the parties, the Agency's Conditions are also set forth below; in the event of a conflict, those conditions precedent as set forth at Section 209 of the DDA shall control.

a. Optionee has confirmed that those conditions precedent set forth at paragraphs 203 a., b. and c. of the DDA remain true and correct.

b. The Agency Executive Director or designee has approved Optionee's evidence of financing as set forth in the Method of Financing.

c. Agency has approved the Final Construction Drawings and related documents for the development of the Project.

d. The Agency Executive Director or designee has approved Optionee's Project Budget.

- e. The Agency Executive Director or designee has approved Optionee's construction contract.
- f. Optionee and Agency Executive Director or designee have agreed upon the Permitted Exceptions for of the Leasehold and the Lender's Policy of Title Insurance.
- g. The Title Company has committed to issuing a leasehold title policy substantially in conformance with the agreed-to Permitted Exceptions for the Leasehold Title Policy pursuant to Section 214 of the DDA when Optionee becomes the ground lessee of the Leasehold Parcels.
- h. The Title Company has committed to issuing a lender's title policy substantially in conformance with the agreed-to Permitted Exceptions for the Lender's Title Policy pursuant to Section 214 of the DDA when the Agency Leasehold Deed of Trust is recorded against the Leasehold.
- i. Optionee has prepared and submitted to the Executive Director its workforce report / EO Plan and Report as provided in the City's Equal Opportunity Contracting Requirements, DDA Attachment No. 17.
- j. Optionee shall have executed and delivered to the Escrow Agent the following documents, all in recordable form: the Agreement Containing Covenants, the Agency Leasehold Deed of Trust and the Assignment of Rents, the Memorandum of Ground Lease, a memorandum of the Option to Purchase Agreement (Housing), a memorandum of the Right of First Refusal (Retail) and the Notice of Affordability Restrictions, conforming in form and substance to DDA Attachment Nos. 6, 9, 10, 18, 19, 20, 21 and 23, respectively, and the REA, the CC&Rs and the Regulatory Agreement.
- k. Optionee shall have executed and delivered to the Escrow Agent the Agency Note, the Assignment of Plans, duplicate originals of the Ground Lease, duplicate originals of the Option to Purchase Agreement (Housing), and the Right of First Refusal (Retail) conforming in form and substance to DDA Attachment Nos. 8, 11, 18, 20 and 21, respectively.
- l. Optionee shall have presented proof acceptable to the Agency Executive Director or designee that it has obtained insurance in accordance with the requirements of Section 310 below.
- m. Optionee shall have obtained, or concurrently with the Second Closing shall obtain, a grading or building permit.
- n. Optionee shall have completed a lot consolidation and lot line adjustment resulting in the establishment of the Chapel Parcel as a legal Parcel and the remainder of the Property as a legal parcel.
- o. Optionee has prepared a Parcel Map in form acceptable to the Executive Director and submitted such Parcel Map to the City for approval.

p. Optionee shall not be in default under this Agreement.

6. Conditions Precedent to Optionee's Performance. Optionee's obligation to ground lease the Leasehold Parcels and close the Escrow is subject to satisfaction or waiver (in Optionee's sole and absolute discretion) of all conditions precedent set forth at Section 210 of the DDA within the applicable time periods specified below (collectively the "Optionee's Conditions"): For convenience of the parties, the Optionee's Conditions set forth at Section 210 are also set forth below; in the event of a conflict, those conditions precedent as set forth at Section 210 of the DDA shall control.

a. Those conditions precedent set forth at paragraphs 203 a. and b. of the DDA remain satisfied.

b. Optionee and Agency Executive Director or designee have agreed upon the Permitted Exceptions for the Leasehold Title Policy for the Property as set forth in Section 214 of the DDA.

c. The Title Company has committed to issuing a title policy substantially in conformance with the agreed-to Permitted Exceptions for the Leasehold Title Policy pursuant to Section 217 of the DDA when Optionee becomes owner of the Leasehold.

d. The Agency Executive Director or designee has approved Optionee's evidence of financing as set forth in the Method of Financing.

e. The Construction Loan and other construction sources of financing shall be irrevocably committed to close and the Tax Credit Investor shall be irrevocably committed to be admitted as a limited partner of the Optionee.

f. Optionee shall have obtained, or concurrently with the Second Closing shall obtain, a grading or building permit.

g. Optionee shall have completed a lot consolidation and lot line adjustment resulting in the establishment of the Chapel Parcel as a legal Parcel and the remainder of the Property as a legal parcel.

h. Optionee has prepared a Parcel Map in form acceptable to the Executive Director and submitted such Parcel Map to the City for approval.

i. Agency shall have executed and delivered to Escrow Agent the following documents, all in recordable form: the Agreement Containing Covenants, the Subordination Agreement, the Memorandum of Ground Lease, a memorandum of the Option to Purchase Agreement (Housing), a memorandum of the Right of First Refusal (Retail) and the Notice of Affordability Restrictions, conforming in form and substance to DDA Attachment Nos. 6, 14, 18, 19, 20, 21 and 22, respectively, and the REA, the CC&Rs and the Regulatory Agreement.

j. Agency shall have executed and delivered to Escrow Agent duplicate

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originals of the Ground Lease, the Right to Enter for Construction, the Option to Purchase Agreement (Housing), and the Right of First Refusal (Retail), conforming in form and substance to DDA Attachment Nos. 18, 19, 20 and 21, respectively.

k. Optionee shall have obtained insurance in accordance with the requirements of Section 310 of the DDA.

l. The Lease between Everett Robertson, Lucia Sippel and W. Allan Kelley on the one hand, and Ace Parking Management, Inc., on the other, dated June 16, 2003, has been terminated.

m. Agency shall not be in default under the DDA.

7. Closing of Escrow.

7.1 Closing Date. Subject to the satisfaction of the Optionee's Conditions and the Agency's Conditions, Escrow shall close on or prior to the Second Closing Date (as defined in the DDA) as set forth in the Schedule of Performance (Attachment No. 5 of the DDA) incorporated herein by this reference (the "Closing Date").

The terms "Close of Escrow" and/or "Closing" are used in this Agreement to mean the time and date (which shall be as provided in this Section 7.1) on which the Ground Lease is executed by the Agency and the corresponding Memorandum of Ground Lease is filed for recording by Escrow Holder in the Office of the San Diego County Recorder.

7.2 Deposits to be made by Optionee. On or before the Close of Escrow, Optionee shall deliver to Escrow Holder any and all instruments, properly executed and acknowledged by Optionee, as appropriate, as may be necessary to comply with the DDA and this Agreement.

7.3 Deposits to be made by Agency. At or before 5:00 p.m. on the last business day immediately before the Close of Escrow, Agency shall deliver to Escrow Holder:

a. a memorandum of ground lease, properly executed and acknowledged by the Agency conforming in form and substance to Exhibit "C" of the Ground Lease (the "Memorandum of Ground Lease").

b. any additional instruments, signed and properly acknowledged by Agency, if appropriate, as may be necessary to comply with the DDA, the Ground Lease and this Agreement.

8. Termination and Cancellation of Escrow.

8.1 If Escrow fails to close by the Closing Date, then Escrow and this Agreement shall terminate automatically without further action by Escrow Holder or any party. Termination of Escrow, as provided in this Paragraph 8.1, shall be without prejudice to whatever legal rights

Agency or Optionee may have against each other which may otherwise arise from the DDA in connection with that termination.

8.2 If the Close of Escrow fails to occur because of either party's default, the defaulting party shall be liable for all Escrow cancellation and Title Company charges, in addition to any other damages or remedies due the non-defaulting party. If Close of Escrow fails to occur for any other reason, Agency and Optionee shall each pay one-half (1/2) of any Escrow and Title Company cancellation charges, and this Agreement shall terminate.

9. Optionee's Representations and Warranties. Optionee hereby represents and warrants to Agency as follows, which representations and warranties are true in all material respects as of the date hereof and such representations and warranties shall be true on the Close of Escrow:

9.1 Authority. Optionee has the legal power, right and authority to enter into this Agreement and to consummate the transactions contemplated hereby. The individuals executing this Agreement on behalf of Optionee have the legal power, right and actual authority to bind Optionee to the terms and conditions of this Agreement.

9.2 Requisite Action. As of the date hereof, all requisite action (corporate, partnership or otherwise) has been taken by Optionee in connection with the entering into of this Agreement and the consummation of the transactions contemplated hereby.

9.3 Validity. This Agreement and all documents required hereby to be executed by Optionee are and shall be valid, legally binding obligations of and enforceable against Optionee in accordance with their terms.

10. Agency's Representations, Warranties. Agency hereby agrees and represents and warrants to Optionee as follows, which representations and warranties are true in all respects as of the date hereof and shall be true on the Close of Escrow:

10.1 Authority. Agency has the legal power, right and authority to ground lease the Leasehold Parcels and to enter into this Agreement and the documents referenced herein, and to consummate the transactions contemplated hereby. The individuals executing this Agreement and the documents referenced herein on behalf of Agency have the legal power, right and actual authority to bind Agency to the terms and conditions hereof and thereof.

10.2 Requisite Action. As of the date hereof, all requisite action has been taken by Agency in connection with the entering into of this Agreement and the documents referenced herein, and the consummation of the transactions contemplated hereby.

10.3 Validity. This Agreement and all documents required hereby to be executed by Agency are and shall be valid, legally binding obligations of and enforceable against Agency in accordance with their terms.

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11. Brokerage Commissions.

Optionee hereby represents and warrants to Agency that Optionee has made no statement or representation to, nor entered into any agreement with, any broker, salesman or finder in connection with the transactions contemplated by this Agreement. Agency hereby represents and warrants to Optionee that Agency has made no statement or representation to, nor entered into any agreement with, any broker, salesman or finder in connection with the transactions contemplated by this Agreement. Each party agrees to indemnify, defend, protect and hold the other harmless from and against any claim, loss, damage, cost or liability for any broker's commission or salesman's or finder's fee asserted as a result of its own act or omission in connection with this transaction.

12. Applicable Law.

This Agreement shall be construed in accordance with the laws of the State of California.

13. Assignment.

This Agreement shall be binding upon and shall inure to the benefit of Agency and Optionee and their respective representatives, successors and assigns as may be permitted, if at all, below. Neither Optionee nor Agency shall have the right to assign this Agreement or any interest or right under this Agreement or under the Escrow or to appoint a nominee to act as optionee under this Agreement.

14. General Escrow Provisions.

Optionee and Agency agree that in addition to Section 211 of the DDA, this Agreement shall also constitute instructions to Escrow Holder. In addition, the parties agree to execute and deliver to Escrow Holder, such reasonable and customary escrow instructions in the usual form of Escrow Holder for the purpose of consummating the transaction contemplated by this Agreement; provided, however, that any standard extension provisions in such escrow instructions shall not apply, and in the event of any conflict or inconsistency between the provisions of such escrow instructions and the provisions of this Agreement, the provisions of this Agreement shall control. Escrow Holder shall perform all customary functions of an escrow holder to consummate this transaction, including, among other duties, calculation of the prorations and closing costs required by this Agreement, as well as serving as depository for all funds, instruments and documents needed for the Close of Escrow. If the requirements relating to the duties or obligations of Escrow Holder are unacceptable to Escrow Holder, or if Escrow Holder requires additional instructions, the parties agree to make any deletions, substitutions and additions, as counsel for Agency and Optionee shall mutually approve, and which do not materially alter the terms of this Agreement. Any supplemental instructions shall be signed only as an accommodation to Escrow Holder and shall not be deemed to modify or amend the rights of Agency or Optionee, unless those signed supplemental instructions expressly so provide.

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15. Titles, Captions and Paragraphs. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. References to paragraph numbers are to paragraphs as numbered in this Agreement unless expressly stated otherwise.

16. Gender, Etc. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. As used in this Agreement, the terms "including" and "include" shall have their most comprehensive meanings and shall be deemed to mean "including, without limitation" and "include, without limitation," respectively.

17. No Waiver. A waiver by either party of a breach of any of the covenants, conditions or agreements under this Agreement to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Agreement.

18. Severability. If any term, provision, condition or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

19. Merger of Prior Agreements and Understandings. This Agreement, together with the DDA and the Ground Lease, contains the entire understanding between the parties relating to the transaction contemplated by this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force.

20. Possession of Property. Optionee shall be entitled to possession of the Leasehold Parcels only at the Close of Escrow.

21. Exhibits Incorporated by Reference. All exhibits attached to this Agreement are incorporated into this Agreement by reference.

22. Computation of Time. The time in which any act is to be done under this Agreement is computed by excluding the first day (such as the day Escrow opens), and including the last day, unless the last day is a holiday or Saturday or Sunday, in which case the time shall be extended to the next business day.

23. Further Actions. Each party agrees to sign such other and further instruments and documents and take such other and further actions as may be reasonably necessary or proper in order to accomplish the intent of this Agreement.

24. No Recordation. Neither this Agreement nor any memorandum hereof shall be recorded or filed except for the Memorandum of Option to be recorded pursuant to Paragraph 29 below.

25. No Third Party Beneficiaries. This Agreement does not create, and it shall not be construed as creating, any rights enforceable by any person or entity not a party to this Agreement except to the extent such person or entity is the beneficiary of any indemnity, waiver or release contained herein.

26. Notices.

All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been given on (a) the date of service if served personally on the Party to whom notice is to be given, (b) the date of actual or attempted delivery provided such attempted delivery is made on a business day, if served by Federal Express, Express Mail or another like overnight delivery service, (c) the date of actual delivery as shown by the addressee's registry or certification of receipt or the third business day after the date of mailing, whichever is earlier, if mailed to the person to whom notice is to be given, by first class U.S. mail, registered or certified, postage prepaid, return receipt requested and properly addressed as follows (or to such other address as either Party may from time to time direct by written notice given in the manner herein prescribed), or (d) one day after receipt of a confirmed facsimile transmission provided any such communication is concurrently given by one of the above methods:

If to Landlord: The Redevelopment Agency of the City Of San Diego
 c/o Centre City Development Corporation
 225 Broadway, Suite 1100
 San Diego, CA 92101
 Tel: 619-533-7108
 Fax: 619-236-9148

With a copy to: Kane, Ballmer & Berkman
 515 S. Figueroa Street
 Suite 1850
 Los Angeles, California 90071
 Tel: 213-617-0480
 Fax: 213-625-0931

and, if to Tenant: Cedar Gateway, L.P.
 c/o Squier Properties
 3129 6th St., Santa. Monica
 Santa Monica, CA 90405
 Tel: 310-581-9043
 Fax: 310-392-5831

With a copy to: Cox, Castle & Nicholson LLP
 Attn: Steve Ryan, Esq.
 555 California Street, 10th Floor
 San Francisco, CA 94104-1513
 Tel: (415) 392-4200

27. Attorneys' Fees.

In the event that either Party hereto brings any action or files any proceeding in connection with the enforcement of its respective rights under this Agreement or as a consequence of any breach by the other party of its obligations under this Agreement, the prevailing party in such action or proceeding shall be entitled to have its reasonable attorneys' fees (including allocable costs for any in-house counsel) and out-of-pocket expenditures paid by the losing Party. The attorneys' fees so recovered shall include fees for prosecuting or defending any appeal and shall be awarded for any supplemental proceedings until the final judgment is satisfied in full. In addition to the foregoing award of attorneys' fees to the prevailing party, the prevailing party in any lawsuit on this Agreement shall be entitled to its attorneys' fees incurred in any post judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Agreement into any judgment on this Agreement.

28. Binding Provisions.

The covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the heirs, legal representatives, successors and assignees of the respective parties hereto, except in each case as expressly provided to the contrary in this Agreement.

29. Memorandum of Option.

Either Agency or Optionee may cause an appropriate memorandum of this Option to be recorded in the official records of San Diego County.

30. Counterparts.

This Agreement may be executed in several counterparts and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties have not signed the original or the same counterpart.

31. Amendments.

This Agreement may be amended only by a written instrument executed in one or more counterparts by the parties hereto.

32. Time of the Essence.

Time is of the essence with respect to this Agreement, and all provisions relating thereto shall be so construed.

OPTIONEE:

CEDAR GATEWAY, L.P.,
a California limited partnership

By: CEDAR SQUIER ROEM, LLC,
a California limited liability company,
its General Partner

By: ROEM DEVELOPMENT
CORPORATION,
a California corporation, its Manager

By: _____
Name: Jonathan Emami
Its: Vice President

By: SQUIER PROPERTIES, LLC,
a California limited liability company,
its Manager

By: _____
Name: Gary Squier
Its: President

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AGENCY:

REDEVELOPMENT AGENCY OF THE CITY OF
SAN DIEGO, a public body corporate and politic

By: _____
Print Name: _____
Its: _____

APPROVED AS TO FORM AND LEGALITY

Michael J. Aguirre
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____
Murray O. Kane

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State of California

County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California

County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

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EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The land located in the City of San Diego, County of San Diego, State of California described as follows:

[Attached Hereto]

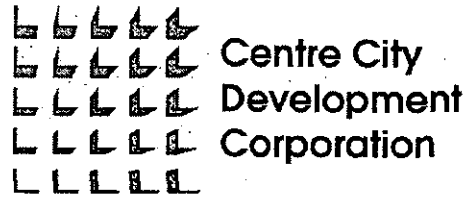
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EXHIBIT B

SITE MAP

[to come]

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Public Parking Garage Design Criteria
Cedar Gateway (6th & Cedar)

I. DESIGN CRITERIA

A. Building Codes:

The Developer assumes the sole responsibility for insuring that all design, construction and installation shall conform to all applicable provisions of the Building, Zoning, Plumbing, HVAC, and Electrical Codes as adopted and amended by the City of San Diego and in effect at the time that the building permit plan check is deemed complete, and shall comply with all other requirements as set forth by the Centre City Development Corporation (CCDC) representing the Redevelopment Agency of City of San Diego (Agency), including the requirements of the City of San Diego Centre City Planned District Ordinance (PDO).

B. Facility Description:

The Developer proposes to develop an affordable rental housing project on the site. The development will include 65 housing units, 4,434 square feet of ground floor commercial space and three levels of parking in a 5 to 7 story Type V structure over a concrete podium. The Agency will acquire and rehabilitate the historic structure (Bradley-Woolman Chapel, 4,100 square feet) to be used as a commercial space.

Dimensions and Clearances:

The minimum vertical clearance from the finish floor to the finished ceiling shall be 9'-0". The minimum vertical clearance to underside of any structural element, ductwork, piping or other obstruction shall be 8'-2" on all levels. The structural system utilized shall further provide for installation of lighting and piping above the 8'-2" minimum clearance required. Sleeves through beams are required where horizontal pipe runs thru beams, as necessary.

C. Parking Spaces:

The structure shall provide twenty-seven (27), single, non-tandem spaces, including two (2) accessible stalls per State of California Building Code Title 24 (ADA) requirements.

