

ATTACHMENT B

FIRST AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT

This FIRST AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT (“First Amendment”) is dated as of July __, 2011, and is entered into by and among the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic (“Agency”), the CITY OF SAN DIEGO, a municipal corporation (the “City”), and BROADWAY TOWER ASSOCIATES, L.P., a California limited partnership (“Developer”). Agency, City and Developer may be individually referenced herein as “Party” and collectively referenced herein as “Parties.”

R E C I T A L S

A. The Agency is the owner of an approximately 25,000 square foot site located at the corner of Ninth Avenue and Broadway in the City of San Diego, California (“Property”).

B. The Agency and Developer entered into that certain Disposition and Development Agreement dated as of December 15, 2009 (the “DDA”), pertaining to the redevelopment of the Property with a 250-unit multi-family housing project, which shall be operated as rental housing that is affordable to Low Income and Very Low Income households (“Project”), as more specifically described in the DDA. DDA as used herein shall mean, refer to and include the DDA, as well as any riders, exhibits, addenda, implementation agreements, amendments and attachments thereto (which are hereby incorporated herein by this reference) or other documents expressly incorporated by reference in the DDA.

C. Agency and Developer desire to modify the DDA, the Schedule of Performance (Attachment No. 5 to the DDA), and the Ground Lease (Attachment No. 18 to the DDA) to allow for commencement of the Ground Lease term to occur prior to the Developer’s procurement of construction financing for the Project and modify certain terms and conditions, as set forth herein; provided, however, that either Agency or Developer may terminate the Ground Lease in the event that the Developer does not obtain certain financing for the Project on or before December 31, 2011.

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

1. Recitals. The Recitals and attachments referenced above are hereby incorporated by reference into this First Amendment and adopted by the parties to this First amendment as true and correct.
2. Defined Terms. Capitalized terms used in this First Amendment shall have the meaning given them in the DDA unless specifically provided otherwise herein.
3. Modification to the DDA. The DDA shall be modified, as follows:
 - a. Section 102 “Executive Director” of the DDA shall be deleted in its entirety and replaced with the following text:

“Executive Director” means the Executive Director of the Redevelopment Agency of the City of San Diego, or designee (as to the Agency), or the Mayor of the City of San Diego, or designee (as to the City).

b. Section 201 of the DDA shall be deleted in its entirety and replaced with the following text:

SECTION 201 Lease of the Property

Agency and Developer shall execute the Ground Lease (Attachment No. 18) no later than ten (10) days from the effectiveness of the First Amendment to the DDA. The Executive Director shall be authorized to approve minor non-material changes to the Ground Lease as reasonably requested by Developer to obtain a Senior Loan; provided, however, that such changes do not subordinate (i) the affordability covenants contained in the Agreement Affecting Real Property (Attachment No. 6) and/or (ii) the Agency’s fee interest in the Property.

c. Section 202 of the DDA shall be deleted in its entirety and replaced with the following text:

SECTION 202 Conditions Precedent to Conveyance of the Leasehold

In the event that Developer does not obtain a commitment for Multifamily Housing Program (“MHP Funding Commitment”) financing from the California Department of Housing and Community Development (“HCD”) on or before **December 31, 2011**, either Party may terminate this Agreement pursuant to Section 508 of the DDA.

d. Section 406 of the DDA shall be deleted in its entirety and replaced with the following text:

SECTION 406 Agreement Affecting Real Property

Concurrently with the full execution of the Ground Lease and prior to the recording of the Memorandum of Ground Lease (the recording of which is provided for in the Ground Lease), Developer and Agency shall execute and cause the recordation of an Agreement Affecting Real Property (Attachment No. 6) and the Notice of Affordability Restrictions (Attachment No. 20), which shall be senior to any security instruments recorded for any Construction Loan, Senior Loan, and/or Junior Loan.

e. Section 602(c) of the DDA shall be deleted in its entirety.

f. The First Amended Schedule of Performance attached hereto as Exhibit “A” shall replace in its entirety the Schedule of Performance (Attachment No. 5 to the DDA).

4. Modified Form of Ground Lease. The Ground Lease shall be executed by the Parties substantially in form attached hereto as Exhibit “B” and shall replace in full Attachment No. 18 to the DDA.

5. Binding on Successors and Assigns. This First Amendment and all of the terms and conditions herein shall be binding upon and inure to the benefit of the successors, assignees, personal representatives, heirs and legatees of the parties.
6. DDA in Full Force and Effect. Except as otherwise expressly modified herein, the terms and conditions of the DDA shall remain unmodified and in full force and effect.
7. Further Assurances. The Parties agree to execute such other documents and to take such other action as may be reasonably necessary to further the purposes of this First Amendment.
8. Third Party Beneficiaries. The parties to this First Amendment acknowledge and agree that the provisions of this First Amendment are for the sole benefit of Parties, and not for the benefit, directly or indirectly, of any other person or entity.
9. Effectiveness of this First Amendment. This First Amendment shall not be effective unless and until it has been executed by the Parties.
10. Addition of City as Party. The Parties acknowledge and agree that: (a) on or about March 16, 2011, Agency transferred to City fee title ownership of the Property by recorded quitclaim deed, and (b) through an assignment agreement executed in connection with such property transfer, Agency assigned to City, and City assumed, all of Agency's rights, title, interest and obligations under all assets, agreements, contracts, permits and entitlements, and other documents relating directly or indirectly to the use, management, repair, maintenance, development and operation of the Property, including the DDA. By executing this First Amendment, the Parties confirm that they are all parties to the DDA. The Parties agree that, except as otherwise specified herein, all references to "Agency" in the DDA including all exhibits and attachments to the DDA, as amended by this first Amendment shall mean either Agency or City, whichever of those two Parties is the fee title owner of the Property at the relevant time. For the sake of clarity, as between Agency or City, the Party that owns fee title to the Property shall be entitled to exercise all rights, and shall be required to fulfill all outstanding obligations, attributable to "Agency" under the DDA. Notwithstanding the foregoing, if Agency's prior transfer of the Property to City is nullified, rescinded or invalidated for any reason whatsoever, then it is expressly agreed that (i) fee title to the Property shall automatically re-vest in Agency (or its applicable successor, which may include City), and (ii) all assets, agreements, contracts, permits and entitlements, and other documents previously assigned from Agency to City related to the Property shall automatically be re-assigned to Agency (or its applicable successor, which may include City).