1. Parking spaces shall be a minimum of 8'3" wide X 18' long, except stalls located adjacent to any obstruction (columns, walls,...) which shall be a minimum of 9'0" wide.

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2. The base number of parking spaces shall be accessible for self-parking; i.e., no spaces shall be "buried", or situated in such a manner that it would become necessary to move another car to utilize the parking space.
3. Minimum drive aisle widths for 90 degree angle of park to be 24'-0".
4. All columns located in between parking rows shall be located with minimum 2' setback from the face of the column to the edge of the drive aisle.
5. Final plans must be approved by the CCDC and City of San Diego.
6. Parking for persons with disabilities shall conform to the State of California Building Code Title 24 (ADA) requirements. In addition, disabled persons exiting a vehicle must not pass behind any vehicle other than their own. A dedicated accessible path shall be provided.

D. Ramp Slopes:

Express ramps shall not exceed 13% slope. Transition ramps shall not exceed a maximum of 8% slope. Ramp slopes over 10% are required to have 12' long transitions at the top and the bottom.

E. Drainage / Floor Slopes:

The parking structure shall be designed in such a manner that each floor shall be sloped toward the interior to provide drainage for water carried in by the vehicles and blown in through exterior wall openings during inclement weather. The minimum floor slope from any point on the floor shall be 1% minimum to the floor drains to insure positive drainage. Minimum floor slopes must consider any camber in the floor system to insure positive drainage.

The drainage shall comply with the Storm Water Development requirements in the Storm Water Management and Discharge Control Ordinance, and the City's grading and drainage regulation and implementing documents.

F. Deck Surfacing

Approved slip-resistant waterproof wear coating shall be applied spaces below, all slabs over construction joints, storage rooms, electrical rooms, elevator equipment rooms and any other areas not used solely for the parking of passenger vehicles. All traffic membrane areas shall have a UV/wear-resistant abrasive finish.

Minimum thickness for 2 coat epoxy systems to be 42 mils minimum or 3 coat urethane coatings to be 70 mils at all vehicular traffic areas. At pour strips provide coating over an area 12" beyond each side of said pour strip.

All decks shall be guaranteed by the Developer to be watertight for a minimum of ten (10) years after the date of occupancy of the parking levels.

G. Stairways and Exits:

The number and location of stairways and exits, as well as the stairway construction shall conform in all details to the minimum requirements of the 2006 California State Building Code, and other adopted regulations. All stairways shall contain vision

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windows on the exterior side of the building consistent with the building's architecture (as depicted in the Basic Concept and Schematic Drawings).

All treads and intermediate landings shall be concrete and shall have non-slip surfaces. All treads nosing pieces shall be beveled or rounded (No sharp corners) as part of the tread pan assembly.

All hand railings, guardrails, stringers and metal stair components shall have joints continuously welded and ground smooth. Steel shall be galvanized or shop blasted and primed with a zinc-rich epoxy primer and site top coated with a polyurethane steel coating system. Handrail ends shall be turned against the adjacent walls and (if pipe or tube) capped. All embeds and sleeves encased in concrete or masonry shall be galvanized after fabrication.

All railings shall be painted. Color to be selected and approved by CCDC (i.e. Grey).

H. Elevators:

Provide an elevator for the use of the public parking and street access, if required.

Elevator Finishes:

Doors, frames, and interior cab finishes shall be graffiti resistant, with non-slip flooring. Elevator glass shall be etch free and vandal proof.

Reference Standards:

Compliance with Regulatory Agencies: Comply with the most-stringent applicable provisions of following Codes and/or Authorities, including revisions and changes in effect on date of these specifications.

1. CCR Title 8, Subchapter 6, Elevator Safety Orders (Register 79, No. 1, 1-6-79 with all update amendments).
2. Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, AMSE/ANSI A17.1.
3. Inspectors' Manual, AMSE/ANSI A17.2.
4. California Electrical Code.
5. Life Safety Code, NFPA No. 101.
6. The California Elevator Safety Construction Code, CCR Title 24, Part 7.
7. Handicapped Code, Title 24, CCR Part 2, and American with Disabilities Act (ADA).
8. Requirements of and any other Codes, Ordinances and Laws applicable within the governing jurisdiction.

I. Security:

The vehicular entries and exits must be able to be secured with powered, key operated roll-down security grilles. The grille type, material and finish to be determined by CCDC.

001800 :

Maximum surveillance of parking floors is essential to obtain adequate security. For this reason interior walls and obstructions must be kept to a minimum.

Blue light Emergency Phones shall be provided in elevator lobby, on every floor. All light fixtures, plumbing items, signs and other equipment will be installed with "tamper-proof" hardware to minimize vandalism and theft.

J. Signs and Graphics:

Overhead traffic directional signs will be required. Interior signs to be Sintra with painted background and 3M reflective sheeting for sign copy. Pedestrian way finding signage within the garage will be required.

All signage during construction to be as required by CCDC and other governing agencies. Identification of each parking level through use of graphics, 2' wide color band on each column, letters, numerals, etc. on columns, and elevator doors shall be provided. The color shall be different for each level. CCDC to determine and approve the colors and design. Parking structure exterior and interior, illuminated and non-illuminated vehicular and pedestrian directional signage and graphics shall be provided subject to receiving approval from CCDC.

Exterior signage shall conform to Centre City PDO requirements. A wall-mounted sign shall be located on the face of the exterior building wall located immediately above the public parking garage driveway off of Cedar Street.

K. Parking Control System:

The parking structure access is provided thru 1 entry / exit lanes at Cedar Street.

Developer shall provide the following as required:

- Public access system with automatic gates, ticket dispensers, and red/green ball-type traffic control light.
- Employee/staff card access with card readers.
- A complete revenue control system with ticket dispensers, automatic fee calculation, and a complete automatic count system
- Specifications for the Parking Access and Revenue Control Equipment will be provided, as an attachment to this document, by CCDC (at a later date).

L. Miscellaneous Metal:

Trench and area drain assemblies, pipe sleeves, embeds, supports, miscellaneous supports, anchorages, etc. encased in or in contact with concrete or masonry, shall be galvanized where the Design Criteria indicate that metals are to be painted. Surface preparation, priming and steel coating to conform to the Steel Coating System requirements.

001801

M. Hollow Metal Doors and Frames:

Hollow metal doors and pressed metal frames as required. Doors and frames, to be color code painted as selected by CCDC. Provide U.L. Fire Rating labels where required. Doors shall be fabricated of cold-rolled galvanized furniture steel with 18 gage minimum face sheets and shall be used for all rooms and where required by applicable Building Code. Frames shall be welded type steel frames, fabricated of cold-rolled galvanized furniture steel; 16 gage steel for 3'-0" openings, 14 gage over 3'-0".

N. Finish Hardware:

Locksets, latch sets, etc., shall be heavy-duty Lever Series type with removable 6 pin core as approved to match other hardware used by the Developer. All locksets shall be keyed to the CCDC's standards.

O. Painting:

Paints shall be as manufactured by Dunn-Edwards, Frazee, ICI Dulux, Sherwin Williams, or other manufacturers will be acceptable subject to the CCDC's prior approval and in conformance to specified systems in type and quality. All ferrous and non-ferrous metals shall be protected by a steel coating system finish. Metals shall be either galvanized or primed with a zinc-rich epoxy primer followed by a High-build intermediate coat and a polyurethane topcoat. Paint all concrete beams, ceiling areas and walls with a water based epoxy primer and one coat of 100% acrylic latex top coat, to produce a completely opaque surface. Concrete form release agents shall be selected for compatibility with subsequent coatings. Paint colors to be selected from a full range of colors by CCDC.

P. Marking, Striping and Curbs:

Provide all labor and materials required for striping all parking spaces and for painting directional arrows for the parking space layout and traffic flow. All parking spaces shall be double striped using 4" painted lines. Precast concrete curb bumpers (wheelstops) are not required. Galvanized metal concrete filled bollards, as accessible sign post, will be required as barrier for these stalls. Concrete filled bollards will also be required, as barriers at the edge of exit / entry lanes, all access points to elevator / stair lobbies, providing separation and barrier between pedestrian and vehicular areas. Bollards shall be placed at 4'-0" O.C. Max. Pipe-guards are required to protect drain piping, exposed electrical boxes and conduits. All column corners in the path of vehicular travel or impact shall have galvanized metal corner guards, from slab to 30" AFF, as required by the CCDC and City of San Diego.

Q. Storage / Electrical / Elevator Machine Rooms

To be provided as required. Lighting, fire protection system and HVAC of rooms shall be as required by applicable codes and ordinances.

R. Ground Floor Elevator Lobby

001802 : All flooring, light fixtures, wall finishes, the glass window between the lobby and the entry drive lane to be designed by architect upon CCDC's direction.

S. Office

A parking office, with minimum area of 100 S.F. shall be required. Provide and furnish a completely improved facility including but not limited to flooring, wall finishes, power, ventilation, convenience outlets (Min. 4), telephone outlets, cabling hookups for internet access, lighting, shelving, built in counters and cabinets and office equipment and sufficient space for parking control.

The office design finishes and equipment shall be determined and approved by CCDC.

T. Janitorial / Storage Room

A janitorial room measuring approximately 100 SF shall be provided

II. INTERIOR TREATMENTS

A. Columns, Beams and Underside of Slabs:

To have chamfered corners, with surfaces smooth free of fins and projections, rock pockets, or pin holes and voids greater than 3/16" filled. Surfaces shall be sacked if necessary to achieve uniform smooth finish and painted. Ceiling soffits shall be free of deck panel buttons, have all nails/staples, bolts, wood form chips and other projections removed and all voids filled to match color and texture of adjoining concrete. Form all soffit/slab edges above grade exposed to the exterior with a continuous uniform drip 4" from edge.

B. Floors:

Hand trowel finish with magnesium trowel, finish in rotary pattern to obtain heavy/coarse sweated swirl finish with 1/4" ridges, on parking floors. Provide sample panel for CCDC's approval. All finishes, including tiles, wall finishes or other upgraded finishes to be selected and approved by CCDC.

C. Concrete Walls:

Walls shall have all fins and projections removed and voids filled. Walls shall receive an architectural "sack finish" and be painted. Exterior corners are to be chamfered. Horizontal form joints shall be covered by reveals. Provide reveals as required.

D. Concrete Block Walls:

All CMU walls shall be 8" x 8" x 16" standard concrete masonry units fully grouted with required reinforcing. All CMU walls shall receive a smooth finish to match the concrete walls.

E. Vehicular Restraint:

001803 Vehicular restraint shall be provided by cast-in-place concrete or precast concrete spandrels, or as otherwise selected, with review and approval of CCDC.

Any spandrel connections shall be galvanized and concealed in grout pockets or in curbs. Spandrels shall be designed in accordance with the minimum standards of the 2006 California State Building Code for vehicular impact loads and heights.

F. Interior Guardrails:

Interior guardrails along the ramp shall be 2'-2" high cast-in-place concrete with sleeved ½" diameter cable guardrails above to 3'-6" high. Cable guardrails shall be ½" diameter, 7 wire galvanized post-tensioning strand with an extruded bonded polyethylene coating. The strand coating shall be black in color or a standard manufacturers color approved by the CCDC. Cables shall not sag in finished installation. If sagging occurs, retention and reset as required.

G. Exterior facade

Exterior facade at building entry/exit locations shall be approved by CCDC.

H. Fencing

Any fencing material used within the interior portions of the public parking garage shall be vinyl-coated chain link, with posts and all other members painted to match the vinyl coating color.

III. PLUMBING AND FIRE PROTECTION SYSTEMS

All plumbing work shall conform to all applicable codes and ordinances of the City of San Diego and State of California, and shall provide for complete and operable parking structure, including but not limited to the following.

Provide required standpipe systems, sprinkler system, storm sewer system and storm drain connections.

Interior emergency floor drain system connected through vertical interior storm drain risers and conducted through horizontal below grade storm drain piping to the site drainage system.

Provide storm water grease/oil, sand interceptor or fossil fuel filter system per code conformance with storm water mitigation requirements.

With the exception of any sprinkler system that may be necessary, the use of horizontal pipe runs in excess of five feet must be approved by the Owner.

Provision of fire protection systems shall be provided in conformance with applicable codes, Fire Department regulations and local authority's approval. Provide fire extinguishers as required by the Fire Department and agreed to by the Owner. Per City of San Diego and Uniform Fire Code, provide sprinkler system. Standpipes are also required at the roof level and stairwells. The sprinklers and standpipes shall be interconnected to

001804 form a "combined system". All sprinkler piping to be galvanized. All piping to be cleaned and painted.

IV. ELECTRICAL

The electrical work to be provided shall include the furnishing of all labor and materials for a complete and operable electrical system for the parking levels. Contractor shall provide a separate meter for the Agency parking levels.

The Contractor shall prepare detailed electrical drawings showing the lighting system, power supply, circuitry, and appurtenant electrical work. All electrical work shall conform to all applicable City and State Codes and Ordinances. In the event the Contractor proposes materials or installation methods not acceptable to the Owner, the Contractor shall make the necessary corrections or do the additional work required, or both, at no additional cost to the Owner.

A. Electrical Service

Electrical service shall be separately metered to serve the public parking structure. Provide primary conduit /feeder, medium voltage transformer and secondary conduit/feeder to main parking structure meter and switchgear. Meter, switchgear and all panel boards to be located in electrical room. Serving voltage to be 277/480 V- three phase, 4 wire. Provide dry-type transformers as required. Power wiring and disconnect switches to be provided and installed for each circuit. Secondary voltage is 120/208, 3 phase, 4 wire. Provide power wiring for convenience outlets at each elevator on each level, storage room, electrical room and elevator equipment rooms. Provide telephone switchboard in electrical equipment room and phone service to elevator cab, and to top and bottom Level of the shaft near each elevator. Confirm other phone service locations with CCDC. Provide additional circuits as required for the operation of the parking control equipment. All transformers and meters shall be located underground or behind the property lines, screened from public view.

B. Emergency Power

Provide emergency power to elevators, sump pumps, mechanical ventilation system and emergency lighting per applicable codes.

C. Lighting

Drawings of the Entry (Ground) Level and a Typical Level showing the lighting layout and the computer generated point by point photometrics for each level, must be submitted for Agency's review and approval. Lighting layout and controls shall have the capability of providing the following minimum maintained foot-candle levels measured at the floor:

	<u>Average Maintained</u>
Interior driving aisles	10.0
Interior parking areas at vehicle door	5.0
Interior parking areas at front of each vehicle	1.0

001805	Stairways, elevators, elevator lobbies	20.0
	Entry / exit areas	50.0

Light distribution is important. The average maintained maximum to minimum ratio must not exceed 10:1.

Provide lighting panel-boards adjacent to the main switchboard. Circuits to be time switched by programmable lighting controller.

D. Light Fixtures:

Parking area fixtures will all be Fluorescent Fixtures. The fixtures shall be energy efficient fixtures, meeting LEED standards. Fixtures in rooms will be florescent with zero degree electronic ballasts and T-8 lamps.

V. WATER AND SEWER

Water and sewer service shall be separately metered to serve the public parking structure.

VI. MECHANICAL

Provide mechanical ventilation system in accordance with the 2006 State of California Building Codes. Where possible the system should be a "Push-Pull" system to avoid any unnecessary ductwork. Mechanical fans to be variable speed and controlled with a Carbon-Monoxide Monitoring System.

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ATTACHMENT J

**GROUND LEASE
(Cedar Gateway Project)**

by and between

**REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO,**

“Landlord”,

and

CEDAR GATEWAY, L.P.

“Tenant”

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- Exhibit A - Legal Description of the Leased Premises
- Exhibit B - Site Plan
- Exhibit C - Memorandum of Lease

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- Exhibit D - Estoppel Certificate
- Exhibit E - Regulatory Agreement

GROUND LEASE

This Ground Lease ("**Lease**") is dated for identification purposes as of the ___ day of _____, 200__, and is entered into by and between the following (collectively, the "**Parties**"): THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic ("**Landlord**"), and CEDAR GATEWAY, L.P., a California limited partnership ("**Tenant**").

RECITALS

A. The subject property (the "**Property**") is located in the Centre City Redevelopment Project Area, and is a portion of the real property commonly known as [1601 5th Avenue and 1620 6th Avenue]. The Property is depicted on the Site Map attached hereto as Attachment No. 1. The legal description of the Property is set forth in the Legal Description attached hereto as Attachment No. 2.

B. This Ground Lease is entered into pursuant to the Disposition and Development Agreement by and between Landlord (as "**Agency**") and Tenant (as "**Owner**") dated as of _____, 2008 (the "**DDA**"). Any capitalized term not defined herein shall have such meaning ascribed to it in the DDA.

C. This Ground Lease is expressly subject to that certain Agreement Affecting Real Property, Regulatory Agreement, the Covenants, Conditions and Restrictions and the Reciprocal Easement Agreement, all of even date herewith and recorded in the official records of San Diego County concurrently herewith.

NOW, THEREFORE, in consideration of the payments to be made hereunder and the covenants and agreements contained herein, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the real property hereinafter defined as the "Leased Premises" upon the following terms and conditions.

ARTICLE 1 - DEFINITIONS

1.1 Additional Rent. The term "Additional Rent" means all sums of money required to be paid pursuant to the terms of this Lease other than Rent including but not limited to the sums to be paid pursuant to Section 7.4 (regarding liens), Section 10.1 (regarding Impositions), and Section 14.3 (regarding self help).

1.2 Affiliate. The term "Affiliate" as used herein shall mean any person directly or

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indirectly, through one or more intermediaries, controlling, controlled by or under common control with another person, which, in the case of a partnership, shall include each of the general partners thereof. The term control, as used in the immediately preceding sentence, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled person.

1.3 Agency Note. The term "Agency Note" refers to the residual receipts note by Tenant as maker and Landlord as payee.

1.4 Agency Loan. The term "Agency Loan" refers to the loan to be made by Landlord to Tenant under the DDA, evidenced by the Agency Note.

1.5 Agreed Rate. The term "Agreed Rate" as used herein shall mean an annual rate of interest equal to the lesser of (i) two percent (2%) above the rate of interest announced from time to time by the Bank of America, Downtown San Diego, Main Branch, as the prime or reference rate (or, in the event said bank ceases to announce a prime or reference rate or is acquired or ceases operations and there is no successor bank, another established and financially secure commercial bank, having a headquarters in California, selected by Landlord), or (ii) the highest rate permitted by law, if any.

1.6 Agreement Affecting Real Property. The term "Agreement Affecting Real Property" refers to the Agreement Affecting Real Property (Including Rental Restrictions) encumbering the Property and recorded concurrently herewith.

1.7 Commencement Date. The Commencement Date is the date that a memorandum of this Lease is fully executed by Landlord and Tenant and recorded in the official records of San Diego County.

1.8 Conversion Date. The Conversion Date shall mean the date upon which the Tenant's construction loan is converted to a permanent loan.