Developer acknowledges and agrees that the City intends to fulfill its financial obligations under the DDA through tax increment funds received by the Agency pursuant to Health and Safety Code section 33670, and not from any other sources, including, without limitation, the City's general funds, or any of the City's real or tangible assets (collectively, "City Funds"). Accordingly, nothing in the DDA shall require the City to expend or promise to expend monies from City Funds to satisfy all or any portion of the obligations set forth in the DDA.

City shall be required to provide all formal notices, demands and communications under the DDA to Developer and Agency at the addresses set forth in the DDA. Likewise, Developer and Agency shall be required to provide all formal notices, demands and communications under the DDA to City at the following address:

THE CITY OF SAN DIEGO
Attention: Director, Real Estate Assets Department
1200 Third Avenue, Suite 1700 (MS 51A)
San Diego, California 92101
(619) 236-6020

With a copy by First Class Mail to:

SAN DIEGO CITY ATTORNEY
Attn: Real Property Section
1200 Third Avenue, Suite 1100
San Diego, California 92101-4106

11. Waivers; Amendments. For purposes of this paragraph only, the term “Agency” shall refer only to the Redevelopment Agency of the City of San Diego and any applicable successor (which may include City). All waivers of the provisions of the DDA and all subsequent amendments thereto, must be in writing and signed by the appropriate authorities of Agency, City and Developer. Notwithstanding the immediately preceding sentence or any provision of the DDA or this First Amendment to the contrary, (a) Developer shall be entitled to rely upon a written waiver provided solely by Agency, as fully binding and effective against both Agency and City, so long as Agency is the fee title owner of the Property at the time the written waiver is provided; (b) Developer shall be entitled to rely upon a written waiver provided solely by City, as fully binding and effective against both City and Agency, so long as City is the fee title owner of the Property at the time the written waiver is provided; (c) a written amendment executed only by Developer and Agency shall be fully binding and effective as to all Parties so long as Agency is the fee title owner of the Property at the time such amendment is executed; and (d) a written amendment executed only by Developer and City shall be fully binding and effective as to all Parties so long as City is the fee title owner of the Property at the time such amendment is executed.

IN WITNESS WHEREOF, Agency, City, and Developer have signed this First Amendment as of the dates set opposite their signatures.

SIGNATURES ON NEXT PAGE

CITY OF SAN DIEGO

Dated: _____

By: _____
James F. Barwick, CCIM
Director, Real Estate Assets Department

REDEVELOPMENT AGENCY OF THE CITY OF
SAN DIEGO

Dated: _____

By: _____
Janice L. Weinrick
Deputy Executive Director

APPROVED AS TO FORM
AND LEGALITY

Jan Goldsmith
Agency General Counsel

By: _____
Kevin Reisch

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____
Susan Y. Cola

SIGNATURES CONTINUED ON NEXT PAGE

BROADWAY TOWER ASSOCIATES, LP,
a California limited partnership

By: BRIDGE SC, LLC
a California limited liability company,
its managing general partner

By: BRIDGE Housing Corporation –
Southern California, a California
nonprofit public benefit corporation,
its sole and managing member

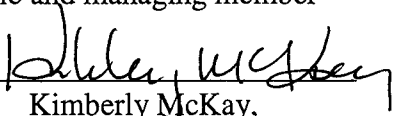
By: 
Kimberly McKay,
Vice President

EXHIBIT "A"

FIRST AMENDED SCHEDULE OF PERFORMANCE

[BEHIND THIS PAGE]

FIRST AMENDED SCHEDULE OF PERFORMANCE

I. GENERAL PROVISIONS

1. Submission of Good Faith Deposit. Developer shall submit the Good Faith Deposit to Agency. Concurrently with or prior to Agency's execution of the DDA.

2. Submission - Architect, Landscape Architect and Civil Engineer. Developer shall submit to Agency for approval of the names and qualifications of its architect, landscape architect, and civil engineer for the Property. Within thirty (30) days following execution of the DDA by the Agency.

3. Approval - Architect, Landscape Architect and Civil Engineer. Agency shall approve or disapprove the architect, landscape architect, and civil engineer for the Property. Within fifteen (15) days following receipt by the Agency. Agency acknowledges that it has approved the Developer's architect and landscape architect.

II. DEVELOPMENT

1. Submission - Schematic/Design Development Drawings. Developer shall prepare and submit to Agency the schematic/design development drawings for the Property. Concurrently with or prior to Agency's execution of the DDA.

2. Approval - Schematic Drawings. Agency shall approve or disapprove the schematic/design development drawings for the Property. Within fifteen (15) business days after receipt by Agency.

3. Submission - Design Development Drawings at 50%, and Preliminary Landscaping and Grading Plans. Developer shall prepare and submit to Agency preliminary construction drawings and preliminary landscaping and grading plans for the Property. Within two (2) months after securing financing listed in items 8 - 10 and in any event at least ninety (90) business days prior to Closing.

4. Approval - Design Development Drawings Within thirty (30) business days after

at 50%, and Preliminary Landscaping and Grading Plans. Agency shall approve or disapprove the design development drawings at 50% and preliminary landscaping and grading plans for the Property.

receipt by Agency and in any event prior to Closing.

5. Submission - Final Construction Drawings and Landscaping and Finish Grading Plans. Developer shall prepare and submit the final construction drawings and the final landscaping and finish grading plans for the Property.

Within eight (8) months after Agency approval of the design development drawings at 50%, and in any event thirty (30) business days prior to Closing.

6. Approval - Final Construction Drawings and Landscaping and Finish Grading Plans. Agency shall approve or disapprove the final construction drawings and the final landscaping and finish grading plans for the Property.

Within thirty (30) days after receipt by Agency and in any event prior to Closing.

7. Receipt of Entitlements. Developer shall obtain all entitlements necessary for the development of the Property.

At least thirty (30) days prior to Closing.

III. FINANCING

1. Developer to provide the Agency with a pro forma analysis (“4%/9% Analysis”) per Section 214.f.2 of the DDA

On or before January 31, 2010.

2. Developer and Agency to agree to determine the feasibility of 4%/9% Structure per Section 214.f.2 of the DDA

On or before April 1, 2010.

3. Procurement of Project Based Section 8 Contract with San Diego Housing Commission (“SDHC”)

On or before December 31, 2011.

4. Procurement of Multifamily Housing Program (“MHP”) Financing. Developer shall obtain a commitment for MHP financing by the California Department of

On or before December 31, 2011.

Housing and Community Development (“HCD”).

5. Procurement of other gap financing as determined to be necessary for project feasibility. Such sources may include but are not limited to – Transit Oriented Development (“TOD”) funds. **On or before August 31, 2012.**
6. Application for Tax Credit Financing. Developer shall submit its application for tax credit financing to the California Tax Credit Allocation Committee (“TCAC”). **On or before August 31, 2012.**
7. Procurement of Tax Credit Financing. Developer shall show evidence of its allocation of tax credit financing from TCAC. At least fifteen (15) days prior to the Closing.
8. Evidence of Financing. Developer shall submit to Agency for approval the Evidence of Financing for the Property required by Section 215 of the DDA. At least fifteen (15) days prior to the Closing.
9. Approval of Financing. Agency shall approve or disapprove each submission of Developer’s Evidence of Financing for the Property. Within five (5) business days after receipt of such submission by Agency.
10. Closing/Construction Financing Event. Developer shall have satisfied all conditions precedent to Close of Escrow for the Property, as required by the DDA and Method of Financing. **On or before April 30, 2013.**
11. Commencement of Construction. Developer shall commence construction of the Improvements, as required by the DDA and Scope of Development (Attachment No. 5). Within thirty (30) days of Closing for the Property.
12. Completion of Construction. Developer On or before thirty (30) months after

shall achieve Completion, in accordance with the DDA and Scope of Development.

commencement of construction.

13. Reporting and Monitoring Agreement. Owner, San Diego Housing Commission and Agency shall enter into a Reporting and Monitoring Agreement pursuant to Section 401(c)(6) of the DDA and Health and Safety Code §33418.

At least ninety (90) days prior to Completion.

14. Issuance of the Release of Construction Covenants. Agency shall issue a Release of Construction Covenants for the Improvements.

After Completion and in accordance with Section 324 of the DDA.

15. LEED Certification. Developer shall timely submit an application for LEED certification for the Project.

Within three (3) months after Agency's issuance of the Release of Construction Covenants.

EXHIBIT "B"

GROUND LEASE

[BEHIND THIS PAGE]

GROUND LEASE

by and among

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

“Landlord”

and

BROADWAY TOWER ASSOCIATES, L.P., a California limited partnership

“Tenant”

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EXHIBITS

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GROUND LEASE

This Ground Lease (“Lease”) is dated for reference purposes as of the ___ day of _____, 2011, and is entered into by and among the following (collectively, the “Parties”): THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic (“Agency”), and BROADWAY TOWER ASSOCIATES, L.P., a California limited partnership (“Tenant”). Agency shall be referenced collectively herein as “Landlord”.

RECITALS

A. The subject property (the “Property”) is located in the Centre City Redevelopment Project Area, within the City of San Diego, California, on certain real property commonly known as 9th and Broadway.

B. This Lease is entered into pursuant to that certain Disposition and Development Agreement by and between Landlord (as “Agency”) and Tenant (as “Developer”) dated as of December 15, 2009 (the “DDA”) for the purpose of providing part of the financing for the redevelopment of the Property with a 250-unit multi-family housing project, which shall be operated as rental housing that is affordable to Low Income and Very Low Income households (“Project”), as more specifically described in the DDA. DDA as used herein shall mean, refer to and include the DDA, as well as any riders, exhibits, addenda, implementation agreements, amendments and attachments thereto (which are hereby incorporated herein by this reference) or other documents expressly incorporated by reference in the DDA. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the DDA.

C. This Lease is expressly subject to that certain Agreement Affecting Real Property recorded concurrently with the execution of this Lease.

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 10.1 (regarding Impositions), and Section 14.3 (regarding self help). Additional Rent excludes, however, amounts payable under any loan document.

1.2 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.

1.3 Commencement Date. The Commencement Date is the date that the Landlord and Tenant execute this Ground Lease.

1.4 Construction Loan Closing. Construction Loan Closing is the date that the Construction Loan Deed of Trust (as defined in the DDA) is recorded in the official records of San Diego County.

1.5 Covenants. The term “Covenants” means the affordability covenants imposed on the Property in accordance with the Agreement Affecting Real Property recorded concurrently with execution of this Lease.

1.6 Covenant Period. The term “Covenant Period” means the fifty-five (55) year period, commencing upon Conversion (as defined in the DDA), during which time the Covenants are in effect.

1.7 Default(s). The term “Default(s)” as used herein shall have the meaning described in Section 14.1.

1.8 Effective Gross Income. The term “Effective Gross Income” shall have the same meaning as “Revenue” in the Loan Note (Attachment 8B of the DDA).

1.9 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.