1.9 Covenants, Conditions and Restrictions. The term "Covenants, Conditions and Restrictions" refers to the Covenants, Conditions and Restrictions encumbering the Property and recorded concurrently herewith.

1.10 Default(s). The term "Default(s)" as used herein shall have the meaning described in Section 14.1.

1.11 Effective Gross Income. The term "Effective Gross Income" is defined at Section 4.2.3.

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1.12 Environmental Laws. The term "Environmental Laws" means any federal, state or local environmental, health and/or safety-related law, rule, regulation, requirement, order, ordinance, directive, guideline, permit or permit condition, currently existing and as amended, enacted, issued or adopted in the future. The term Environmental Laws includes, but is not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, and similar state or local laws.

1.13 Force Majeure Events. The term "Force Majeure Events" shall have the meaning described in Section 14.8.

1.14 Governmental Restrictions. The term "Governmental Restrictions" as used herein shall mean and include any and all laws, statutes, official policies, ordinances, codes, formal decrees, rulings, regulations, writs, injunctions, orders, rules, conditions of approval or authorizations of any governmental entity, agency or political subdivision, now in force or hereafter adopted, which are applicable to the Leased Premises or the use thereof as of the date such term is being applied.

1.15 Hazardous Materials. The term "Hazardous Materials" or "Hazardous Substances" shall include, but not be limited to, substances defined as "extremely hazardous substances", "hazardous substances", "hazardous materials", "hazardous waste" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. sections 11001-11050; the Hazardous Materials Transportation Act, 49 U.S.C. sections 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901, et seq.; and those substances defined as "hazardous waste" in section 25117 of the California Health and Safety Code, as "infectious waste" in section 25117.5 of the California Health and Safety Code, or as "hazardous substances" in section 25316 of the California Health and Safety Code or "hazardous materials" as defined in section 353 of the California Vehicle Code; or "hazardous substances" as defined in section 33459(c) in the California Health and Safety Code; and in the regulations adopted and publications promulgated pursuant to said laws.

1.16 Improvements. The term "Improvements" shall mean and include all buildings, structures, fixtures, excavation, parking areas, walkways, drives, landscape areas, underground installations and all other improvements of whatsoever character constructed on, around, under or over the Property by Tenant and shall include the residential development construction on the Property, to consist of 65 dwelling units, including 23 one-bedroom units, 16 two-bedroom units and 26 three-bedroom units, with parking, all as described in the Scope of Development. Twenty three (23) units shall be supportive housing units targeted for the special needs population. The Improvements are owned by Tenant and are not a part of the Leased Premises.

1.17 Index. The term "Index" shall mean means the Consumer Price Index Urban Wage Earners and Clerical Workers (Los Angeles Anaheim Riverside, CA, All Items, Base 1982 84 =

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100) as published by the United States Department of Labor, Bureau of Labor Statistics. Should the Bureau discontinue the publication of the Index, or publish the same less frequently or on a different schedule, or alter the same in some other manner including, but not limited to, changing the name of the Index or the geographic area covered by the Index, Landlord and Tenant shall adopt a substitute index or procedure which reasonably reflects and monitors consumer prices.

1.18 Leased Premises. The term "Leased Premises" as used herein shall have the meaning described in Article 2 below.

1.19 Leasehold. The term "Leasehold" refers to tenant's leasehold estate in the Leased Premises created by this Lease.

1.20 Leasehold Mortgage. The term "Leasehold Mortgage" shall mean any mortgage, deed of trust, or other established method of securing real property financing secured by the Leasehold.

1.21 Lease Year. The term "Lease Year" as used herein shall mean each of the consecutive twelve (12) calendar month periods beginning on the first day of the first calendar month following the Commencement Date unless the Commencement Date falls on the first day of a calendar month, in which event the Lease Year shall commence on the Commencement Date.

1.22 Lender. The term "Lender" shall mean the owner and holder of any Mortgage or Leasehold Mortgage permitted by this Lease.

1.23 Losses and Liabilities. The term "Losses and Liabilities" as used herein shall mean all liabilities, claims, losses, causes of action, charges, penalties, damages, costs and expenses (including reasonable attorneys' fees and costs), of whatsoever character, nature and kind, whether to property or person, whether by direct or derivative action, and whether known or unknown, suspected or unsuspected, latent or patent.

1.24 Mortgage. The term "Mortgage" as used herein shall mean and include any mortgage, deed of trust, monetary lien, financing conveyance or other voluntary monetary lien of any kind and all appropriate modes of financing real estate ownership, which encumbers Landlord's fee estate.

1.25 Option to Purchase. The term "Option to Purchase Agreement" shall mean that certain Option to Purchase and Right of First Refusal Agreement in form as attached to the DDA as Attachment No. 20, to be entered into by Agency and Owner pursuant to Article 17 of the Ground Lease. The Option to Purchase Agreement grants to Agency an option to purchase, and a right of first refusal to purchase, the Owner's leasehold interest in the Housing Parcel, and all Improvements within such parcel, at any time from the 55th anniversary of Conversion until the

expiration of the extended term of the Ground Lease.

1.26 Party or Parties. The term "Party" shall refer to one of Landlord or Tenant; the term "Parties" shall refer to both Landlord and Tenant.

1.27 Permanent Loan. The term "Permanent Loan" refers to the loan encumbering the Leased Premises as of the Commencement Date and any refinancing thereof.

1.28 Permitted Transfer. The term "Permitted Transfer" means any of the following:

- a. A conveyance of a security interest in the Housing Parcel in connection with any Senior Loan and any transfer of title by foreclosure, deed or other conveyance in lieu of foreclosure in connection therewith;
- b. A conveyance of the Housing Parcel to any Affiliate;
- c. The inclusion of equity participation by Tenant by addition of limited partners to Tenant's limited partnership, or similar mechanism, and the purchase of any such limited partnership interest or interests by the General Partner;
- d. The removal for cause of any General Partner by a limited partner of the Partnership, and the replacement thereof;
- e. The lease for occupancy of all or any part of the Improvements within the Housing Parcel; and
- f. The granting of easements or permits to facilitate the development of the Housing Parcel in accordance with this Ground Lease.
- g. The removal of the Managing General Partner by the Co-General Partner and the replacement thereof with a non-profit corporation with 501(c)(3) status.
- h. The transfer of shares in ROEM Development Corporation provided that Robert Emami continues to own more than 50% of the issued and outstanding voting shares of, and remains in control of, ROEM Development Corporation.
- i. The transfer of membership interests in Squier Properties, LLC, provided that Gary Squier continues to own more than 50% of the membership interests of, and remains in control of, Squier Properties, LLC.

Any transfer described in clauses a., b. and g. shall be subject to the reasonable

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approval of documentation by the Landlord's Executive Director or designee.

1.29 REA. The term "REA" refers to the Reciprocal Easement Agreement encumbering the Property and recorded concurrently herewith.

1.30 Regulatory Agreement. The term "Regulatory Agreement" refers to that certain Regulatory Agreement encumbering the Property and recorded concurrently herewith, and subjecting the Property to use as affordable housing for a term of 55 years, in form as attached hereto as Exhibit E.

1.31 Rent. The term "Rent" as used herein shall have the meaning described in Section 4.2.

1.32 Representatives. The term "Representatives" as used herein shall mean elected and appointed officials, officers, agents, contractors, employees and attorneys.

1.33 Retail Parcel. The term "Retail Parcel" refers to the parcel on the ground floor of the Improvements containing approximately 4,865 square feet (net) of space, suitable for retail/commercial use.

1.34 Right of First Refusal (Retail). The term "Right of First Refusal" shall mean the right of first refusal of the Agency to purchase the Retail Parcel from Owner together with the Retail Improvements therein as described in Section 226 of the DDA.

1.35 Term. The term "Term" as used herein shall mean the term of this Lease as described in Section 3.1 below.

1.36 Transfer Documents. The term "Transfer Documents" as used herein shall have the meaning described in Section 9.2.

1.37 Transfer/Transferee. The term "Transfer" as used herein shall mean and include any conveyance, transfer, sale, assignment, lease, Lease, license, concession, franchise, gift, hypothecation, Mortgage, pledge, encumbrance, or the like, to any person or entity ("Transferee"), excluding any Leasehold Mortgage which encumbers Tenant's leasehold estate created by this Lease.

1.38 Uncured Default(s). The term "Uncured Default(s)" as used herein shall have the meaning described in Section 14.2.5.

ARTICLE 2 - LEASED PREMISES

2.1 Leased Premises.

The premises demised and leased hereunder ("**Leased Premises**") consist of the real property located in the City and County of San Diego, State of California, and more particularly described in the legal description for that property attached hereto as Exhibit A, and depicted on the Site Map, together with all right, title and interest of Landlord in and to all rights of way or use, servitudes, licenses, easements, tenements, hereditaments and appurtenances now or hereafter belonging or pertaining to the use of such real property during the Term, including, but not limited to, any easements granted to Tenant pursuant to the REA described in Section 5.5, but expressly excluding all Improvements now or to be located thereon. The parties agree that Tenant alone shall be entitled to all federal tax attributes of ownership of the Improvements, including without limitation, the right to claim depreciation or cost recovery deductions and the right to claim low-income housing tax credits thereon. The Property has been subdivided by a vertical parcel map into the following parcels: the Housing Parcel, the Retail Parcel A, the Retail Parcel B, and the Agency Garage Parcel. (The Retail Parcel A and the Retail Parcel B are referred to collectively as the "Retail Parcels.") The Leased Premises include the Housing Parcel and the Retail Parcels; the Leased Premises do not include the Agency Garage Parcel. Further, that portion of the Improvements within the Agency Garage Parcel are (or will be) owned by Landlord.

2.2 Leased Premises; Condition of Premises; Zoning.

Prior to the Commencement Date, Tenant, at Tenant's sole expense, shall have investigated and approved the physical condition of, and the condition of title with respect to, the Leased Premises and the Improvements. Tenant acknowledges and agrees that Landlord makes no representation or warranty, express or implied, written or oral, with respect to the condition of the Leased Premises or the Improvements, or their fitness or availability for any particular use.

2.2.1 Landlord makes no representations, express or implied, with respect to the legality, fitness, or desirability of the Leased Premises for Tenant's intended use. If Tenant desires to do so, Tenant shall have the right to conduct its own investigation, to its satisfaction, with respect to any matters affecting Tenant's ability to use the Leased Premises for Tenant's intended use. Landlord shall deliver title to the Leased Premises to Tenant in the condition required by Section 210 of the DDA.

2.2.2 Tenant hereby acknowledges and agrees, and represents and warrants to Landlord, that Tenant is taking possession of the Leased Premises and acquiring leasehold title to the Leased Premises "as is" as of the Commencement Date and "with all faults" and without Landlord's covenant, warranty or representation as to physical condition, title, leases, rents, revenues, income, expenses, operation, zoning or other regulation, compliance with law, suitability for particular purposes or any other matter whatsoever. Tenant acknowledges and agrees that

Landlord has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to any matter whatsoever, including but not limited to: (a) value; (b) the income to be derived from the Leased Premises; (c) the suitability of the Leased Premises for any and all activities and uses which Tenant may conduct thereon, including the possibilities of future development of the Leased Premises; (d) the fitness for a particular purpose of the Leased Premises; (e) the manner, quality, state of repair or lack of repair of the Leased Premises; (f) the nature, quality or condition of the Leased Premises, including without limitation, soils and geology; (g) the compliance of or by the Leased Premises or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (h) the conformity of the Leased Premises to past, current or future applicable zoning or building requirements; (i) deficiency of any drainage; (j) the proximity of the Leased Premises to, or that the Leased Premises may be on or near an earthquake fault line; (k) the existence or non existence of vested land use, zoning or building entitlements affecting the Leased Premises; or (l) any other matter. Tenant further acknowledges and agrees that having been given the opportunity to inspect the Leased Premises and such information and documentation affecting the Leased Premises as Tenant has deemed necessary or appropriate, Tenant is relying solely on its own investigation of the Leased Premises and review of such files, and not on any information provided or to be provided by Landlord. Tenant further acknowledges and agrees that any information made available to Tenant or provided or to be provided by or on behalf of Landlord with respect to the Leased Premises was obtained from a variety of sources and that Landlord has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information. Landlord is not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Leased Premises, or the operation thereof, furnished by any real estate broker, agent, employee, servant or other person. Tenant further acknowledges and agrees that to the maximum extent permitted by law and except as otherwise provided herein, the lease of the Leased Premises as provided for herein is made on an "as is" condition and basis, with all faults, and that Landlord has no obligations to make repairs, replacements or improvements.

2.2.3 Effective on the Commencement Date, Tenant releases and discharges Landlord, Centre City Development Corporation ("CCDC") and the City of San Diego ("City") and their respective Representatives, for all costs, claims, demands, expenses, actions, causes of action, liability, loss, or damage, including attorneys' fees and costs ("Claims") Tenant may have at any time against the Landlord, CCDC or City arising from the presence of Hazardous Material on the Leased Premises, or the seismic or geological condition of the Leased Premises, during any period of time after the Commencement Date, except to the extent such Claims arise from the gross negligence or willful misconduct by the Landlord, CCDC or City (as applicable). Tenant expressly waives the benefits of Civil Code Section 1542, which provides as follows:

“A general release does not extend to claims which the creditor does not know or expect to exist in his favor at the time of executing the release which if known by him must have materially affected his settlement with the debtor.”

2.2.4 Landlord has provided to Tenant without any representation or warranty all information in Landlord's possession or control regarding the condition of the Leased Premises, including information concerning Hazardous Materials and seismic faulting. Landlord makes no representation or warranty, express or implied regarding any conditions of the Leased Premises. It shall be the sole responsibility of Tenant, at Tenant's expense, to investigate and determine all conditions of the Leased Premises and the suitability of the Leased Premises for the uses to which the Leased Premises is to be put in accordance with this Agreement. If the conditions of the Leased Premises are not in all respects entirely suitable for the uses to which the Leased Premises will be put, then it is the responsibility and obligation of Tenant, as between Landlord and Tenant, without cost to Landlord, to take such action as may be necessary to place the Leased Premises in all respects in a condition entirely suitable for its development and use in accordance with this Agreement. Except as provided in Section 2.1d of the Environmental Indemnity, as between Landlord and Tenant, Tenant agrees to perform and be responsible for the clean-up of any Hazardous Materials on, in, under or within the Leased Premises, at the sole cost, risk and expense of Tenant as part of the Development Costs. Tenant shall defend, indemnify and hold harmless the Landlord, the City, CCDC and their respective officers, agents, employees, contractors and attorneys from any claims, liability, injury, damages, costs and expenses (including, without limiting the generality of the foregoing, the cost of any required clean up of Hazardous Materials, and the cost of attorneys' fees) which may be sustained as the result of the presence or clean up of Hazardous Materials on, in, or under the Leased Premises.

ARTICLE 3 - TERM

3.1 Term

The Term of this Lease shall be that period of time beginning on the Commencement Date and ending at midnight on the sixty-fifth (65th) anniversary of the Commencement Date, unless the Term of this Lease is sooner terminated as provided for herein.

3.2 Option to Extend.

Provided that Tenant is not in default under this Lease, the Agreement Affecting Real Property, the Agency Loan Documents or the Permanent Loan Documents on the date of exercising the Option and on the last day of the initial Term, Tenant may extend the term of this Lease ("Option") for one (1) additional period of twenty five (25) years ("Extended Term") by giving written notice to Landlord at least one hundred eighty (180) days but not more than three

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hundred sixty (360) days before expiration of the initial Term. Tenant shall have no other right to extend the term of this Lease beyond the Extended Term. The Option is personal to Tenant and may not be assigned or transferred either voluntarily or by operation of law. If the Retail Improvements are sold, the purchaser of the Retail Improvements (or its assignee) may only extend the term of its lease if Tenant elects to exercise the Option.

3.3 Possession; Covenant of Quiet Enjoyment.

3.3.1 Sole possession of the Leased Premises shall be delivered to Tenant on the Commencement Date free and clear of any other tenancies or rights of occupancy or use, and Tenant shall take possession as of that date.

3.3.2 Landlord covenants that, subject to the limitations expressly set forth herein, Tenant, upon Tenant's timely payment of the Rent and performance of Tenant's covenants and obligations under this Lease, may quietly have, hold, and enjoy the Leased Premises during the Term of this Lease, without hindrance or interruption by Landlord or anyone claiming by or through Landlord, subject to Landlord's right to enter upon the Leased Premises as expressly provided herein.

ARTICLE 4 - RENT PAYMENTS

4.1 Rent.

The Rent payable for each Lease Year (the "**Rent**") shall be as set forth in Section 4.2 hereto. The Rent shall be paid in arrears for each calendar year (or portion of a calendar year for the first and last months of the Term) no later than April 30 of the following calendar year during the Term. The Rent shall be prorated on a per diem basis for the first and last partial years of the Term (assuming the Commencement Date is not January 1). The last payment of Rent shall be due within twenty (20) days following the termination of this Lease.

4.2 Rent Amounts.

4.2.1 Housing Parcel.

In years one (1) through fifty-five (55) of the Lease, Rent shall be one dollar (\$1.00) per annum. Commencing on the 56th anniversary of the Commencement Date, Tenant shall pay Rent in the amount of ten percent (10%) of the Effective Gross Income annually until the end of the Term; provided, however, that the annual Rent for any year shall not be less than the prior year's Rent.

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4.2.2 Retail Parcels.

Tenant may either sublease the Retail Parcels or sell the Retail Improvements.

(i) Sublease. If Tenant subleases the Retail Parcels, then Tenant shall pay as Rent twelve and one-half percent (12 1/2%) of the Effective Gross Income from such sublease(s); provided, however, that the annual Rent for any year shall not be less than the prior year's Rent.

(ii) Sale. If Tenant sells the Retail Improvements on or before the second anniversary of the issuance of a temporary certificate of occupancy for the Retail Improvements, then at the close of such sale, Tenant shall pay to Landlord as prepaid rent for the entire Term and, if the Option is exercised, the Extended Term, the amount of three hundred eight thousand dollars (\$308,000). If the Retail Improvements are sold after the second anniversary of the issuance of a temporary certificate of occupancy, the amount of the prepaid rent shall be increased by five percent (5%) per annum from the date of such second anniversary until the closing of the sale of the Retail Improvements. If the Retail Improvements are sold, then this Lease shall be amended to remove the Retail Parcel from the Legal Description of the Leased Premises, and Landlord shall enter into a separate ground lease with the purchaser of the Retail Improvements, on identical terms and conditions as set forth herein, except that all Rent has been prepaid, for the remainder of the Term and Extended Term. The Retail Parcels shall be subject to the Option to Purchase, as set forth at Article 17.

4.2.3 Effective Gross Income.

The term "Effective Gross Income" means the total gross income derived by Tenant from the rental of apartment units, retail space and parking spaces within the Leased Premises determined on a cash basis, including but not limited to monthly rent and, except as provided below, real property operating expenses of the Leased Premises paid by tenants pursuant to their rental agreements customarily paid by apartment owners and not by apartment renters as of the date of this Lease in first class apartment projects in the San Diego County area, either to Landlord as a reimbursement or to third party providers. Effective Gross Income shall not include amounts paid to Tenant as (i) late charges or interest, (ii) reimbursements for non-sufficient fund charges by banks on subtenants' checks, (iii) security and/or other deposits paid by subtenants until applied in payment of rents and/or other charges to be included in Effective Gross Income, (iv) condemnation proceeds, (v) financing proceeds, (vi) proceeds from the sale and/or rental of personal property including, without limitation, furniture and/or appliances, or from any assignment of the Leasehold under this Lease, (vii) vending machine income and/or rents paid by vending machine companies, (viii) settlements or payments in satisfaction of claims for damage to property, injury or death to persons, faulty construction or maintenance, and in the case of security, cleaning and/or similar deposits, the retention of same to pay for expenses incurred due to a subtenant's failure to surrender its premises in the condition required by its sublease, (ix) real and/or personal property

tax refunds and other vendor rebates or adjustments, (x) judgment awards and settlement payments to the extent required to reimburse Tenant for its attorneys' fees and collection costs, (xi) insurance proceeds, (xii) water and other utility expense reimbursements to the extent of utility charges actually paid by Landlord or paid by subtenants to utility providers, and (xiii) consideration for providing access to the Leased Premises and/or subtenants by service providers including, without limitation, telephone and/or cable providers. Effective Gross Income shall also be reduced by any repayments or refunds by Tenant of amounts previously paid to Tenant and included in Effective Gross Income. At the time Tenant pays the Rent, Tenant shall deliver to Landlord an income statement itemizing the Effective Gross Income for the previous calendar year. The Effective Gross Income arising from the Retail Parcel, if any, shall be computed and stated separately from the Effective Gross Income arising from the Housing Parcel and the Garage Parcel.

4.3 Payment of Rent.

The Rent is payable only from the Effective Gross Income from the Improvements. Rent not paid because of insufficient funds shall accrue and be payable from the first available Effective Gross Income. The annual audited financial statement of Revenue and Operating Expenses and balance sheet for the Improvements, prepared at the Tenant's expense pursuant to the Agency Note, by an independent certified public accountant reasonably acceptable to the Agency, shall form the basis for determining the Effective Gross Income.

4.4 Miscellaneous.

All payments of Rent shall be made to Landlord as they become due in lawful money of the United States of America in cash or by corporate check drawn on sufficient available funds, at such place as is designated herein by Landlord for the receipt of notices or such other place as shall be designated to Tenant by Landlord in writing from time to time.

4.5 Accuracy of Statements

Acceptance by Landlord of any monies paid by Tenant as Rent as shown by any certified or audited statement shall not constitute an admission of the accuracy of such statement or of the amount of such Rent. Landlord shall not have the right to challenge such amount unless it delivers written notice thereof to Tenant within one hundred twenty (120) days of receipt of such monies whereupon Landlord shall have the right to audit Tenant's books and records pursuant to Section 4.6.

4.6 Records and Audit

At all times during the Term, Tenant shall keep and maintain complete, accurate and customary records and books of account relating to the Leased Premises and shall retain such

materials for the two (2) most recent completed Lease Years. At all reasonable times during normal business hours, either on the Leasehold or such other office of Tenant at which said records and books of account may be kept, Landlord and its duly authorized agents, attorneys and accountants shall have the right to inspect, audit and make copies of any and all of such records and books of account, including copies of any information returns required by or furnished to any governmental authority, together with any and all other records and documents relating to the Rent. If Tenant does not maintain such books and records at an office within fifty (50) miles of the Property, then Tenant shall prepare and deliver to Landlord certified duplicates of such books and records upon Landlord's request, provided that Landlord shall not make such requests more than once every twelve (12) months.

4.7 Results of Inspection

Landlord shall not be bound by the results of any inspection and/or audit conducted pursuant to Section 4.6. If, based upon such inspection, Landlord reasonably determines that Rent as previously reported for the period inspected were understated, then Tenant shall pay such amount to Landlord within fifteen (15) days after receipt of a Deficit Notice. If, based upon such inspection, Landlord reasonably determines that Tenant has made an overpayment, then Landlord shall promptly deliver written notice thereof to Tenant, together with a copy of the audit relating thereto, and Tenant shall receive a credit in such amount against any payment(s) due Landlord under this Lease, as selected by Tenant. Landlord shall bear all of its costs associated with the inspection unless (i) it discloses that the Tenant has failed to maintain the books of account and records required by Section 4.6, or (ii) it discloses that the amounts due Landlord for the period inspected were understated by more than four percent (4%). Tenant shall promptly reimburse Landlord for the actual, documented reasonable cost of such inspection if obligated to do so. Tenant shall have the right to challenge the determination of Landlord or its auditors by delivering written notice thereof to Landlord within fifteen (15) days after receipt of a Deficit Notice, whereupon the parties shall arbitrate this matter in accordance with the rules then pertaining of the American Arbitration Association, or its successor, together with the right to take depositions.

4.8 Triple Net Lease; No Counterclaim, Abatement, etc.

All Rent shall be paid absolutely net to Landlord, so that this Lease shall yield to Landlord the full amount of the installments of all Rent throughout the Term, and (unless otherwise expressly provided herein) shall be paid without assertion of any counterclaim, setoff, deduction or defense and, except as otherwise expressly provided herein, without abatement, suspension, deferment, diminution or reduction. Under no circumstances or conditions, whether now existing or hereafter arising, or whether beyond the present contemplation of the parties, shall Landlord be expected or required to make any payment of any kind whatsoever or be under any obligation or liability hereunder, except as herein expressly set forth. Landlord shall have no responsibility for any costs of repair, maintenance or replacement whatsoever. Except as otherwise expressly

provided herein, this Lease shall continue in full force and effect, and the obligations of Tenant hereunder shall not be released, discharged or otherwise affected, by reason of: (a) any damage to or destruction of the Leased Premises or Improvements or any part thereof or any Taking of the Leased Premises or the Improvements or any part thereof; (b) any restriction or prevention of or interference with any use of the Leased Premises or the Improvements or any part thereof which materially interferes with Tenant's possession or use of the Leased Premises (other than a breach of Landlord's covenant of quiet enjoyment set forth at Section 3.3); (c) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other proceeding relating to Landlord, or any action taken with respect to this Lease by any trustee or receiver of Landlord with respect to this Lease by any trustee or receiver of Landlord, or by any court, in any proceeding; (d) any claim which Tenant has or might have against Landlord; (e) any failure on the part of Landlord to perform or comply with any of the terms hereof or of any other agreement with Tenant; or (f) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, in each case, whether or not Tenant shall have notice or knowledge of any of the foregoing. Except as expressly provided in this Lease, the obligations of Tenant shall be separate and independent covenants and agreements.

ARTICLE 5 - USE OF THE LEASED PREMISES, MAINTENANCE AND HAZARDOUS MATERIALS

5.1 Use of the Leased Premises.

5.1.1 General.

Tenant covenants and agrees for itself, its successors and assigns, which covenants shall run with the land and bind every successor or assign in interest of Tenant, that during use of the Leased Premises pursuant to this Lease, neither the Leased Premises nor any portion thereof shall be improved, used or occupied in violation of any Governmental Restrictions.

5.1.2 Affordable Housing.

Tenant, its successors and assigns, shall use the Leased Premises only for the uses permitted in the DDA, the Agreement Affecting Real Property, the Regulatory Agreement and this Lease, specifically including the following:

- (1) The Leased Premises shall be used for residential rental uses, consisting of 65 dwelling units, including 23 one-bedroom units, 16 two-bedroom units and 26 three-bedroom units, with parking and amenities, and ground floor retail uses, all as described in the Scope of Development, in accordance with this Agreement.

(2) All of the residential units are reserved for households with Very Low and Extremely Low income (and as such shall be rented to shall be rented at an Affordable Rent to persons of Very Low and Extremely Low Income as defined in the Agreement Affecting Real Property). The number of Units by unit-types and the Affordable Rent applicable to the Units by unit-types, shall be as set forth in the Agreement Affecting Real Property and the Schedule of Affordable Rents attached thereto. Of the 65 units, 23 shall be set aside as supportive housing units targeted for the special needs population.

5.1.3 Unrestricted Housing.

From and after fifty-fifth (55th) anniversary of the Conversion Date, Owner and its successors, assigns, and each successor in interest to Owner's interest in the Property or any part thereof, hereby may utilize the Housing Parcel as market-rate apartments with no restrictions on the amount of rent that can be charged for the residential units.

5.2 Management

Tenant shall be responsible for the operation of the Improvements either by direct management or by contracting its managerial functions to a third party Leased Premises manager reasonably acceptable to the Landlord which Leased Premises manager will be charged with managing the Improvements on behalf of the Tenant. The Landlord shall have the right to review and approve any such entity prior to its selection by the Tenant. Such approval shall not be unreasonably withheld. Tenant shall include in any such Leased Premises management agreement a provision providing for the termination of the agreement in the event that the Leased Premises manager violates any federal, state or local health and safety laws and regulations which are not cured within thirty (30) days following the giving of notice of such violations by the Landlord or any other governmental entity; provided, however, that in the case of a violation that cannot be cured within such thirty (30) day period, that such cure shall be commenced within thirty (30) days of notification and shall be diligently prosecuted to completion.

5.3 Maintenance

Tenant, its successors and assigns, shall maintain the Improvements on the Leased Premises in the same aesthetic and sound condition (or better) as the condition of the Leased Premises at the time Landlord issues a Release of Construction Covenants pursuant to the Agreement, reasonable wear and tear excepted. This standard for the quality of maintenance of the Leased Premises shall be met whether or not a specific item of maintenance is listed below. However, representative items of maintenance shall include frequent and regular inspection for graffiti or damage or deterioration or failure, and immediate repainting or repair or replacement of all surfaces, fencing, walls, equipment, etc., as necessary; emptying of trash receptacles and removal of litter; sweeping of public sidewalks adjacent to the Leased Premises, on-site walks and

paved areas and washing-down as necessary to maintain clean surfaces; maintenance of all landscaping in a healthy and attractive condition, including trimming, fertilizing and replacing vegetation as necessary; cleaning windows on a regular basis; painting the buildings on a regular program and prior to the deterioration of the painted surfaces; conducting a roof inspection on a regular basis and maintaining the roof in a leak-free and weather-tight condition; maintaining security devices in good working order. In the event Tenant, its successors or assigns fails to maintain the Improvements in accordance with the standard for the quality of maintenance, Landlord or its designee shall have the right but not the obligation to enter the Leased Premises upon reasonable notice to Tenant, correct any violation, and hold Tenant, or such successors or assigns responsible for the cost thereof, and such cost, until paid, shall constitute a lien on the Leased Premises.

5.4 No use of Hazardous Materials on the Leased Premises.

Tenant covenants and agrees that it shall not, and that any Lease shall provide that the Subtenant shall not, treat, use, store, dispose, release, handle or otherwise manage Hazardous Materials on the Leased Premises except in connection with any construction, operation, maintenance or repair of the Improvements or in the ordinary course of its business, and that such conduct shall be done in compliance with all applicable federal, state and local laws, including all Environmental Laws. Tenant's violation of the foregoing prohibition shall constitute a breach hereunder and Tenant shall indemnify, hold harmless and defend the Landlord for such violation as provided below.

5.5 Notice and Remediation by Tenant.

Tenant shall promptly give the Landlord written notice of any reportable release of any Hazardous Materials, and/or any notices, demands, claims or orders received by Tenant from any governmental agency pertaining to Hazardous Materials which may affect the Leased Premises.

5.6 Environmental Indemnity.

Tenant agrees to indemnify, protect, defend, save and hold harmless Landlord and its successors and assigns, officers, members, directors, shareholders, and Representatives from and against any and all debts, duties, obligations (including any remediation obligations or clean up costs imposed by any Governmental Restrictions), liabilities, suits, claims, demands, penalties, fines, causes of action, damages, losses, costs and expenses, including, without limitation, attorneys' fees and expenses (and including any allocable costs of any of the foregoing parties' in-house counsel) arising on or accruing as a result of the presence, use, storage, handling, treatment, generation, release, discharge, refining, manufacturing, dumping or disposal of any Hazardous Materials or other kinds of contamination or pollutants of any kind into the air, soil, groundwater or surface water on, under, in or about the Leased Premises (whether legal or illegal,

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accidental or intentional), that is caused by Tenant, any subtenants, or its Representatives. The indemnity provided in this Section 5.6 shall survive the Termination of the Lease.

5.7 Termination; Subtenants.

The agreements and obligations of Tenant under this Article 5 with regard to indemnification of Landlord shall survive the scheduled termination or sooner expiration of the Term for any reason for five (5) years and all claims relating thereto must be delivered in writing to Tenant within such period. No action by any subtenant in violation of its Lease shall constitute a cause to terminate this Lease provided that Tenant diligently pursues its available remedies against such subtenant.

5.8 Agreement Affecting Real Property, Reciprocal Easement Agreement, Covenants, Conditions and Restrictions, Regulatory Agreement.

The Leased Premises are subject to that certain Agreement Affecting Real Property, Reciprocal Easement Agreement, Covenants, Conditions and Restrictions and to that certain Regulatory Agreement. Tenant shall comply with all obligations of Owner under the Agreement Affecting Real Property, the REA, the Covenants, Conditions and Restrictions and the Regulatory Agreement, each for the respective term of that agreement.

ARTICLE 6 – CONSTRUCTION AND OWNERSHIP OF IMPROVEMENTS

6.1 Demolition and Site Preparation.

Tenant shall have the sole responsibility for preparing the Leased Premises for constructing the Improvements, including, without limitation, demolishing any existing improvements on it.

6.2 Construction of Improvements.

Tenant shall develop and construct, or shall cause the development and construction of, the Improvements on the Property as set forth in the Scope of Development, in substantial conformance with the Approved Plans and Drawings and upon the schedule set forth in the Schedule of Performance, subject to events of force majeure and written extensions granted by Landlord. All Improvements, together with all off site improvements that may be constructed by reason of governmental requirements as a condition to the construction of Improvements upon the Leased Premises, shall be constructed in a good and workmanlike manner using materials of good quality and in substantial compliance with the Approved Plans and Drawings as modified pursuant to this Article 6, and shall comply with all applicable governmental permits, laws, ordinances and regulations. Landlord agrees to execute such grants of easement, or rights of way, as may be necessary to cause the installation of utility systems which Tenant reasonably considers necessary

to the efficient development and operation of the Property in substantial compliance with the Approved Plans and Drawings.

6.3 Construction Cost.

Tenant shall bear the sole cost of developing the Property and constructing the Improvements, including all fees and mitigation measures; provided, however, that as provided in the DDA the Agency shall pay for that portion of the Improvements to be constructed within the Agency Garage Parcel up to the amount of the "Agency Garage Purchase Price" as defined in the DDA.

6.4 Right of Access.

During normal construction hours, representatives of Landlord shall have the reasonable right of access to the Property without charges or fees for the purpose of inspecting the work being performed in constructing the Improvements; provided, however, that such representatives shall present and identify themselves at Tenant's construction office, be accompanied by a representative of Tenant while on the Property and obey Tenant's, or its contractor's safety rules and regulations.

In addition, Landlord shall have the right to authorize the City and other public agencies to enter the Property upon the same terms after reasonable prior written notice to Tenant, and in a manner which minimizes the interference with Tenant's use thereof, for the purpose of constructing, reconstructing, maintaining or repairing any public improvements or public facilities located on the Property. Landlord shall deliver written notice of the identity of its representatives to Tenant before such representatives enter the Property. Landlord hereby indemnifies and holds Tenant, and its contractors, subcontractors, agents, representatives and employees, and the Property, harmless from and against any loss, cost, damage or liability, including, without limitation, attorneys' fees, which results from the exercise by Landlord, or any party acting under Landlord's authority, of the rights granted by this Section 6.4.

6.5 Governmental Approvals.

If requested by Landlord in writing, Tenant covenants and agrees to deliver to Landlord conformed copies (and certified copies of all recorded instruments) of all governmental approvals and permits obtained by Tenant for the demolition, construction, alteration, razing or reconstruction of any Improvements upon the Leased Premises in accordance with the Approved Plans and Drawings. In no event shall Tenant commence construction of any Improvements pursuant to the provisions of this Article 6 until such time as Tenant shall have obtained all necessary governmental approvals and permits to so construct such Improvements.

6.6 Force Majeure.

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All obligations of Tenant to promptly commence and thereafter diligently prosecute to completion construction of the Improvements shall be extended by such number of days as Tenant shall be delayed by reason of events of force majeure pursuant to Section 14.8.

6.7 Release of Construction Covenants.

Following completion of the Improvements on the Leased Premises, and Landlord's determination that the completed Improvements comply with the DDA, Landlord shall record a Release of Construction Covenants on the Leased Premises in accordance with Section 324 of the DDA. Following the recording of the Release of Construction Covenants, the covenants contained at Sections 6.1 and 6.2 shall terminate and be of no further force and effect with respect to the Leased Premises. Further, following the recording of a Release of Construction Covenants, any successor-in-interest to the Leased Premises or any portion thereof shall have no obligations pursuant to Sections 6.1 and 6.2.

6.8 Title to Improvements.

Notwithstanding anything that is or appears to be to the contrary herein, any and all Improvements erected on the Leased Premises (which do not include the Agency Garage Parcel) as permitted by this Lease, as well as any and all alterations or additions thereto or any other Improvements or fixtures on the Leased Premises, shall be owned by Tenant until the expiration of the Term or sooner termination of this Lease. That portion of the Improvements constructed within the Agency Garage Parcel, as well as any and all alterations or additions thereto or any other Improvements or fixtures within the Agency Garage Parcel, shall be owned by Landlord. Upon the expiration or sooner termination of this Lease, all Improvements and all alterations, additions or improvements thereto that are made to or placed on the Leased Premises by Tenant or any other person shall be considered part of the real property of the Leased Premises and shall remain on the Leased Premises and become the property of Landlord; provided that Tenant (or its Subtenants, as the case may be) shall retain ownership of and shall be required to remove furniture, equipment, machinery, trade fixtures and removable personal property except as may be left on the Leased Premises with Landlord's prior written approval. Except as otherwise expressly provided in this Lease, any non-disturbance agreement approved by Landlord, any easement approved by Landlord, or any written instrument executed by Landlord which expressly states that Landlord is waiving its rights under this Section 6.8 to receive such Improvements free and clear of all other claims, said Improvements shall become Landlord's property free and clear of any and all rights to possession and all claims to or against them by Tenant or any third person or entity. Tenant hereby covenants and agrees to promptly execute and acknowledge a quitclaim deed or any other documentation reasonably required by Landlord to effectuate the provisions of this Section, which covenant shall survive termination of this Lease.