1.10 Force Majeure Events. The term “Force Majeure Events” shall have the meaning described in Section 14.8.

1.11 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.

1.12 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 on, around, under or over the Leased Premises.

1.13 Leased Premises. The term “Leased Premises” as used herein shall have the meaning described in Article 2 below.

1.14 Leasehold Mortgage. The term “Leasehold Mortgage” shall mean any mortgage, deed of trust, or other established method of securing real property financing, including the Permanent Loan, all of which shall be subject to the conditions and obligations in Articles 8 and 8A, herein.

1.15 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. As an example, “Lease Year 55” means the Lease Year commencing after the fifty-fourth (54th) anniversary of the Commencement Date.

1.16 Lender. The term “Lender” shall mean the owner and holder of any Mortgage or Leasehold Mortgage permitted by this Lease.

1.17 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.

1.18 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.

1.19 Option to Purchase Leasehold Interest. The term “Option to Purchase Leasehold Interest” shall mean the agreement providing Agency with the option to purchase the ground leasehold interest from Tenant pursuant to Section 3.4.

1.20 Party or Parties. The term “Party” shall refer to one of Landlord or Tenant; the term “Parties” shall refer to both Landlord and Tenant.

1.21 Permitted Exceptions. The term “Permitted Exceptions” shall have the same meaning

as set forth in Section 206 of the DDA.

1.22 Rent. The term “Rent” as used herein shall have the meaning described in Section 4.1.

1.23 Representatives. The term “Representatives” as used herein shall mean the agents, contractors, employees (to the extent acting on behalf of such entity and within the scope of its employment or contract).

1.24 Term. The term “Term” as used herein shall mean the term of this Lease as described in Section 3.1 below.

1.25 Title Insurer. The term “Title Insurer” as used herein shall mean the Stewart Title Insurance Company.

1.26 Title Policy. The term “Title Policy” as used herein shall mean and include the most current form of ALTA owner’s policy of title insurance, dated as of the Commencement Date, and with liability in the amount of the value of the land and completed improvements, insuring Tenant as the owner of the leasehold estate under the Lease, subject only to the Permitted Exceptions allowed by Section 206 of the DDA.

1.27 Transfer Documents. The term “Transfer Documents” as used herein shall have the meaning described in Section 9.1.

1.28 Transfer/Transferee. The term “Transfer” as used herein shall mean and include any conveyance, transfer, sale, assignment, 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.

1.29 Uncured Default(s). The term “Uncured Default(s)” as used herein shall have the meaning described in Section 14.2.4.

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 attached hereto as Exhibit B, 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. 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.

2.2 Leased Premises; Condition of Premises; Zoning.

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. Landlord shall provide the Title Policy (Landlord shall only pay for the CLTA portion of the Title Policy), insuring Tenant as the owner of the leasehold estate under the Lease, subject only to the Permitted Exceptions.

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 206 of the DDA.

2.2.2 The Leased Premises shall be delivered from Landlord to Tenant in an "as is" physical condition, with no warranty, express or implied by Landlord as to the presence of Hazardous Substances, or the condition of the soil, its geology or the presence of known or unknown faults. If the condition of the Leased Premises is not in all respects entirely suitable for the use or uses to which such Leased Premises will be put, then it is the sole responsibility and obligation of Tenant to place the Leased Premises in all respects in a condition entirely suitable for the development thereof, solely at Tenant's expense.

2.2.3 Effective upon Construction Loan Closing, Tenant agrees to indemnify, defend and hold harmless Landlord and Agency and their respective members, officers, agents, employees, contractors and consultants, in accordance with the Environmental Indemnity (Attachment No. 12 to the DDA).

2.2.4 Effective upon Construction Loan Closing, Tenant waives, releases and discharges the Landlord, the Agency and their respective members, officers, employees, agents, contractors and consultants, from any and all present and future claims, demands, suits, legal and administrative proceedings, and from all liability for damages, losses, costs, liabilities, fees and expenses (including, without limitation, attorneys' fees) arising out of or in any way connected with the Landlord's or Tenant's use, maintenance, ownership or operation of the Leased Premises, any Hazardous Substances on the Leased Premises, or the existence of Hazardous Substances contamination in any state on the Leased Premises, however the Hazardous Substances came to be placed there, except that arising out of the gross negligence or willful misconduct of the Landlord or its employees, officers or agents. Tenant acknowledges that it is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides as follows:

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

To the extent of the release set forth in this Section 2.2.4, Tenant hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

2.2.5 By execution of this Lease, Landlord and Tenant agree to comply with the terms and conditions of the Operating and Maintenance Agreement executed concurrently herewith, in form attached hereto as Exhibit E.

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 seventieth (70th) 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 after the expiration of applicable notice and cure periods, the Agreement Affecting Real Property, Agency Loan Documents, Permanent Loan Documents, or Leasehold Mortgage(s) 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”) under the same terms and conditions for one (1) additional period of twenty (20) 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 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 any Permitted Transferee (as defined in the DDA).

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.

3.4 Option to Purchase Leasehold Interest.

Upon written notice by Agency to Tenant at any time after the expiration of the Covenant Period, Agency shall have the right to acquire the Leased Premises and Improvements for a price equal to the greater of ("Option Purchase Price"): (a) the fair market value of the Leased Premises and Improvements taking into consideration the remaining term of the Lease, determined in accordance with the procedures set forth in the Option to Purchase Leasehold Interest, a memorandum of which shall be recorded at Construction Loan Closing, or (b) the sum of the remaining unpaid principal and all accrued but unpaid interest on Leasehold Mortgage(s) secured by an encumbrance on said Leased Premises outstanding, and taxes, as of the date Agency will close the purchase of the Leased Premises and all Improvements therein; provided, however, that any outstanding balance of the Agency Loan shall be credited against the Option Purchase Price. Upon Agency's acquisition of the Leased Premises and Improvements, the Ground Lease shall terminate.