6.9 Notice of Non Responsibility.

After the recordation of the Release of Construction Covenants for the Improvements in the Official Records, Tenant shall provide Landlord with prior written notice of not less than fifteen (15) days before commencing construction of any structural alteration of the Improvements, or any non structural alteration which will cost more than Fifty Thousand Dollars (\$50,000.00), and shall permit Ground Landlord to record and post appropriate notices of non responsibility on the Property. The foregoing Fifty Thousand Dollar (\$50,000.00) limitation shall be increased each calendar year by the corresponding increase in the Index.

6.10 Subsequent Alterations.

Following the initial construction of the Improvements in accordance with the Scope of Development, Tenant may from time to time, at its sole expense, make improvements and other alterations to the Property which Tenant reasonably determines to be beneficial. Tenant shall not make any alteration or improvement to the Property the cost of which exceeds one hundred thousand dollars (\$100,000) without Landlord's prior written consent, which shall not be unreasonably withheld or delayed. The foregoing dollar amount limitations shall be increased each calendar year by the corresponding increase in the Index. Landlord acknowledges that various of the standards set forth in the Scope of Development with respect to materials, aesthetic styles and other matters, while appropriate in 2008 with respect to the initial Improvements, may become outdated or otherwise inappropriate over the Term, and Landlord agrees that it shall not be entitled to prevent Tenant from varying from such standards from time to time with respect to the Improvements to the extent that Tenant reasonably determines that alternative materials, designs, technologies and etc. are at least comparable (if not preferable) with respect to the image and operation of the Property at the time Tenant proposes to make any alterations. Tenant shall timely pay any obligation incurred by Tenant with respect to any such alterations or improvements that could become a lien against the Property and shall defend, indemnify and hold Landlord harmless in connection therewith.

ARTICLE 7 - REPAIRS AND MAINTENANCE; LIENS

7.1 Landlord's Nonresponsibility.

During the Term of this Lease, Landlord shall not be required to maintain or make any repairs or replacements of any nature or description whatsoever to the Leased Premises or the Improvements thereon, except as expressly provided elsewhere herein.

7.2 Tenant's Duty to Maintain Premises.

Except as expressly otherwise provided for herein, throughout the Term of this Lease, Tenant shall, at Tenant's sole cost and expense, maintain or cause to be maintained the Leased Premises and the Improvements now or hereafter located on the Leased Premises in good and clean condition and repair, free of debris, and in compliance with (i) all Governmental Restrictions and (ii) all applicable rules, orders, and regulations of any insurance company insuring all or any part of the Leased Premises or the Improvements thereon or both, and Tenant shall make or cause to be made whatever repairs and replacements are required by such enactments or provisions or future enactments or provisions.

7.3 Damage or Destruction.

7.3.1 In the event any of the Improvements are damaged by an insured casualty, Tenant promptly shall remove the debris resulting from such event, and within a reasonable time, not to exceed ninety (90) days from date of casualty, thereafter shall apply insurance proceeds to the repair or restoration of the Improvements so damaged to their condition immediately prior to such casualty, such repair or restoration to be performed in accordance with all provisions of this Lease.

7.3.2 In the event any of the Improvements are damaged by an uninsured casualty, Tenant promptly shall remove the debris resulting from such event, and within a reasonable time thereafter, not to exceed one hundred eighty (180) days from date of casualty, shall either (i) repair or restore the Improvements so damaged, to the extent economically feasible, such repair or restoration to be performed in accordance with all provisions of this Lease, or (ii) erect other Improvements in such location, provided all provisions of this Lease are complied with, or (iii) demolish the damaged portion of such Improvements, restore any remaining Improvements to an architectural whole, remove all rubbish, and pave or plant grass and otherwise restore the area to a neat, orderly, sanitary and attractive condition. Landlord shall have the option to choose among the aforesaid alternatives subject to rights of permitted Lenders secured by the Lease, but Tenant shall be obligated to perform one of such alternatives. Tenant shall give notice to Landlord within a reasonable time, not to exceed thirty (30) days from date of casualty, of which alternative it elects. Nothing contained in subsections 7.3.1 or 7.3.2 shall be construed as permitting the abatement or reduction of Rent, or the termination of this Lease.

7.3.3 Notwithstanding anything to the contrary contained in this Lease, and if permitted by the Lender and Tenant's tax credit investor, if (i) there is damage to or destruction of the Improvements on the Leased Premises during the last five (5) years of the Term (including all exercised options) and the cost of repairing said damage or destruction exceeds the cost of demolishing and removing the remaining Improvements on the Leased Premises, or (ii) there is damage to or destruction of the Improvements on the Leased Premises which (1) arises from a

cause which is not required to be insured against under any provision of this Lease, or (2) arises from a cause which is in fact insured against in compliance with the terms of this Lease, but for which the recoverable proceeds of such insurance are less than 90% of the cost to repair said damage or destruction, and (3) the cost to Tenant (which is not covered by insurance proceeds) of repairing said damage or destruction exceeds the cost of demolishing and removing the remaining Improvements on the Leased Premises, or (iii) there is damage to or destruction of the Improvements on the Leased Premises and the Governmental Restrictions then in effect with respect to the Leased Premises prohibit the construction of economically viable replacement Improvements with respect to a use which Tenant either has the right to engage in under this Lease or which Tenant desires to engage in and Landlord will permit to be engaged in, then Tenant shall have the option to terminate this Lease, subject to Tenant's satisfaction of all of the following requirements: (A) Tenant shall, within ninety (90) days after the event giving rise to such right to terminate, give Landlord written notice of its election to terminate ("Notice of Election to Terminate"); and (B) Tenant shall, at the election of Landlord (which election shall be communicated in writing to Tenant ("Demolition Notice") within thirty (30) days of Landlord's receipt of the Notice of Election to Terminate), raze and remove the damaged or destroyed Improvements and any other Improvements on the Leased Premises that Landlord may designate in the Demolition Notice, and shall complete said demolition and removal and shall vacate the Improvements on the Leased Premises within ninety (90) days of Landlord's delivery of the Demolition Notice (which vacation date shall fix the termination date of this Lease); and (c) Tenant shall comply with all provisions of Article 15 of this Lease consistent with this Section 7.3 prior to or concurrent with Tenant's vacation of the Improvements on the Leased Premises. If Tenant fails to satisfy the requirements set forth in (b) or (c) above, the failure to meet such conditions shall not invalidate the termination of this Lease, although, in that event and notwithstanding anything else in this Lease that may be or appear to be to the contrary, Tenant shall remain liable to Landlord in damages for such breach. Any and all property damage insurance proceeds (exclusive of any proceeds applicable to Tenant's trade fixtures, equipment or personal property that would be retained by Tenant at the end of the Term) paid to Tenant as a result of the damage or destruction giving rise to the termination, shall be distributed to the Parties, and any Lender, as their interest are determined.

7.3.4 Except as expressly provided in this Lease, no deprivation, impairment, or limitation of use resulting from any damage or destruction or event or work contemplated by this Section shall entitle Tenant to any offset, abatement, or reduction in Rent, nor to any termination or extension of the Term hereof.

7.4 Liens.

Tenant covenants and agrees to keep the Property and each part thereof, free and clear of and from any and all mechanic's, materialmen's and other liens of record for work or labor done, services performed, materials, appliances or power contributed, used or furnished to be used in or

about the Property for or in connection with any operations of Tenant, the construction of Improvements, any alterations, repairs or additions which Tenant may make, permit or cause to be made to the Improvements, or any work or construction by, for or permitted by Tenant on or about the Property. Tenant shall at all times promptly and fully pay and discharge any and all lawful claims upon which any such liens may or could be based, and save and hold Landlord and the Property free and harmless of and from any and all such liens and claims of liens and suits or other proceedings pertaining thereto.

7.4.1 Contesting Liens. Tenant may contest any lien of the nature set forth in this Section in accordance with Section 10.4, and no default shall be deemed to have occurred under this Section.

7.4.2 Participation in Contest. If Tenant shall be involved in any dispute with respect to the payment of any claim as set forth in this Section in excess of Fifty Thousand Dollars (\$50,000), Landlord may, at its option, elect to observe or passively participate in any suit, arbitration, or other settlement procedure with respect thereto. Any such participation by Landlord shall be at Landlord's sole cost and expense, and Landlord shall have no right or power to control the conduct or outcome of such suit, arbitration or settlement.

ARTICLE 8 - LEASEHOLD FINANCING

8.1 Conditions To Obtaining Leasehold Mortgage.

8.1.1 Notwithstanding anything which is or appears to be to the contrary in this Lease, Tenant shall not encumber the estate created by this Lease, except as expressly provided in this Article 8.

8.1.2 Tenant shall have the right, with Landlord's prior written consent, to encumber its Leasehold with any Leasehold Mortgage; provided, that such Leasehold Mortgage shall meet each of the following terms, conditions and requirements:

(i) The Leasehold Mortgage shall contain provisions requiring that copies of all notices of default under said Leasehold Mortgage must be sent to Landlord;

(ii) The Leasehold Mortgage shall not permit or authorize, or be construed to permit or authorize, any Lender to devote the Leased Premises to any uses, or to construct any Improvements thereon, other than those uses and Improvements provided for and authorized by this Lease.

8.2 Lender's Rights.

So long as any Leasehold Mortgage permitted by this Lease exists, or as Lender (or its nominee) owns all or any portion of the Leasehold estate granted hereunder, and until such time as the lien of any Leasehold Mortgage has been extinguished (which provisions shall be for the benefit of the Leasehold Mortgagee):

8.2.1 Acquisition by Lender. Following Lender's acquisition of Tenant's interest in this Lease pursuant to a foreclosure or an assignment in lieu of foreclosure, the Lender shall be entitled to assign its interest in this Lease without Landlord's prior consent, subject to compliance with the terms and conditions of this Article 8. All subsequent Transfers by the Transferee of Lender shall comply with the provisions of this Lease, including all restrictions on Transfer set forth in Article 9 hereof; and

8.2.2 Lender Amendments. If, in connection with securing by Tenant of any Leasehold Mortgage, the affected Lender requests an amendment with respect to the Lender protection rights set forth in this Article 8, Landlord agrees not to unreasonably withhold its consent to any such amendment; provided, that Landlord shall not be required to consent to such an amendment if it would, in Landlord's reasonable determination, materially impair any of Landlord's rights or materially increase any of Landlord's obligations under this Lease.

8.2.3 Default Notice. Landlord, upon providing Tenant with any "Notice of Default" (as defined below) under this Lease, shall, at the same time, provide a copy of such notice to every Lender who has given written notice to Landlord of its interest in the leasehold estate. From and after such notice has been given to a Lender, such Lender shall have the same period for remedying the Default complained of as the cure period provided to Tenant pursuant to Section 14.2, plus the additional period provided to such Lender as specified below. Landlord shall accept performance by or at the instigation of such Lender as if the same had been done by Tenant.

8.3 Lender Cure Rights.

Notwithstanding anything to the contrary contained in this Lease, Landlord shall have no right to terminate this Lease on account of an Uncured Default of Tenant unless, following expiration of Tenant's applicable cure period, Landlord first provides each Lender not less than ninety (90) days notice of its intent to terminate, if Tenant's Default can be cured by the payment of money (a "Monetary Default"), and not less than ninety (90) days notice of its intent to terminate, if Tenant's Default is of any other type (a "Non-monetary Default"), and Lender fails to cure such Monetary Default within ninety (90) days after receipt of such notice or cure or, in good faith and with reasonable diligence and continuity, commence to cure such Non-monetary Default within said ninety (90) day period. If such Non-monetary Default cannot reasonably be cured within said ninety (90) day period (or is such that possession of the Leased Premises is necessary

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for Lender to obtain possession and to remedy the Default), the date for termination shall be extended for such period of time as may be reasonably required to remedy such Default, if (a) Lender shall have fully cured any default in the payment of any monetary obligations of Tenant under this Lease within ninety (90) days after its receipt of notice of Landlord's intent to terminate, and shall continue to pay currently such monetary obligations as and when the same are due, and (b) Lender continues its good faith and diligent efforts to remedy such nonmonetary Default (including its acquisition of possession of the Leased Premises if necessary to the cure of such Default). Nothing in this Section 8.3 shall be construed to require a Lender to continue any foreclosure proceeding it may have commenced against Tenant after all Defaults have been cured by Lender, and if such Defaults shall be cured and the Lender shall discontinue such foreclosure proceedings, this Lease shall continue in full force and effect as if Tenant had not defaulted under this Lease. Nothing herein shall require a Lender who has acquired Tenant's leasehold interest and has taken possession of the Leased Premises to cure any Non-monetary Default which is not capable of being cured by such Lender, and such Default shall be deemed to be waived following Lender's acquisition of Tenant's leasehold interest and such Lender's timely cure of all Monetary Defaults and all Non-monetary Defaults which are capable of cure by such Lender in accordance with the foregoing provisions.

8.4 Obligations of Lender and Purchaser.

8.4.1 No Lender, acting in such capacity, shall be deemed to be an assignee or transferee of this Lease or of the leasehold estate hereby created so as to require such Lender, in that capacity, to assume the performance of any of the terms, covenants or conditions on the part of the Tenant to be performed hereunder, unless and until it acquires the interest of Tenant hereunder. Upon acquiring Tenant's leasehold, Lender may, without the consent of Landlord, sell and assign the leasehold estate on such terms and to such persons and entities as are acceptable to such Lender and thereafter be relieved of all obligations of Tenant first arising under this Lease after the date of such sale or assignment; provided, that such assignee of the Lender shall have delivered to Landlord an assumption agreement, approved in form and substance by Landlord, as provided by Section 9.1.1(iii) of this Lease. Any such assignee of Lender or any other assignee of this Lease or of the leasehold estate created hereby by a conveyance in lieu of foreclosure or any purchaser at any foreclosure sale of this Lease or of the leasehold estate hereby created (other than the Lender), shall be deemed to be a Transferee of this Lease, and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of the Tenant to be performed hereunder from and after the date of such purchase and assignment and, from and after such date, shall be subject to all the terms of this Lease, including all restrictions on further Transfer set forth in Article 9; provided, however, nothing herein shall require an assignee or transferee who has acquired Tenant's leasehold interest and has taken possession of the Leased Premises to cure any Non-monetary Default which is not capable of being cured by such assignee or transferee, and such Default shall be deemed to be waived following such assignee's or transferee's acquisition of Tenant's leasehold interest.

8.4.2 Notwithstanding any other provision of this Lease, any bona fide sale of this Lease and of the leasehold estate hereby created in any proceedings for the foreclosure of any Leasehold Mortgage or a bona fide assignment or transfer of this Lease and of the leasehold estate hereby created in lieu of foreclosure of a Leasehold Mortgage shall be deemed to be a permitted sale, transfer or assignment of this Lease and of the leasehold estate hereby created so long as such Transfer has not been undertaken for the purpose or with the intent of circumventing any otherwise applicable restrictions upon Transfers of Tenant's interest under this Lease.

8.5 New Lease.

Except as expressly provided in the last sentence of this Section, in the event of a termination of this Lease for any reason including, without limitation, by reason of any Default or the rejection or disaffirmance of this Lease pursuant to bankruptcy law or other law affecting creditors rights, Landlord shall give prompt notice thereof to any Lenders who have requested notice from Landlord in writing and furnished their names and addresses to Landlord. Landlord shall, on written request of any such Lender, made at any time within ninety (90) days after the giving of such notice by Landlord, enter into a new lease of the Leased Premises with such Lender

within twenty (20) days after the receipt of such request, which new lease shall be effective as of the date of such termination of this Lease and shall be for the remainder of the Term of this Lease, at the rent provided for herein, and upon the same terms, covenants, conditions and agreements as are herein contained; provided that such Lender shall: (i) pay to Landlord at the time of the execution and delivery of said new lease any and all sums for Rent payable by Tenant hereunder to and including the date thereof, less the net amount (i.e., net of all reasonable expenses) of all sums received by Landlord from any Subtenants in occupancy of any part or parts of the Leased Premises and/or Improvements up to the date of commencement of such new lease; (ii) pay all reasonable costs resulting from the preparation and execution of such new lease; and (iii) on or prior to the execution and delivery of said new lease, agree in writing that promptly following the delivery of such new lease, such Lender will perform or cause to be performed all of the other covenants and agreements herein contained on Tenant's part to be performed to the extent that Tenant shall have failed to perform the same to the date of delivery of such new lease, except where such failure to perform by Tenant is, by its nature, a Non-monetary Default not reasonably susceptible of cure by such Lender. Nothing herein contained shall be deemed to impose any obligation on the part of Landlord to deliver physical possession of the Leased Premises to such Lender unless Landlord at the time of the execution and delivery of such new lease shall have obtained physical possession thereof. Notwithstanding anything contained in this Section 8.5 to the contrary, Lender's leasehold interest in the Leased Premises pursuant to the new lease shall be subject to any claims by Tenant that it has a right to possession of the Leased Premises.

8.6 New Lease Priority.

8.6.1 It is the intent of the Parties that any new lease made pursuant to Section 8.5 shall have the same priority with respect to any lien, charge or encumbrance on the fee of the Leased Premises as did this Lease and that the Tenant under such new lease shall have the same right, title and interest in and to the Leased Premises as Tenant had under this Lease.

8.6.2 The provisions of this Section 8.6 and Sections 8.4 and 8.5 shall survive the termination, rejection or disaffirmance of this Lease and shall continue in full force and effect thereafter to the same extent as if Sections 8.4, 8.5 and this Section 8.6 were a separate and independent contract made by Landlord, Tenant and such Lender.

8.7 Liability of New Tenant.

The Lender which becomes the tenant under any such new lease made pursuant to Sections 8.4 or 8.5 shall be liable to perform the obligations imposed on the tenant by such new lease as well as those arising under Sections 8.4 or 8.5 to the same extent as a Lender which acquires Tenant's estate under this Lease by the foreclosure thereof.

8.8 Leases and Rents.

After the termination of this Lease and during the period thereafter during which any Lender is entitled to enter into a new lease of the Leased Premises, Landlord will not voluntarily terminate any Lease or the rights of the Subtenant thereunder (provided such lease is a permissible Lease under this Lease), unless such Subtenant is in default under such lease and has failed to cure same within the time provided under such lease. During such periods Landlord shall receive all rent and other payments due from Subtenants (subject to Landlord's right to not accept such rent and other payments as set forth below), including Subtenants whose attornment it shall have agreed to accept, as agent of such Lender and shall deposit such rents and payments in a separate and segregated account, but may withdraw and pay to Landlord such sums as are required or were required to be paid to Landlord under this Lease, at the time and in the amounts due hereunder, and may withdraw and expend such amounts as are necessary for the maintenance, operation, and management of the Leased Premises in accordance with the requirements of this Lease; and, upon the execution and delivery of such new lease, Landlord shall account to the lessee under the said new lease for the balance, if any (after application as aforesaid), of the rent and other payments made under said leases. The collection of rent by Landlord acting as an agent pursuant to this Section shall not be deemed an acceptance by Landlord for its own account of the attornment of any Subtenant unless Landlord shall have agreed in writing with such Subtenant that its tenancy shall be continued following the expiration of any period during which a Lender may be granted a new lease, in which case such attornment shall take place upon such expiration but not before; provided, however, in the event Landlord determines that it cannot accept rent payments from a Subtenant without risk of being deemed to have accepted such Subtenant's attornment (and Landlord has not previously agreed to recognize such Subtenant in the event of a Default under this Lease by Tenant), Landlord shall have the right to direct such Subtenant to pay such rents directly to Lender. If all Lenders fail to exercise their rights to enter into a new lease or fail to timely execute such new lease, all rents collected by Landlord on behalf of such Lenders pursuant to this Section shall become Landlord's property free and clear of any claim by such Lenders and such Lenders shall have no further rights with respect thereto.