3.5 Right of First Refusal.

At any time after the expiration of the Covenant Period, upon receipt by the Tenant of a bona fide third party offer to purchase the Leased Premises and Improvements, Agency shall have the right of first refusal to acquire the Leased Premises and Improvements thereon for a price equal to the greater of ("ROFR Purchase Price"): (a) bona fide third party offer not to exceed the fair market value of the Leased Premises and Improvements taking into consideration the remaining term of the Lease, determined in accordance with the procedures set forth in the Right of First Refusal Agreement, a memorandum of which shall be recorded at Construction Loan Closing, or (b) the sum of the remaining unpaid principal and all accrued but unpaid interest on Leasehold Mortgages secured by an encumbrance on said Leased Premises outstanding, and taxes, as of the date Agency will close the purchase of the Leased Premises and all Improvements therein; provided, however, that any outstanding balance of the Agency Loan shall be credited against the ROFR Purchase Price. Upon Agency's acquisition of the Leased Premises and Improvements, the Ground Lease shall terminate.

ARTICLE 4 - RENT PAYMENTS

4.1 Rent.

The Rent payable for each Lease Year (the "Rent") during the Term and Extended Term, if any, shall be as set forth in Section 4.2 hereto. The Rent for a particular Lease Year shall be paid 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 May 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 Rent for Improvements Excluding Retail Space. The following rents are to be paid by Tenant under the Lease for the Improvements excluding the Retail Space:

4.2.1.1 During Covenant Period. Prior to Construction Loan Closing and during the Covenant Period, or such time as the Covenant Period is extended, in writing, by mutual agreement of the Landlord and Tenant during the Term or Extended Term, the Rent shall be ONE DOLLAR AND NO CENTS (\$1.00) per year.

4.2.1.2 After Expiration of Covenant Period. After the expiration of the Covenant Period, and in the event that the Covenant Period is not extended, in writing, by the mutual agreement of the Landlord and Tenant during the Term or Extended Term, the Rent shall be TEN PERCENT (10%) of the Effective Gross Income from all of the residential dwelling units and parking spaces within the Leased Premises, per year.

4.2.2 Rent for Retail Space. Rent during the Term and Extended Term, if applicable, shall be seventy-five percent (75%) of the Effective Gross Income generated from the Retail Space (“Retail Revenues”) less (i) Tenant’s management fee, which shall be equal to five percent (5%) of the Retail Revenues (“Management Fee”) and (ii) payments to a retail leasing reserve necessary to maintain a reserve account of \$75,000, which shall be subject to annual adjustments equal to the increase, if any, in the CPI; provided, however, that all Rent shall be deposited by Tenant to capitalize a supplemental operating reserve account for the Tenant’s operation and maintenance of the Affordable Units (“Supplemental Reserve Account”) until the sooner occurrence of (i) such time as the Supplemental Reserve Account has a reserve amount of \$500,000 or (ii) five (5) Lease Years from Conversion, after which time all Rent shall be paid to Landlord. Notwithstanding the foregoing, no Rent shall be deposited into the Supplemental Reserve Account unless and until Tenant deposits the Developer’s Share of Residual Receipts attributable to the Effective Gross Income generated from the Retail Revenues to capitalize the Supplemental Reserve Account. The term “Developer’s Share of Residual Receipts” shall have the same meaning as “Developer’s Share of Residual Receipts” in the Loan Note (Attachment 8B of the DDA).

4.2.3 Sale of Retail Space. Tenant shall not initiate proceedings to convert the Retail Space into condominium(s) without the express written approval of the Agency. Tenant’s sale of its leasehold interest in the Retail Space, or any portion thereof, to a Person shall constitute a transfer within the meaning of Section 107 of the DDA, Section 11 of the Agency Loan Note, and Section 9.1 of this Lease (collectively, “Transfer”), and such Transfer is subject to the Agency’s written approval, in accordance with those respective sections. In the event that Agency approves such Transfer for the Retail Space on Broadway, and as a pre-condition to such Transfer after Agency approval, Tenant shall pay to Agency FIFTY-SEVEN DOLLARS (\$57) per square foot of the Retail Space on Broadway. In the event that the Agency approves such transfer for the Retail Space on

Ninth Avenue, and as a pre-condition to such Transfer after Agency approval, Tenant shall pay to the Agency the lump sum amount of NINETY PERCENT (90%) of the fair market value of the Retail Space on Ninth Avenue (“9th Avenue FMV”) after paying debt service to any Senior Lender for the Retail Space.”). Tenant and Agency shall meet to determine the 9th Avenue FMV. In the event the Tenant and Agency are unable to agree on the 9th Avenue FMV, the 9th Avenue FMV shall be determined in accordance with the appraisal procedures set forth in the paragraph directly, below.

Tenant and Agency shall each appoint and pay for a Qualified Appraiser (as defined below) to determine the 9th Avenue FMV in accordance with the standards and procedures set forth below. Each Qualified Appraiser shall complete and submit an appraisal to the Agency and Tenant. If the appraisals differ, then the 9th Avenue FMV shall be the average of the two (2) appraisals. Each of the Qualified Appraisers shall be instructed to appraise the Retail Space on Ninth Avenue (taking into consideration any improvements and infrastructure located thereon) for uses allowed under then applicable laws. As used herein, the term “Qualified Appraiser” shall mean an MAI appraiser with at least ten (10) consecutive years experience with similar properties in Southern California, with whom neither the Tenant nor Agency is affiliated.

4.3 Payment of Rent from Revenue.

The Rent is payable only from Revenue (as defined in the Loan Note, which is Attachment 8B to the DDA. Rent not paid because of insufficient funds shall accrue and be payable from the first available Revenue, and any such accrued rent shall earn interest at four and one-half percent (4.5%) per annum. The Annual Financial Statement of Revenue and Operating Expenses and balance sheet for the Improvements, prepared at the Tenant’s expense pursuant to the Agency Loan Note, by an independent certified public accountant reasonably acceptable to the Agency, shall form the basis for determining the Revenue.