8.9 Legal Proceedings.

Landlord shall give each Lender who has given written notice of its interest in the leasehold estate to Landlord prompt notice of any legal proceedings between Landlord and Tenant involving obligations under this Lease. Each said Lender shall have the right to intervene in any such proceeding to protect its interest and be made a party thereto, and the parties hereto do hereby consent to such intervention. In the event that any such Lender shall not elect to intervene or become a party to any such proceedings, Landlord shall give such Lender notice of, and a copy of, any award or decision made in any such proceedings, which shall be binding on all Lenders not intervening after receipt of notice of the legal proceeding.

8.10 Encumbrance of Landlord's Leasehold Interest.

Tenant acknowledges that Landlord may encumber, pledge or otherwise hypothecate its leasehold interest in the Leased Premises; provided that any such encumbrance holder will enter into a commercially reasonable non-disturbance and attornment agreement with Tenant. No such trustee or beneficiary under a deed of trust, or holder of the rights and interest of Landlord hereunder ("Landlord's Lender") shall be or become liable to Tenant solely as a result of an assignment of this Lease as security.

8.10.1 Landlord's Lender shall not, in the exercise of any of its rights arising or which may arise out of such encumbrance, or any instrument modifying or amending the same or entered into in substitution or replacement thereof, disturb or deprive Tenant in or of its possession or its right to possession of the Leased Premises, or of any part thereof under this Lease, or any right or privilege created for or inuring to the benefit of Tenant under this Lease, provided this Lease is then in full force and effect.

8.10.2 If a default has not occurred under any such encumbrance, and if this Lease shall not have been terminated, then, and in such event, Tenant shall not be made a party in any action or proceeding to foreclose said encumbrance, nor shall Tenant be evicted or removed or its possession or right of possession be disturbed or in any manner interfered with, and this Lease shall continue in full force and effect as a direct lease from the purchaser in foreclosure or transferee in lieu thereof.

8.10.3 Any such encumbrance shall provide that Landlord's Lender, upon serving the Landlord with any notice under such encumbrance will simultaneously serve a copy of such notice upon the Tenant.

8.10.4 Landlord shall, upon request, execute, acknowledge and deliver to Tenant an agreement in form satisfactory to Landlord and Tenant, between Landlord, Tenant and Landlord's Lender, agreeing to all of the provisions of this Section.

8.10.5 Tenant shall give notice in writing of the existence and nature of any default of Landlord hereunder to Landlord's Lender; provided that Landlord's Lender has given Tenant a written request for such notice including the name and address of Landlord's Lender. Tenant shall not terminate this Lease if Landlord's Lender has cured such default within thirty (30) days after receipt of such notice. Tenant agrees that Landlord's Lender may, in the event of a default by Landlord in the performance of any obligations of Landlord which are contained in any instrument of hypothecation or evidence of indebtedness, the repayment of which is secured by Landlord's interest hereunder, elect to cause Landlord's leasehold estate in and to all or a portion of the Leased Premises to be sold, to hold foreclosure proceedings thereon, or to accept from Landlord an assignment, transfer or other conveyance of those interests which are thus hypothecated, all

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without prejudice to Tenant.

8.10.6 Notices. Notices from Landlord to any Lender shall be mailed to the address of the Lender set forth in the Leasehold Mortgage furnished to Landlord or at such other address as may have been furnished to Landlord by such Lender. All notices from the Lender to Landlord shall be mailed to the address designated pursuant to the provisions of Section 18.6 or such other address as Landlord may designate in writing from time to time. All such notices to the Lender or to the Landlord shall be given in the manner described in Section 18.6 and shall in all respects be governed by the provisions of such Section.

8.11 Encumbrance of Landlord's Fee Estate.

It is expressly understood and agreed that there shall be no subordination or encumbrance of any kind under this Lease or otherwise of (i) the Landlord's fee title ownership of the Property; (ii) the Landlord's interest in this Lease; (iii) rent and (iv) the Landlord's right to require prompt payment of costs by Tenant as set forth herein.

ARTICLE 9 - ASSIGNMENT AND TRANSFER

9.1 Transfer of the Lease, the Leased Premises or the Improvements Thereon.

9.1.1 (i) Tenant shall not Transfer all or any part of its interest in or rights under this Lease and/or any part of its interest in or rights to the Leased Premises and/or any of the Improvements constructed thereon, without the prior written consent of Landlord, which consent will not be unreasonably withheld or delayed. If the stock, partnership interests or membership interests of Tenant are not publicly traded, the transfer of more than twenty percent (20%) of Tenant's stock, partnership interests or membership interests shall be deemed to be a Transfer requiring Landlord's consent. If the stock, partnership interests or membership interests of Tenant are publicly traded, any transfer of Tenant's stock, partnership interests or membership interests or the sale of all or substantially all of Tenant's assets shall not be a Transfer requiring Landlord's consent.

(ii) Landlord shall have the right to consider the following factors (among others Landlord reasonably determines are necessary to consider in evaluating the proposed Transferee) in determining whether or not to consent to any proposed Transfer of Tenant's rights under or interest in this Lease, the Leased Premises, or the Improvements constructed thereon: (1) The financial condition of the proposed Transferee and its ability to perform all of the financial and other obligations of Tenant under this Lease, (2) the Transferee's business reputation, and (3) the Transferee's ability to demonstrate its capability to manage or provide for the management of the Improvements located on the Leased Premises in accordance

(iii) Upon any approved or permitted Transfer of this Lease or the Leased Premises (other than for security purposes), said Transferee shall expressly assume in writing liability for all of Tenant's obligations accruing under this Lease after the date of such Transfer. Upon any Transfer prior to completion of construction of the Improvements (including a Transfer to an Affiliate) Tenant shall not be released of its obligations under this Lease. Upon any Transfer after completion of construction of the Improvements (including a Transfer to an Affiliate) Tenant shall not be released of its obligations under this Lease unless either (A) pursuant to the process described in subparagraph (ii) immediately above, Tenant has demonstrated to Landlord's reasonable satisfaction that Transferee's net worth at the time of the Transfer is equal to or greater than the net worth of Tenant as of the Commencement Date (adjusted to correspond to any changes in the Index since the Commencement Date), or (B) an individual(s) or an entity(ies) with substantially equal or greater net worth than that of Tenant have guaranteed Tenant's obligations under this Lease. If Transferee's net worth satisfies the foregoing test, or if Tenant has delivered (or maintained) its guarantee of this Lease, then Tenant (as well as former Tenants still liable hereunder) shall be released of all liability under this Lease accruing after the date of such Transfer.

(iv) At any time Tenant desires to effect a Transfer which requires Landlord's consent pursuant to clause (ii) or (iii) above, Tenant shall request consent from Landlord in writing and shall submit to Landlord in connection with such request all proposed agreements and documents (collectively, the "Transfer Documents") memorializing, facilitating and/or evidencing such proposed Transfer, as well as all other information Tenant reasonably believes is necessary for Landlord to properly evaluate the proposed Transferee pursuant to the criteria set forth in Section 9.2(a)(ii) and, if applicable, Section 9.2(a)(iii) above. Landlord agrees to advise Tenant in writing of its decision on Tenant's request for consent to such Transfer, as promptly as possible, and, in any event, not later than thirty (30) days after Landlord receives all of the items required by the preceding sentence. If such request is denied, Landlord shall state the reasons for such denial in its notice of denial of Tenant's request. If Landlord fails to respond to Tenant's request within thirty (30) days after its receipt of all of the items required above, Tenant's request shall be deemed disapproved. Upon a deemed disapproval, Tenant may deliver a notice to Landlord which states that there has been a deemed disapproval, requesting that Landlord consent to the proposed Transfer, stating that Landlord must consent to or deny the proposed Transfer within thirty (30) days after Landlord's receipt of this notice, and that failure by Landlord to either consent to or deny such Transfer within such 30 day period will result in deemed consent. If Landlord fails to consent to or deny the proposed Transfer within such second thirty (30) day period, the Transfer shall then be deemed approved by Landlord.

9.2.1 Notwithstanding anything to the contrary in this Lease, and provided that Tenant is not requesting that it be released from its obligations hereunder, Landlord agrees to allow Permitted Transfers as set forth in Section 1.28 herein.

9.3 Transfer of Tenant's Interest in Lease and Tenant's Ownership.

The restrictions on Transfer contained in this Article 9 shall be binding on any successors, heirs or permitted Transferees of Tenant. The provisions of this Article 9 shall apply to each successive Transfer and Transferee in the same manner as initially applicable to Tenant under the terms set forth herein.

9.4 Leases.

Notwithstanding anything above which is or appears to be to the contrary, including any restrictions on Transfer contained in Section 9.2 of this Lease, but subject to the terms and conditions of this Section 9.4, Tenant shall be entitled to enter into leases of the Housing Improvements without Landlord's consent; provided that such leases are in conformity with the Regulatory Agreement and this Lease, and Tenant shall be entitled to enter into leases of the Retail Improvements without Landlord's consent; provided that such leases are in conformity with this Lease.

ARTICLE 10 - TAXES AND IMPOSITIONS

10.1 Tenant To Pay Impositions.

10.1.1 In addition to the Rent and other payments required to be paid under this Lease, Tenant shall pay or cause to be paid any and all taxes (including possessory interest taxes) and assessments (collectively, "Impositions") levied or assessed from the Commencement Date until the termination of this Lease by any governmental agency or entity on or against the Leased Premises or any portion thereof, or on or against any interest in the Leased Premises (including the leasehold interest created by this Lease), or any Improvements or other property in or on the Leased Premises. The timely payment of the Impositions is a material term of this Lease, and, to the extent the above-referenced items are payable to Landlord or its successors or assigns, they shall constitute Additional Rent hereunder.

10.1.2 If, by law, any such Imposition is payable, or may, at the option of Tenant be paid, in installments, Tenant may pay the same, together with any accrued interest on the unpaid balance of such Imposition, in such installments as those installments respectively become due and before any fine, penalty, interest, or cost may be added thereto for the nonpayment of any such installment and interest.

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10.2 Proration of Impositions.

All Impositions levied or assessed on or against the Leased Premises shall be prorated, based on a 365-day year, between Landlord and Tenant as of the Commencement Date of this Lease, and as of the expiration or earlier termination of this Lease. On service of written request by Landlord, Tenant shall promptly pay to Landlord Tenant's share of such Impositions paid by Landlord on Tenant's behalf and, on service of written request by Tenant, Landlord shall promptly pay to Tenant Landlord's share of such Impositions paid by Tenant on Landlord's behalf.

10.3 Payment Before Delinquency.

Subject to Tenant's right to contest under Section 10.4, any and all Impositions and installments of Impositions required to be paid by Tenant under this Lease shall be paid by Tenant prior to delinquency, and, upon Landlord's written request, copies of the official and original receipt for the payment of each such Imposition or installment thereof or other reasonably satisfactory evidence of payment shall promptly be given to Landlord.

10.4 Contest of Imposition.

Tenant shall have the right to contest, oppose, or object to the amount or validity of any Imposition levied on or assessed against the Leased Premises or any portion thereof and may in good faith diligently conduct any necessary proceeding to prevent or void or reduce the same; provided, however, that the contest, opposition, or objection must be filed before the Imposition at which it is directed becomes delinquent if such contest, opposition or objection is required to be made or filed prior to payment of the Imposition being challenged, and written notice of the contest, opposition, or objection must be given to Landlord at least thirty (30) days before the date the Imposition becomes delinquent. No such contest, opposition, or objection shall be continued or maintained after the date on which the Imposition at which it is directed becomes delinquent unless Tenant has met one of the following conditions: (i) Paid such Imposition under protest prior to its becoming delinquent; or (ii) Posted such bond or other security, reasonably satisfactory to Landlord, as is necessary to protect Landlord and the Leased Premises from any lien arising from such Imposition. Landlord shall not be required to join in any proceeding or contest brought by Tenant unless the provisions of any law require that the proceeding or contest be brought by or in the name of Landlord or any owner of the Leased Premises. In that case, Landlord shall join in the proceeding or contest or permit it to be brought in Landlord's name, but such action shall be without cost to Landlord and Tenant shall reimburse Landlord upon demand for any reasonable attorneys' fees and costs incurred therein.

10.5 Tax Returns And Statements.

Tenant shall, as between Landlord and Tenant, have the duty of attending to, preparing, making, and filing any statement, return, report, or other instrument required or permitted by law in connection with the determination, equalization, reduction, or payment of any Imposition that is or may be levied on or assessed against the Leased Premises, or any portion thereof, or any interest therein, or any Improvements or other property on the Leased Premises.

10.6 Possessory Interest Taxes.

Landlord is a public entity, and as such, Landlord's underlying fee in the Leased Premises is, or may be, exempt from property tax assessments. In accordance with California Revenue and Taxation Code Section 107.6(a), Landlord states that by entering into this Lease, a Possessory interest in Tenant subject to property taxes will be created. Tenant or any other party in whom the Possessory interest is vested may be subject to the payment of property taxes levied on such interest. In addition, pursuant to Health and Safety Code Section 33673, the Leased Premises shall be assessed and taxed in the same manner as privately owned property, and Tenant shall pay taxes upon the assessed value of the entire Leased Premises and not merely the assessed value of its leasehold interest; provided however, that Landlord recognizes that Tenant will apply for and may receive a welfare exemption for all or a portion of the Improvements.

ARTICLE 11 - UTILITY SERVICES

11.1 Tenant's Responsibility.

During the Term of this Lease, Tenant shall pay, or cause to be paid, and shall indemnify, defend and hold Landlord and the property of Landlord harmless from all charges for water, sewage, gas, heat, air conditioning, light, power, steam, telephone service and all other services and utilities used, rendered or supplied to, on or in the Leased Premises during the Term.

11.2 Landlord Has No Responsibility.

Landlord shall not be required to furnish to Tenant or any other occupant of the Leased Premises during the Term of this Lease, any water, sewage, gas, heat, air conditioning, light, power, steam, telephone, or any other utilities, equipment, labor, materials or services of any kind whatsoever.

ARTICLE 12 - INSURANCE

12.1 Fire and Extended Coverage Insurance.

Throughout the term of this Lease, Tenant, at no cost or expense to Landlord, shall keep or cause to be kept, for the mutual benefit of Landlord and Tenant, a policy of standard fire insurance, with extended coverage and vandalism and malicious mischief endorsements, including earthquake insurance if such insurance is commercially available at commercially reasonable rates with commercially reasonable deductibles. The amount of insurance required hereunder shall in no event be less than one hundred percent (100%) of the full replacement cost of the Improvements on the Leased Premises (exclusive of foundations and footings), including tenant improvements or betterments. Tenant shall not be obligated to obtain flood insurance as part of the extended coverage required hereunder. Coverage shall be "property broad form" and shall include rent interruption insurance, which insurance shall also cover all real estate taxes and insurance costs for the purposes of continuing rental payments to the landlord for the duration of the Lease. Coverage shall not include a coinsurance penalty provision.

12.2 Commercial General Liability Insurance.

Tenant, commencing on the Commencement Date and continuing throughout the Term hereof, shall maintain or cause to be maintained, at no cost or expense to Landlord, comprehensive broad form commercial general liability insurance or an equivalent owner contractor protective policy insuring against claims and liability for personal injury, death, or property damage arising from the use, occupancy or condition of the Leased Premises, the Improvements thereon, which insurance shall provide combined single limit protection of at least Two Million Dollars (\$2,000,000) for bodily injury or death to one or more persons, and at least One Million Dollars (\$1,000,000) for property damage, which limits shall be increased by Tenant from time to time based upon Tenant's reasonable assessment of the limits carried by prudent and responsible property owners of similar property in the geographic area of the Leased Premises.

12.3 Worker's Compensation Insurance.

Tenant shall carry worker's compensation insurance for any employees it has as required by the State of California, and employer's liability insurance with a liability insurance minimum of \$1,000,000 per accident for bodily injury or disease.

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12.4 Course of Construction Insurance.

Course of construction insurance coverage for all risk of loss shall be maintained at one hundred percent of the completed value basis on the insurable portion of the work including materials at the project site, stored off the project site, or in transit. Tenant shall include the interests of the Landlord and subcontractors in the work and shall insure against the perils of physical loss or damage. Nothing in this Article, however, shall be construed to relieve the Tenant of full responsibility for loss of or damage to materials not yet incorporated in the work or the Tenant's tools and equipment used to perform the work, whether on the project site or elsewhere, or to relieve the Tenant of any other responsibility under the Lease. If the Landlord is damaged by the failure of the Tenant to purchase or maintain such insurance, the Tenant shall bear all losses attributable thereto and indemnify the Landlord therefrom.

12.5 Business Automobile Liability Insurance.

If not covered by its other insurance policies, Tenant shall carry business liability insurance on an occurrence form covering owned, hired, leased and non-owned automobiles used by or on behalf of the Tenant and providing insurance for bodily injury, property damage and contractual liability.

12.6 Policy Form, Content And Insurer.

12.6.1 All insurance required by the provisions of this Lease shall be carried only with insurance companies licensed to do business in this state with Best's Financial Rating of A VII or better or otherwise acceptable to Landlord.

12.6.2 All such policies required by the provisions of this Lease shall be nonassessable and shall contain language to the effect that (i) the policies are primary and noncontributing with any insurance that may be carried by Landlord, (ii) the policies cannot be canceled or materially changed except after thirty (30) days notice by the insurer to Landlord and (iii) Landlord shall not be liable for any premiums or assessments. The insurer under the policy of property insurance for the Leased Premises shall also waive its rights of subrogation against Landlord and Landlord's Representatives.

12.6.3 All deductibles or self-insured retentions shall be commercially reasonable for companies of similar net worth as Tenant.

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12.6.4 Upon Tenant's execution and delivery of this Lease, Tenant shall deliver to Landlord certificates of insurance evidencing the insurance coverages specified in this Article. Tenant shall thereafter deliver to Landlord original certificates and amendatory endorsements evidencing the insurance coverages required by this Article upon renewal of any insurance policy. Full copies of the policies shall be made available to Landlord upon request. Tenant may provide any insurance required under this Lease by blanket insurance covering the Leased Premises and any other location or locations, provided that the specific policy of blanket insurance proposed by Tenant provides the coverages required by this Agreement taking into account the other properties, persons and risks covered by such blanket policy. All policies shall name Landlord, City of San Diego and each Lender as an additional insured as their interests may appear, and shall contain the following special endorsements:

"The Redevelopment Agency of the City of San Diego and their officers, employees and agents are hereby declared to be additional insureds under the terms of this policy as to the activities of Landlord, Tenant and its sublessees, if any.

"This insurance policy will not be canceled without 30 days prior written notice to the Trustees and the Corporation. The Redevelopment Agency of the City of San Diego is not liable for the payment of premiums or assessments on this policy."

2.6.5 For any claims related to this project, the Tenant's insurance coverage shall be primary insurance as respects the Landlord. Any insurance or self-insurance maintained by the Landlord shall be excess of the Tenant's insurance and shall not contribute with it.

2.6.6 Tenant shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all requirements stated herein.

12.7 Waiver of Subrogation.

Without limiting Section 7.3 herein, Landlord and Tenant hereby release the other and its Representatives from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation or otherwise for any insured loss or damage to the Leased Premises, any Improvements thereon, or any of Landlord's or Tenant's property thereon caused by or arising from a fire or any other event even if such fire or other casualty shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible.

12.8 Indemnification.

12.8.1 Tenant shall indemnify, defend and hold harmless Landlord and its Representatives, and the property of Landlord, including the Leased Premises, from and against

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any and all Losses and Liabilities of every nature arising out of or in connection with the use, occupancy or enjoyment of the Leased Premises by Tenant or any person thereon or holding under Tenant arising from any action, inaction, events or facts occurring during the Term from any cause; provided, that nothing in this Section 12.8.1 or this Lease shall be construed to require Tenant to rebuild the Improvements or to pay charges to Landlord in connection therewith as a result of damage to or destruction of the Improvements or any Taking of the Improvements except to the extent expressly provided in the other Sections of this Lease. The above indemnification includes, without limitation, any Losses and Liabilities arising by reason of:

(1) The death or injury of any person, including Tenant or any person who is an employee or agent of Tenant, or damage to or destruction of any property, including property owned by Tenant or by any person who is an employee or agent of Tenant, from any cause whatever while such person or property is in or on the Leased Premises;

(2) The death or injury of any person, including Tenant or any person who is an employee or agent of Tenant, or damage to or destruction of any property, including property owned by Tenant or any person who is an employee or agent of Tenant, caused or allegedly caused by either (A) the condition of the Leased Premises or some Improvements on said premises, or (B) some act or omission on the Leased Premises by Tenant or any person in, on, or about the Leased Premises with the permission and consent of Tenant;

(3) Any work performed on the Leased Premises or materials furnished to said premises at the insistence or request of Tenant or any person or entity acting for or on behalf of Tenant; or

(4) Tenant's failure to perform any provision of this Lease or to comply with any Governmental Restriction.

However, the foregoing indemnification shall not extend to any Loss or Liability to the extent (5) it arises out of the gross negligence or intentional or willful misconduct of Landlord or its Representatives; or (6) it arises from a claim for personal injury or property damage asserted by the owners of any properties adjacent or proximate to the Leased Premises, or their guests, invitees, employees, tenants or other like person or entity claiming through them, which are based upon the migration of any Hazardous Materials deposited on the Leased Premises prior to the Commencement Date of this Lease onto such properties adjacent or proximate to the Leased Premises.

ARTICLE 13 - CONDEMNATION

13.1 General.

If any portion of or interest in the Leased Premises shall be condemned (including, without limitation, inverse condemnation) or taken by any public authority or by any other person or entity with the power of condemnation, by eminent domain or by purchase in lieu thereof (a "Taking"), and such Taking renders the Leased Premises unsuitable in the commercially reasonable judgment of Tenant for Tenant's business operations, Tenant may terminate this Lease by giving notice to Landlord, such termination to be effective as of the date specified in such notice. If this Lease is not terminated, Tenant's condemnation award shall be used for the purpose of repairing or restoring the Improvements in accordance with Section 7.3.

13.2 Award.

Whether or not this Lease is terminated as a result of any Taking, Landlord and Tenant shall together make one claim for an award for their combined interests in the Leased Premises including an award for severance damages if less than the whole shall be so taken. The condemnation proceeds shall be distributed to Landlord and Tenant as their respective interests appear. Both parties shall have the right to appear in and defend against such action as they deem proper in accordance with their own interests at their own expense. To the extent possible, the parties shall cooperate to maximize the condemnation proceeds payable by reason of the condemnation. Issues between Landlord and Tenant required to be resolved pursuant to this Article shall be joined in any such condemnation proceeding to the extent permissible under then applicable procedural rules of such court of law or equity for the purpose of avoiding multiplicity of actions and minimizing the expenses of the parties. If this Lease is not terminated pursuant to this Article, it shall continue, except that commencing with the date on which Tenant is deprived of the use of any portion of the Leased Premises or of any rights under this Lease, Rent shall be abated or reduced according to the extent to which Tenant is deprived of the use or benefit of the Leased Premises or of any rights under this Lease. If the Taking occurs in the last five (5) years of the Term, either Landlord or Tenant, by written notice to the other, may terminate this Lease, such termination to be effective as of the date that the condemnor acquires title to all or a portion of the Leased Premises.

13.3 Taking for Temporary Use.

If there is a Taking of the Leased Premises for temporary use for a period equal to or less than eight (8) months, this Lease shall continue in full force and effect, Tenant shall continue to comply with Tenant's obligations under this Lease not rendered physically impossible by such Taking, neither the Term nor the Rent shall be reduced or affected in any way, but the Rent shall continue at the level of the last Rent paid prior to the Taking (including any subsequent increases

in such Rent provided for under this Lease), and Tenant shall be entitled to any and all Awards for the use or estate taken. If any such Taking is for a period extending beyond such eight (8) month period, the Taking shall be treated as a total, substantial or partial taking, as appropriate.

ARTICLE 14 - DEFAULT

14.1 Default.

The occurrence of any one or more of the following events shall, after the giving of the Notice of Default required by Section 14.2 or 14.4 (nonpayment of Rent does not require a Notice of Default), constitute a default ("Default(s)") under this Lease by Tenant or Landlord, as applicable:

14.1.1 If, prior to the issuance of the Release of Construction Covenants, Tenant shall:

(1) Fail to commence construction of the improvements as required by the DDA and this Lease for a period of ninety (90) days after written notice from the Landlord pursuant to Section 601;

(2) Abandon or substantially suspend construction of the Improvements for a period of ninety (90) days after written notice of the abandonment or suspension from the Landlord;

(3) Transfer, or suffer any involuntary transfer of, the Leasehold, or any part of it, in violation of this Lease, and the violation will not be cured within ninety (90) days after written demand by Landlord to Tenant; or

14.1.2 Any failure by Tenant to pay the Rent or make any other payment required to be made by Tenant hereunder, on the date the payment is due; or

14.1.3 Any failure by Tenant to pay any amount due under the Permanent Loan or the Agency Loan and the failure to cure such default under the terms of such loans; or

14.1.4 Any breach by Tenant of its obligations under the Agreement Affecting Real Property and the failure to cure such default under the terms of such documents; or

14.1.5 Any breach by Tenant of its obligations under the Regulatory Agreement and the failure to cure such breach under the terms of the Regulatory Agreement; or

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14.1.6 Any breach by Tenant of its obligations under the Covenants, Conditions and Restrictions and the failure to cure such breach under the terms of the Covenants, Conditions and Restrictions; or

14.1.7 Any breach by Tenant of its obligations under the Reciprocal Easement Agreement and the failure to cure such breach under the terms of the Reciprocal Easement Agreement; or

14.1.8 A failure by Tenant or Landlord to observe and perform any other condition, restriction, covenant, obligation or provision of this Lease to be observed or performed by Tenant or Landlord, as applicable.

14.2 Notice of Default; Tenant's Right to Cure.

14.2.1 If Tenant has committed or permitted to exist a breach of any provision of this Lease (other than nonpayment of Rent) or has committed or permitted any other breach described above in Section 14.1, Landlord shall give notice of said breach ("Notice of Default") to Tenant.

14.2.2 Tenant shall be in default hereunder without notice from Landlord if Rent is not paid by the twentieth (20th) day of May of each calendar year (or if the twentieth day falls on a Saturday or Sunday, the first Monday following the twentieth (20th) day of May).

14.2.3 If the alleged Default is nonpayment of Additional Rent, Impositions or other sums to be paid by Tenant as provided in this Lease, Tenant shall have thirty (30) days after the Notice of Default is given to cure the Default. For any other Default other than a default under Section 14.1.1, Tenant shall, after the Notice of Default, promptly and diligently commence curing the Default and shall have ninety (90) days after the Notice of Default to complete the cure of said Default; provided, however, that if the nature of said Default is such that the same cannot reasonably be cured within said ninety (90) day period, Tenant shall have such additional time as is reasonably necessary to cure such Default, provided that at all times prior to the expiration of said ninety (90) day period and for the period thereafter that the Default remains uncured, Tenant is exercising reasonable diligence in its efforts to cure such Default.

14.2.4 If the alleged Default is an event of nonperformance under Section 14.1.1, failure to timely commence and complete construction of the Improvements, Landlord shall provide Tenant with written notice specifying in detail (i) that an event of nonperformance has occurred, (ii) the nature of such event of nonperformance, (iii) the actions required to be taken by Tenant to remedy or cure the event of nonperformance, (iv) the date on which the event of nonperformance will become an Event of Default if not sooner cured or remedied, and (v) that failure to cure or remedy the event of nonperformance prior to such date may result in termination of this Lease, or at Landlord's election, injunctive or other monetary relief for Landlord. In the event Tenant has not remedied or cured such event of nonperformance within sixty (60) days after Tenant's receipt of such written notice (or, if it is not practicable to remedy or cure such event of nonperformance within such period, in the event Tenant has not commenced to remedy or cure such event of nonperformance within such period), the same shall constitute an Event of Default. In no event shall an Event of Default exist with respect to any event of nonperformance for which it is not practicable to remedy or cure within the period set forth in the immediately preceding sentence, provided Tenant has commenced the remedy or cure of such event of nonperformance prior to the lapse of such period and diligently prosecutes such remedy or cure to completion.

14.2.5 As used in this Lease, the term "Uncured Default" shall mean any Default by Tenant which continues uncured, following the giving of a Notice of Default as required by this Lease, for the cure period applicable to that Default under the provisions of this Lease.

14.2.6 Copies of all notices hereunder shall be sent to the limited partner of Tenant pursuant to Section 18.6. Cures offered on behalf of Tenant by the limited partner of Tenant shall be received by Landlord as if offered by Tenant itself hereunder.

14.3 Good Faith Dispute.

Notwithstanding the foregoing, in the event that Tenant or Tenant's Lienholder disputes Landlord's determination that an Event of Default has occurred and delivers notice of such dispute to Landlord within thirty (30) days after the occurrence of an Event of Default (or with respect to Tenant's Lienholder, within its time period to cure an Event of Default) pertaining to such event of nonperformance, and if such dispute is made in good faith, then no such termination of this Lease by Landlord shall be permitted during the pendency of any action or proceeding to determine such dispute; provided, however, that if such action or proceeding results in a final determination unfavorable to Tenant, Tenant must cure such event of nonperformance within thirty (30) days following such determination or, if it is not practicable to cure or remedy such event of nonperformance within such thirty (30)-day period, then Tenant must commence the curing or remedying of such Event of Nonperformance within said thirty (30)-day period and diligently prosecute such cure or remedy to completion). Failure of Tenant or Tenant's Lienholder to cure such event of nonperformance within the aforesaid period shall entitle Landlord to terminate this Lease and any such determination in such action or proceeding may provide for the termination of

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this Lease conditioned upon permitting Tenant to cure such event of nonperformance as herein provided.

14.4 Landlord's Right to Cure Tenant's Defaults.

After expiration of the applicable time granted to Tenant for curing a particular Default and upon not less than five (5) business days' notice (unless a longer period of time is otherwise expressly provided by this Lease, in which case such longer period shall apply), Landlord may, at Landlord's election, make any payment (other than Rent payable to Landlord) required of Tenant under this Lease or perform or comply with any covenant or condition imposed on Tenant under this Lease, and the amount so paid, plus the reasonable cost of any such performance or compliance, plus interest on such sum at the Agreed Rate, from the date of payment, performance, or compliance until the date of repayment by Tenant, shall be due and payable by Tenant on the first day of the next calendar month following any such payment, performance or compliance by Landlord as Additional Rent hereunder. No such act shall constitute a waiver of any Default or of any remedy for Default or render Landlord liable for any loss or damage resulting from any such act (except to the extent such loss or damage arises from Landlord's or Landlord's Representatives' gross negligence or intentional or willful misconduct).

14.5 Notice of Landlord's Default; Tenant Waiver.

14.5.1 If Landlord has committed a breach under this Lease, as described in Section 14.1, Tenant shall deliver a Notice of Default to Landlord. Each Notice of Default shall specify the alleged Default.

14.5.2 Landlord shall, after notice, promptly and diligently commence curing the Default and shall have sixty (60) days after notice is given to complete the cure of said Default; provided, however, that if (i) the nature of said Default is such that the same cannot reasonably be cured within said sixty (60) day period, and (ii) Landlord shall have in good faith commenced and diligently and continuously pursued such cure, then Landlord shall have such time as is reasonably necessary to complete the cure of said Default. If it is determined that Landlord is liable to Tenant for damages pursuant to this Lease Landlord shall pay such damages to Tenant in accordance with such judgment within 30 days after such determination. Tenant shall have no right to offset any amount of damages owed by Landlord to Tenant against the Rent owed by Tenant to Landlord under this Lease. If any amount owed to the Tenant by Landlord is not paid when due, interest shall accrue on such amount at the Agreed Rate from the date due until the date that such amount is paid. After expiration of the applicable time for Landlord to cure a particular Default and upon not less than five (5) business days' notice (unless a longer period of time is otherwise expressly provided by this Lease, in which case such longer period shall apply), Tenant may, at Tenant's election, make any payment required of Landlord under this Lease or perform or comply with any covenant or condition imposed on Landlord under this Lease, and the amount so paid, plus the

reasonable cost of any such performance or compliance, plus interest on such sum at the Agreed Rate, from the date of payment, performance, or compliance until the date of repayment by Landlord, shall be due and payable by Landlord on the first day of the next calendar month following any such payment, performance or compliance by Tenant. No such act shall constitute a waiver of any Default or of any remedy for Default or render Tenant liable for any loss or damage resulting from any such act (except to the extent such loss or damage arises from Tenant's or Tenant's Representatives' negligence or intentional or willful misconduct).

14.6 Landlord's Remedies.

14.6.1 Right of Termination.

Upon the occurrence of any Event of Default under Section 14.1.1, 14.1.4, 14.1.6 or failure to pay Rent for two (2) or more consecutive years, Landlord may, at its option and in addition to any other remedy provided for in this Lease, but subject to the rights of Lienholders, and provided Landlord has given Tenant at least thirty (30) days' additional notice of its intent to do so and Tenant has failed to cure the Event of Default within such period, reenter and repossess the Improvements, terminate the Lease and revest in Landlord the leasehold interest theretofore transferred to Tenant, by written notice to Tenant of its intention to do so. Such notice by Landlord shall expressly state that an Event of Default has occurred and that Landlord's remedies include the right to terminate this Lease. The right to reenter, repossess, terminate and revest will be subject to and be limited by and will not defeat, render invalid, or limit:

(1) Any mortgage, deed of trust or other financing interest permitted by this Lease;

(2) Any rights or interests provided in this Lease for the protection of the holders of mortgages, deeds of trust or other financing interests.

14.6.2 Revesting Prior to Issuance of Release of Construction Covenants.

Prior to the issuance of a Release of Construction Covenants in accordance with Section 324 of the DDA for the Improvements to be constructed on the Premises, upon the re-vesting in Landlord of the leasehold estate in the Leased Premises, Landlord shall use its best efforts to re-lease or sell the Leased Premises as soon as possible and in such manner as Landlord shall find feasible to a qualified and responsible party or parties (as reasonably determined by Landlord) as shall be reasonably satisfactory to Landlord, who will assume the obligation of making or completing the Improvements, or such other improvements in their stead, or operate and maintain the Improvements on the Leased Premises, or otherwise use the Premises and in accordance with the uses specified for the Leased Premises. Tenant shall have the right to secure prospective purchasers meeting the qualifications set forth in this section and Landlord agrees that it will not unreasonably withhold its consent to the sale or lease of the Premises to any prospective purchaser/lessee secured by Tenant who qualifies as a "permitted assignee" under Section 9.1. Upon such re-leasing or sale of the Leased Premises, the proceeds thereof shall be applied:

(a) First, to reimburse Landlord on its own behalf for all reasonable costs and expenses of Landlord incident to such re-lease or sale and/or conveyance; all taxes, assessments, and water and sewer charges with respect thereto; any payments made, or necessary to be made, to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of the Tenant, its successors or transferees, any expenditures made or obligations incurred by Landlord with respect to the making or completion of the Improvements or any part thereof on the Leased Premises; and any amounts otherwise owing Landlord by Tenant or by its successor or transferee to the date of termination of this Lease.

(b) Second, to reimburse the Tenant, its successor or transferee, the costs incurred for the development of the Property and the Improvements existing thereon at the time of reentry and repossession including the Costs, less any gains or income withdrawn or made by, the Tenant therefrom or from the Improvements thereon after all operating expenses, debt service and annual Rent has been paid.

Any balance remaining after such reimbursements shall be retained by Landlord as its property.

The rights established in this section are to be interpreted in light of the fact that Landlord will convey the Premises to Tenant for development and not for speculation in undeveloped land.

14.6.3 Termination of Lease.

No ejectment, reentry or other act by or on behalf of Landlord shall constitute a termination unless Landlord gives Tenant notice of termination in writing. Such termination shall not relieve or release Tenant from any obligation incurred pursuant to this Lease with respect to the period prior to the date of such termination.

14.6.4 Late Payment Charge.

Tenant hereby acknowledges that late payment by Tenant to Landlord of Rent and other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges and late charges which may be imposed on Landlord by the terms of any mortgage, deed of trust, or bonded indebtedness. Accordingly, if any installment of Rent shall not be received by Landlord or its designee within ten (10) days after Rent is due, or if any Additional Rent or Impositions shall not be received by Landlord within twenty (20) days after the Notice of Default is given, then without any requirement for notice to Tenant, Tenant shall pay to Landlord a late charge equal to five percent (5%) of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge to Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for three (3) consecutive installments of Rent, then Rent shall automatically become due and payable quarterly in advance, rather than monthly, notwithstanding Article 4 or any other provision of this Lease to the contrary.