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 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, including without limitation, any regular or

special assessments levied against the Property, 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; or (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. 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 SUBSTANCES

5.1 Use of the Leased Premises.

5.1.1 Tenant covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that Tenant, such successors and such assignees shall use the Property only for the uses specified in the Redevelopment Plan, the Centre City Planned District Ordinance, any development agreements entered into by and between the Agency and Tenant, the DDA, including the Agreement Affecting Real Property, and this Lease. No change in the use of the Property shall be permitted without the prior written approval of Agency.

5.1.2 Notwithstanding the generality of Section 5.1.1, Tenant, its successors and assigns, shall use the Leased Premises and/or Improvements only for the uses permitted in this Lease, specifically including the following: (i) residential rental uses, consisting of 250 Affordable Units, including the Affordable Living Units and the Affordable Apartment Units; (ii) the Retail Space, (iii) the Community Space, and (iv) the Parking Garage; and prior to Construction Loan Closing, the uses described in the Operating and Maintenance Agreement attached hereto as Exhibit E.

5.1.3 Residential Uses. During the Covenant Period, Tenant on behalf of itself and its successors, assigns, and each successor in interest to Tenant's interest in the Leased Premises and/or Improvements or any part thereof, hereby covenants and agrees as follows:

- (i) Except for the Manager Units, all of the Affordable Units shall be available to

Low Income and Very Low Income households at an Affordable Rent in accordance with the Schedule of Affordable Rents attached to Exhibit “B” of the Agreement Affecting Real Property, as more specifically referenced in Section 5.6 herein.

(ii) Eighty-eight (88) of the Affordable Units shall be designated as Supportive Housing Units, of which twenty-five (25) shall be designated as MHSA Supportive Housing Units. The MHSA Supportive Housing Units shall be restricted in accordance with the MHSA Regulatory Agreement (Attachment No. 25 to the DDA).

(iii) The maximum incomes of all tenants eligible to rent an Affordable Unit shall be determined on the basis of the Area Median Income for San Diego County.

(iv) Tenant agrees that among Low Income and Very Low Income households who are otherwise eligible to rent an Affordable Unit, Tenant shall, subject to applicable federal and state fair housing, Tax Credit Allocation Committee, Internal Revenue Service and HCD requirements, give preferences to applicants, as follows:

(a) applicants meeting the eligibility requirements under the MHSA program shall be given first priority for the MHSA Supportive Housing Units;

(b) applicants meeting the eligibility requirements for special needs under the MHP programs shall be given first priority for the Supportive Housing Units, excluding the MHSA Supportive Housing Units; and

(c) applicants who have been displaced by any redevelopment project within the City of San Diego shall be given priority over other applicants meeting the same eligibility requirements.

(d) Agency and the City of San Diego Housing Commission (the “Housing Commission”), and their respective successors and assigns, shall have the right, but not the obligation, to monitor and enforce the covenants contained in this Section 5.1.3. Tenant covenants that it shall comply with any monitoring program set up by Agency and/or the Housing Commission to enforce said covenants. In complying with such monitoring program, Tenant or its agent shall prepare and submit to Agency (or the Housing Commission) an occupancy report, financial information and income verification documents for each tenant of an Affordable Unit, and all supporting documentation, on forms provided by Tenant (or the Housing Commission), annually, setting forth the required information for the preceding year. Agency (or the Housing Commission) shall review such reports within 14 days of receipt for certification of continuing affordability of the Affordable Units and eligibility of tenants. Tenant shall pay such costs associated with said monitoring and enforcement efforts as required by the Housing Commission.

(e) Tenant agrees that prior to the initial rent-up of the Affordable Units, Tenant shall consult with and obtain the approval of the Agency in developing a fair marketing plan

for renting the Affordable Units and targeting MHSA and special needs applicants.

(vi) Except for resident manager(s), no officer, employee, agent, official or consultant of Tenant may occupy any of the Affordable Units.

(vii) Over-Income Tenants. Tenant shall either comply with the applicable IRS rules for over-income tenants or, in the absence of any applicable IRS rules, shall comply with the following rule: any tenant who initially qualified as a Low Income or Very Low Income household, as applicable, and who no longer qualifies as a Low Income or Very Low Income household, respectively, shall pay as rent an amount equal to 30 percent of the household income, and shall be given one (1) year to relocate from the Affordable Unit for which they initially qualified.

5.1.4 Parking. During the Covenant Period, Tenant on behalf of itself and its successors, assigns, and each successor in interest to Tenant's interest in the Leased Premises and/or Improvements or any part thereof, hereby covenants and agrees that the Affordable Rent for each of the Affordable Apartment Units shall include one (1) non-tandem parking space located in the Parking Garage at no extra charge to the occupants or tenants.

5.1.5 Retail Space. The type and quality of tenants allowed in the Retail Space shall be in harmony with the balance of the Project as approved in the reasonable discretion of the Agency, and shall specifically exclude any offensive or incongruent uses including, but not limited to, the following:

(i) Any public or private nuisance (as defined in California Civil Code Section 3479) connected with business operations conducted on the Leased Premises and/or Improvements;

(ii) Any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness;

(iii) Any obnoxious odor;

(iv) Any noxious materials, and any toxic or caustic, or corrosive fuel or gas in violation of applicable law;

(v) Any dust, dirt or particulate matter in excessive quantities;

(vi) Any unusual fire, explosion, or other damaging or dangerous hazard;

(vii) Any warehouse, other than that which is incidental to the primary commercial use or business operation, and any assembly, manufacturing, distillation, refining, smelting, agriculture, or mining operation;

(viii) Any pawn shop or retail sales operation involving second-hand merchandise;

(ix) Any adult business or facility as defined and regulated in the City of San Diego's Municipal Code. Such uses include, without limitation, massage establishments (to the extent defined and regulated in such Code as an adult business or facility), adult news racks, adult bookstores, adult motion picture theaters, and paraphernalia businesses;

(x) Any retail outlet that sells alcoholic beverages for off-site consumption; and

(xi) Any gun shop or retail sales operation for which the main commercial use or business operation is the sale of guns.