14.6.5 Availability of Remedies.

In the event Tenant fails to pay Rent to Landlord, Landlord shall have the right to pursue all of its legal and equitable remedies against Tenant for collection of such amounts, including without limitation the remedy described in California Civil Code Section 1951.4 which provides that a lessor may continue a lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if the lessee has the right to sublet or assign, subject only to reasonable limitations.

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14.6.6 Landlord Remedies Cumulative.

Except as expressly provided elsewhere in this Lease the following provisions shall apply. Termination of the Lease (pursuant to Sections 14.1.1, 14.1.3 or 14.1.4), under this Section 14.5 shall not relieve Tenant from the obligation to pay any sum due to Landlord or from any claim for damages against Tenant. Landlord may, at its option, enforce all of its rights and remedies under this Lease, including the right to recover any rent and all other sums payable hereunder as the same become due hereunder. Additionally, Landlord shall be entitled to recover from Tenant all costs of maintenance and preservation of the Premises, and all costs, including attorneys' and receiver's fees, incurred in connection with the appointment of and performance by a receiver to protect the Premises and Landlord's interest under this Lease (only in the case of an Event of Default under Sections 14.1.1, 14.1.3 or 14.1.4). The right of termination provided by this Section 14.5 is not exclusive and shall be cumulative to all other rights and remedies possessed by Landlord, and nothing contained herein shall be construed so as to defeat any other rights or remedies to which Landlord may be entitled, provided such rights or remedies are contained in this Lease and any other remedy available to it at law and equity

14.7 Tenant Remedies; Remedies Cumulative.

Except as otherwise expressly provided in this Lease, Tenant shall have all rights and remedies at law or equity upon the occurrence of an Uncured Default by Landlord hereunder including, but not limited to, the remedies provided under California Civil Code Sections 1951.2 (pursuant to California Civil Code Section 1951.2, the damages Landlord may recover against Tenant include, but are not limited to, the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award, exceeds the amount of such rental loss for the same period that the Tenant proves could be reasonably avoided). Each right and remedy of Landlord and Tenant provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease except as otherwise limited by this Lease, and the exercise or the beginning of the exercise by Landlord or Tenant of any one or more of the rights or remedies provided for in this Lease, except as otherwise limited by this Lease, shall not preclude the simultaneous or later exercise by Landlord or Tenant of any or all other rights or remedies provided for in this Lease, except as otherwise limited by this Lease.

14.8 No Waiver.

Landlord's or Tenant's failure to enforce any provision of this Lease with respect to a Default hereunder shall not constitute a waiver of Landlord's or Tenant's right to enforce such provision or any other provision with respect to any future Default. The acceptance of Rent by Landlord shall not be deemed a waiver of Landlord's right to enforce any term or provision hereof.

The waiver of any term or condition of this Lease shall not be deemed to be a waiver of any other term or condition hereof or of any subsequent failure of any term or condition hereof.

14.9 Delays in Performance.

The time within which the Parties hereto shall be required to perform any obligation under this Lease shall be extended by a period of time equal to the number of days during which performance of such act is delayed due to an act of God, strikes, lockouts, fire, earthquake, flood, explosion, war, invasion, insurrection, riot, mob violence, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, unusually severe weather, application of governmental restrictions, regulations or controls not contemplated by this Lease or otherwise reasonably foreseeable, court order, delays or inaction of independent contractors, remediation of Hazardous Materials located upon the Leased Premises, litigation brought against the Leased Premises or a Party without that Party's consent, or other like events which are completely and strictly beyond a Party's control (the "Force Majeure Events"). The additional grace period or extension of time provided above shall be equal to the period of delay caused by the above-described event, which period shall commence to run from the time of the commencement of the cause for delay and shall terminate upon termination of that cause. A Party wishing to invoke this Section must notify in writing the other Party to this Lease of that intention within sixty (60) days of the commencement of any such cause for delay and shall, at that time, specify the reasons therefor, the specific provision of this Lease which will be delayed as a result, and the period of such extension, if known, or if not known, a reasonable estimate thereof.

ARTICLE 15 - EXPIRATION; TERMINATION

At the expiration or earlier termination of this Lease, Tenant shall surrender to Landlord possession of the Leased Premises and all Improvements, free and clear of all liens, encumbrances and Mortgages other than those, if any, created by Landlord, those which both extend beyond the Term of this Lease and were expressly approved in writing by Landlord, or those which encumbered the Leased Premises prior to the Commencement Date of this Lease. Tenant shall leave the Leased Premises and any other property surrendered in its then existing "as is" condition.

As provided above at Section 6.8, all property that Tenant is required to surrender shall become Landlord's property at termination or expiration of this Lease. In addition, Tenant shall surrender to Landlord all residential leases, and all records related to the residential leases and compliance

with the Agreement Affecting Real Property and the Regulatory Agreement. All property that Tenant is not required to surrender but that Tenant does abandon by failure to remove said property within sixty (60) days after the expiration or earlier termination of this Lease shall, at Landlord's election, become Landlord's property. At Landlord's request Tenant shall execute and deliver to Landlord assignments of leases and a quitclaim deed, both in commercially reasonable form and as prepared by Landlord. By the quitclaim deed Tenant shall quitclaim any right, title or interest which Tenant may have or claim to have in the Improvements.

ARTICLE 16 – NO DISCRIMINATION

16.1 Tenant herein covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through them, and this Lease is made and accepted upon and subject to the following conditions: There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the Property.

16.2 Tenant, its successors and assigns, shall refrain from restricting the rental, sale, or lease of the Property or any portion thereof, on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry of any person. Every deed, lease, and contract entered into with respect to the Property, or any portion thereof, after the date of this Lease shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(1) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

(2) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

(3) In contracts: There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land."

ARTICLE 17 – OPTION AND RIGHT OF FIRST REFUSAL

Landlord and Tenant have entered into that certain Option to Purchase Agreement (Housing) in form as attached to the DDA as Attachment No. 20, and that certain Right of First Refusal (Retail) in form as attached to the DDA as Attachment No. 21, and memoranda thereof, concurrently with delivery of this Lease. The terms of these agreements are summarized below for convenience. In the event of a conflict between these summaries, on the one hand, and the Option to Purchase Agreement (Housing) and the Right of First Refusal (Retail), on the other, the terms of the Option to Purchase Agreement (Housing) and the Right of First Refusal (Retail) shall control.

17.1 Option to Purchase and Right of First Refusal (Housing)

The Option to Purchase Agreement (Housing) grants to Landlord an option to purchase and

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a right of first refusal to purchase the Leasehold (other than the Retail Parcels) and all Improvements therein at any time after the 55th anniversary of Conversion.

17.1.1 The option granted to Landlord pursuant to the Option to Purchase Agreement (Housing), provides that upon written notice by Landlord to Tenant at any time after the 55th anniversary of Conversion, Landlord shall have the right to exercise its option to acquire the Leasehold (other than the Retail Parcels) and all Improvements therein for a price equal to the greater of (a) the fair market value of the Leasehold and all Improvements therein taking into consideration the remaining term of the Ground Lease, determined in accordance with the procedures set forth in the Option to Purchase Agreement (Housing), or (b) the sum of the remaining unpaid principal and all accrued but unpaid interest on loans secured by an encumbrance on said Leasehold outstanding, other than amounts owing on the Agency Loan, and taxes, as of the date Landlord will close the purchase of the Leasehold and all improvements therein.

17.1.2 The right of first refusal granted to Landlord pursuant to the Option to Purchase Agreement (Housing), provides that at any time after the 55th anniversary of Conversion, Landlord shall have the right of first refusal to acquire the Leasehold and all Improvements therein for a price equal to the outstanding amount of debt on the Housing Parcel plus the amount of income taxes that would be incurred by the partners of Tenant upon a sale of the Leasehold (other than the Retail Parcels) and all Improvements therein. Landlord shall have the right to take steps to minimize the amount of said tax liability so long as there is no material adverse financial impact on the Tenant or its partners and so long as such steps do not materially affect the Landlord's ability to operate the Housing Improvements in accordance with the terms of this Lease.

17.2 Right of First Refusal (Retail)

The Right of First Refusal (Retail) grants to Landlord a right of first refusal to purchase the Retail Parcels and the Retail Improvements at any time after the 55th anniversary of Conversion on the same terms and conditions as contained in a bona fide offer.

ARTICLE 18 – MISCELLANEOUS

18.1 Landlord's Representations and Warranties.

Landlord covenants, represents and warrants to Tenant as of the date of execution of this Lease, as follows:

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18.1.1 Landlord is a public body corporate and politic under the laws of the State of California, has full legal right, power, and authority to enter into this Lease and to carry out and consummate all transactions contemplated by this Lease, and by appropriate corporate action has duly authorized the execution and delivery of this Lease. Further, Landlord will take those actions required to remain in good standing under the laws of the state of California during the term of this Lease.

18.1.2 To Landlord's actual knowledge, the execution, delivery and performance of this Lease by Landlord does not result in a material violation of, or constitute a material default under, any provision of any existing agreement, judgment or court order.

18.1.3 Except as revealed in writing by Landlord to Tenant, Landlord has not been served with any pending, and knows of no threatened, litigation or claims against the Leased Premises or against Landlord in connection with the Leased Premises which would have an adverse effect on the transactions contemplated herein.

18.1.4 Copies of all documents heretofore delivered by Landlord to Tenant are true, correct and complete copies of such documents in all material respects.

18.1.5 Landlord makes no representation or warranty as to the condition of the title to the Leased Premises except that Landlord is vested with the fee simple title thereto, subject to all recorded and unrecorded encumbrances, liens, encroachments, rights of way, easements and other possible claims of interest that may be discovered by examination of the public records and by survey and inspection.

18.2 Tenant's Representations and Warranties.

Tenant covenants, represents and warrants to Landlord, as of the date of execution of this Lease, as follows:

18.2.1 Tenant is a limited partnership or corporation duly formed and in good standing under the laws of the State of California, has full legal right, power, and authority to enter into this Lease and to carry out and consummate all transactions contemplated by this Lease, and by appropriate action has duly authorized the execution and delivery of this Lease. Further, Tenant will take those actions required to remain in good standing under the laws of the state of California during the term of this Lease.

18.2.2 The Representatives of Tenant executing this Lease are fully authorized to execute the same.

18.2.3 This Lease has been duly authorized, executed, and delivered by Tenant, and will constitute a legal, valid, and binding agreement of Tenant, enforceable against Tenant in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and by the application of equitable principles if equitable remedies are sought.

18.2.4 Except as may be revealed in writing by Tenant to Landlord, Tenant has not been served with any pending, and knows of no threatened, litigation or claims against Tenant which would have an adverse effect on the transactions contemplated herein.

18.2.5 Copies of all documents heretofore delivered by Tenant to Landlord are true, correct and complete copies of such documents in all material respects;

18.2.6 Tenant acknowledges that it owned the Property immediately prior to Landlord and sold Landlord the Property and Tenant states that it has examined the Leased Premises and hereby accepts possession of the Leased Premises in its "as is" condition, with all faults and defects subject to the terms of this Lease.

18.3 Survival of Representations, Warranties and Covenants.

The respective representations, warranties and covenants contained herein shall survive the Commencement Date and continue throughout the Term.

18.4 Further Assurances

Each party hereto will promptly execute and deliver without further consideration such additional agreement, assignments, endorsements and other documents as the other party hereto may reasonably request to carry out the purposes of this Lease.

18.5 Estoppel Certificate.

Within thirty (30) days after request by Landlord or Tenant (which request may be from time to time as often as reasonably required by Landlord or Tenant) Landlord or Tenant shall execute and deliver to the other, without charge, a statement (the "Estoppel Certificate") in the form of Exhibit D attached hereto or in such other similar form as Landlord or Tenant may reasonably request. Any such statement may be conclusively relied upon by any Lender, Subtenant or prospective purchaser of the Leased Premises.

18.6 Notices.

All notices, requests, demands and other communications under this Lease shall be in

writing and shall be deemed to have been given on (a) the date of service if served personally on the Party to whom notice is to be given, (b) the date of actual or attempted delivery provided such attempted delivery is made on a business day, if served by Federal Express, Express Mail or another like overnight delivery service, (c) the date of actual delivery as shown by the addressee's registry or certification of receipt or the fourth business day after the date of mailing, whichever is earlier, if mailed to the person to whom notice is to be given, by first class U.S. mail, registered or certified, postage prepaid, return receipt requested and properly addressed as follows (or to such other address as either Party may from time to time direct by written notice given in the manner herein prescribed), or (d) one day after receipt of a confirmed facsimile transmission provided any such communication is concurrently given by one of the above methods:

If to Landlord: The Redevelopment Agency of the City Of San Diego
 c/o Centre City Development Corporation
 225 Broadway, Suite 1100
 San Diego, CA 92101
 Tel: 619-533-7108
 Fax: 619-236-9148

With a copy to: Kane, Ballmer & Berkman
 515 S. Figueroa Street
 Suite 1850
 Los Angeles, California 90071
 Tel: 213-617-0480
 Fax: 213-625-0931

and, if to Tenant: Cedar Gateway, L.P.

 Tel: 310-850-9043
 Fax: 310-392-5831

With a copy to: _____

 Tel: _____
 Fax: _____

18.7 Attorneys' Fees.

In the event that either Party hereto brings any action or files any proceeding in connection

with the enforcement of its respective rights under this Lease or as a consequence of any breach by the other party of its obligations under this Lease, the prevailing party in such action or proceeding shall be entitled to have its reasonable attorneys' fees (including allocable costs for any in-house counsel) and out-of-pocket expenditures paid by the losing Party. The attorneys' fees so recovered shall include fees for prosecuting or defending any appeal and shall be awarded for any supplemental proceedings until the final judgment is satisfied in full. In addition to the foregoing award of attorneys' fees to the prevailing party, the prevailing party in any lawsuit on this Lease shall be entitled to its attorneys' fees incurred in any post judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Lease into any judgment on this Lease.

18.8 Headings.

The headings used in this Lease are inserted for reference purposes only and do not affect the interpretation of the terms and conditions hereof.

18.9 Rights of Successors.

All of the rights and obligations of the Parties under this Lease shall bind and inure to the benefit of their respective heirs, successors and assigns; provided, however, that nothing in this Section 18.9 shall be construed to limit or waive the provisions concerning restrictions on Transfer set forth in Article 9 hereof.

18.10 Amendments in Writing.

This Lease cannot be orally amended or modified. Any modification or amendment hereof must be in writing and signed by the Party to be charged.

18.11 No Brokers.

Each Party shall defend, indemnify, and hold the other harmless from all costs and expenses, including attorneys' fees, arising out of any and all claims for broker's agent's or finder's fees or commissions in connection with the negotiation, execution or consummation of this transaction incurred as a result of any statement, representation or agreement alleged to have been made or entered into by the indemnifying Party. Neither Tenant nor Landlord is entitled to receive any brokerage commission as a consequence of this transaction.

18.12 Negation of Partnership.

Nothing in this Lease shall be construed to render Landlord, a partner, joint venturer, or associate in any relationship or for any purpose with Tenant, other than that of Landlord and

Tenant, nor shall this Lease be construed to authorize either to act as agent for the other.

18.13 Time of Essence.

Time is of the essence of each provision in this Lease, subject to delays caused by any of the force majeure events set forth in Section 14.8.

18.14 Interpretation.

When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural, and the masculine shall include the feminine and neuter and vice versa. The term "Person" as used in this Lease means a natural person, corporation, limited liability company, association, partnership, organization, business, trust, individual, or a governmental authority, agency, instrumentality or political subdivision, and whenever the word "day" or "days" is used herein, such shall refer to calendar day or days, unless otherwise specifically provided herein. Whenever a reference is made herein to a particular Section of this Lease, it shall mean and include all subsections and subparts thereof. The word "include" or "including" shall describe examples of the antecedent clause, and shall not be construed to limit the scope of such clause.

18.15 Applicable Law; Severability.

The interpretation and enforcement of this Lease shall be governed by the laws of the State of California. Should any part, term, portion or provision of this Lease, or the application thereof to any person or circumstances be held to be illegal or in conflict with any Governmental Restrictions, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions, or the application thereof to other persons or circumstances, shall be deemed severable and the same shall remain enforceable and valid to the fullest extent permitted by law.

18.16 Exhibits.

All exhibits referred to in this Lease are attached hereto and incorporated herein by reference.

18.17 Short Form of Lease.

Concurrently with the execution of this Ground Lease, the Parties shall execute and thereafter record with the County Recorder of San Diego County a Memorandum of Lease, in form as attached hereto as Exhibit C, giving notice of the existence of this Ground Lease and the Term hereof. The date the Memorandum of Lease is recorded in the Official Records is the

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Commencement Date of this Lease.

18.18 Landlord's Rights of Inspection.

Landlord and its authorized Representatives shall have the right during business hours, upon not less than twenty-four (24) hours' oral or written notice to Tenant (except that in the case of an emergency, the existence of which shall be determined by Landlord in its reasonable discretion, no advance notice shall be required) to enter upon the Leased Premises for purposes of inspecting the same and exercising its rights under this Lease, provided that such inspections shall not unreasonably interfere with Tenant's or its Subtenant's construction or business activities.

18.19 Nonmerger of Fee and Leasehold Estates.

If both Landlord's and Tenant's estates in the Leased Premises become vested in the same owner (other than by termination of this Lease following an Uncured Default hereunder, subject to the rights, if any, of a Lender pursuant to Article 8 above), this Lease shall not be terminated by application of the doctrine of merger except at the express election of Landlord and with the consent of any Lender(s) of a Leasehold Mortgage.

18.20 Counterparts.

This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

18.21 Interest On Past Due Obligations.

Except where another rate of interest is specifically provided for in this Lease, any amount due from either Party to the other under this Lease which is not paid within ten (10) days after receipt of written notice that such amount is due (or in the case of Rent, within three (3) days after such Rent is due), shall bear interest at the Agreed Rate from the date such amount was originally due to and including the date of payment.

18.22 Holding Over.

Any holding over by Tenant after the expiration of the Term shall be construed as a tenancy from month to month and shall be subject to all of the terms and conditions which are provided for in this Lease except that the Rent shall be in an amount equal to 150% of the Rent in effect immediately prior to the expiration of the Term.

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(Signatures follow)

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IN WITNESS WHEREOF, the parties have executed this Lease as of the date first above written.

TENANT:

CEDAR GATEWAY, L.P., a California limited partnership

Date: _____

By: SQUIER PROPERTIES, LLC, a California limited liability company, its _____

By: _____
Name: Gary Squier
Its: Member

Date: _____

By: ROEM Development Corporation, a _____ corporation, its _____

By: _____
Name: _____
Title: _____

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LANDLORD:

REDEVELOPMENT AGENCY OF THE CITY OF
SAN DIEGO

Date: _____

By: _____

Print Name: _____

Its: _____

APPROVED AS TO FORM AND LEGALITY

Michael J. Aguirre
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____

Murray O. Kane

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State of California
County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California
County of San Diego

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)