Tenant shall not initiate proceedings to convert the Retail Space into condominium(s) without the express written approval of the Landlord. Tenant's sale of its leasehold interest in the Retail Space, or any portion thereof, to a Person shall constitute a transfer within the meaning of Section 107 of the DDA, Section 11 of the Agency Loan Note, and Section 9.1 herein (collectively, "Transfer") and such Transfer is subject to the Landlord's written approval, in accordance with those respective sections. In the event that Landlord approves such Transfer for the Retail Space on Broadway, and as a pre-condition to such Transfer after Landlord approval, Tenant shall pay to Landlord FIFTY-SEVEN DOLLARS (\$57) per square foot of the Retail Space on Broadway. In the event that the Landlord approves such transfer for the Retail Space on Ninth Avenue, and as a pre-condition to such Transfer after Landlord approval, Tenant shall pay to the Landlord the lump sum amount of NINETY PERCENT (90%) of the fair market value of the Retail Space on Ninth Avenue ("9th Avenue FMV") after paying debt service to any Senior Lender for the Retail Space. Tenant and Landlord shall meet to determine the 9th Avenue FMV. In the event the Tenant and Landlord are unable to agree on the 9th Avenue FMV, the 9th Avenue FMV shall be determined in accordance with the appraisal procedures set forth in the paragraph directly, below.

Tenant and Landlord shall each appoint and pay for a Qualified Appraiser (as defined below) to determine the 9th Avenue FMV in accordance with the standards and procedures set forth below. Each Qualified Appraiser shall complete and submit an appraisal to the Landlord and Tenant. If the appraisals differ, then the 9th Avenue FMV shall be the average of the two (2) appraisals. Each of the Qualified Appraisers shall be instructed to appraise the Retail Space on Ninth Avenue (taking into consideration any improvements and infrastructure located thereon) for uses allowed under then applicable laws. As used herein, the term "Qualified Appraiser" shall mean an MAI appraiser with at least ten (10) consecutive years experience with similar properties in Southern California, with whom neither the Tenant nor Landlord is affiliated.

5.1.6 Community Space. During the Covenant Period, the Community Space shall be utilized for the benefit of residents of the Affordable Units in accordance with the parameters set forth in the Scope of Development (Attachment No. 4 to the DDA).

5.1.7 Unrestricted Housing. After the Covenant Period, Tenant and its successors, assigns, and each successor in interest to Tenant's interest in the Property or any part thereof, hereby may utilize the Property as market-rate apartments with no restrictions on the amount of rent that can

be charged for the residential units during the remainder of the Term and Extended Term, if applicable. Tenant and Landlord acknowledge and agree, however, that nothing herein shall preclude the Tenant and Landlord from mutually agreeing to extend the Covenant Period beyond the original 55 year period and allowing payment of Rent in accordance with Section 4.2.1.1, herein.

5.2 No use of Hazardous Substances 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 Substances 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.

5.3 Notice and Remediation by Tenant.

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

5.4 Environmental Indemnity.

5.4.1 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 Substances 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 or its Representatives. The indemnity provided in this Section 5.4.1 shall survive the Termination of the Lease.

5.4.2 Landlord agrees to indemnify, protect, defend, save and hold harmless Tenant and all of Tenant's affiliates, successors and predecessors in interest, 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 during the period from and after the Commencement Date as a result of the presence, use, storage, handling, treatment, generation, release, discharge, refining, manufacturing, dumping or disposal of any Hazardous Substances 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 Landlord or its Representatives. The indemnity provided in this Section 5.4.2 shall survive the Termination of the Lease.

5.5 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.

5.6 Covenants.

Upon Commencement, the Leased Premises shall be subject to that certain Agreement Affecting Real Property by and between Tenant as "Owner" and Landlord as "Agency" recorded in the official records of the County Recorder of the County of San Diego (the "Covenants"). Tenant shall comply with all obligations of Owner under the Covenants during the Term.

ARTICLE 6 – OWNERSHIP OF IMPROVEMENTS

Notwithstanding anything that is or appears to be to the contrary herein, any and all Improvements erected on the Leased Premises 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. 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 Article 6 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.

ARTICLE 7 - REPAIRS AND MAINTENANCE

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 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, or the insurance proceeds are insufficient to repair or restore the Improvements to their condition prior to the casualty, Tenant promptly shall remove the debris resulting from such event, and within a reasonable time thereafter 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 to the extent economically feasible, or (iii) if the damage occurs after the end of the Covenant Period, 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 and the Tax Credit Investor, but Tenant shall be obligated to perform one of such alternatives, provided that nothing herein obligates Tenant to obtain financing exceeding the insurance proceeds, if any. Tenant shall give notice to Landlord within a reasonable time 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, if (i) there is damage to or destruction of the Improvements on the Leased Premises during the last five (5) years of the Term 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.

ARTICLE 8 - LEASEHOLD FINANCING

8.1 Conditions To Obtaining Leasehold Mortgage.

8.1.1 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 (except as otherwise pre-approved under Section 107 the DDA), to encumber Tenant's estate created by this Lease 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.

Notwithstanding anything to the contrary set forth herein, Agency's consent shall not be required for any Leasehold Mortgage following a foreclosure under the Permanent Loan documents so long as (i) it is made by an institutional lender, (ii) any loan secured thereby is fully amortized by the end of the Term of this Lease, and (iii) the loan to value, determined taking into consideration any applicable covenants, for any such loan shall not exceed eighty-five percent (85%).

8.2 Lender's Rights.

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

8.2.1 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 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 sixty (60) 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 each Lender fails to cure such Monetary Default within sixty (60) days after receipt of such notice or each Lender fails to 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 by such Lender 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 sixty (60) 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); provided, however, that in no event shall the Agency be precluded from exercising remedies if its rights become or are about to become materially jeopardized by any failure to cure a default or the default is not cured within one hundred eighty (180) days after the Lender's first notice of default is given.

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 or Tenant, 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.

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, a 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 on the part 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 as provided by Section 9.1.1(iv) 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, in any case, 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.

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 (collectively, "Proceedings") shall be deemed to be a permitted sale, transfer or assignment of this Lease and of the leasehold estate hereby created so long as Agency is given timely notice of any default of Tenant and of any such Proceeding and is afforded the cure periods specified in Section 8A.4 and so long as any such deed in lieu of foreclosure 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. Notwithstanding the foregoing, any transfer by foreclosure or deed in lieu of foreclosure to Tenant or any Affiliate of Tenant shall not be deemed a permitted sale, transfer or assignment of this Lease and the leasehold estate created hereby.

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. 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 8.6 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 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 17.6 or such other address as Landlord may designate in writing from time to time. All notices to a Lender or to Landlord shall be given in the manner described in Section 17.6 and shall in all respects be governed by the provisions of such Section.

8.11 Encumbrance of Landlord's Fee Estate.

Tenant shall not encumber Landlord's fee estate in the Property.

ARTICLE 8A – PERMANENT LOAN/AGENCY LOAN

8A.1 Permanent Loan. The Permanent Loan Deed of Trust shall be a leasehold deed of trust and shall not encumber Landlord's fee title.

8A.2 Foreclosure of the Permanent Loan After Subordination. Notwithstanding Section 8.5 herein, and subject to the provisions of Sections 8A.3 and 8A.4 below, upon a foreclosure by the Permanent Lender of the Permanent Loan Deed of Trust described in Section 8A.1 herein during the Term, the following terms and conditions shall be in effect:

8A.2.1 The Rent for this Lease following said foreclosure shall remain as stated in Section 4.1 herein.

8A.2.2 Following said foreclosure, use of the Lease Premises shall conform to Article 5 herein.

8A.2.3 So long as the Permanent Lender, or a subsidiary of Permanent Lender, remains as "lender in possession" of the Leased Premises, upon a default of Permanent Lender, or a subsidiary of Permanent Lender, as Tenant under this Lease, Landlord shall have all remedies available at law or in equity.

8A.3 Default Notice. Permanent Lender, upon providing Tenant with any notice of default (as defined in the Permanent Loan documents), shall, at the same time, provide a copy of such notice to Landlord. From and after such notice has been given to Landlord, Landlord shall have the same period for remedying the default complained of as the cure period provided to Tenant under the Permanent Loan Documents. Permanent Lender shall accept performance by or at the instigation of Landlord as if the same had been done by Tenant.

8A.4 Landlord Right to Cure. Notwithstanding anything to the contrary contained in this Lease, Permanent Lender shall have no right to complete a foreclosure under the Permanent Loan Deed of Trust on account of an uncured Default of Tenant under the Permanent Loan documents ("Uncured Loan Default") unless, following expiration of Tenant's applicable cure period under the Permanent Loan Documents, Permanent Lender first provides Landlord not less than sixty (60) days notice of its intent to foreclose, if Tenant's Uncured Loan Default can be cured by the payment of money ("Tenant Monetary Default"), and not less than ninety (90) days notice of its intent to terminate, if Tenant's Uncured Loan Default is of any other type ("Tenant Non-monetary Default"), and Landlord fails to cure such Tenant Monetary Default within sixty (60) days after receipt of such notice or Landlord fails to cure such Tenant Non-monetary Default within a period of ninety days (90) days. If all Uncured Loan Defaults have been cured by Landlord in accordance with this Section, the Permanent Loan shall be reinstated in accordance with California Civil Code Section 2924c.

ARTICLE 9 - ASSIGNMENT AND TRANSFER

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

(i) Transfer(s) occurring prior to Completion shall be made in accordance with Section 107 of the DDA. Transfer(s) occurring after Completion shall be subject to the prior written consent of Landlord, which consent will not be unreasonably withheld or delayed; provided, however, that notwithstanding anything to the contrary herein, Tenant may Transfer its interest in the Lease to Permitted Transferees under the same terms and conditions as set forth under Section 107 of the DDA.

(ii) For Transfers to a Person other than a Permitted Transferee, 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.

(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. Except as to any Permitted Transferee (as defined in the DDA), 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 CPI since the Commencement Date), or (B) an individual(s) or an entity(ies) with substantially equal or greater net worth than that of Tenant, has guaranteed Tenant's obligations under this Lease. If Transferee's net worth satisfies the foregoing test, 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 9.1.1(a)(ii) and, if applicable, Section 9.1.1(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 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 that it shall have no right to withhold consent to any Transfer to an Affiliate of Tenant.

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.

9.4.1 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 Leased Premises without Landlord's consent; provided that such Leases are in conformity with Article 5 herein.

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 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 refrain from appealing, challenging or contesting in any manner the validity or amount of any tax assessment, encumbrance or lien on the Leased Premises; provided, however, that such prohibition shall not apply to an appeal, challenge or contesting of the erroneous initial assessment for property tax purposes of the Leased Premises in the fiscal year of the completion of the Improvements to be constructed pursuant to the Agreement, and further provided that in the absence of transfer of ownership or new construction Tenant shall not be prohibited from appealing, challenging or contesting any increases in assessment of the Leased Premises for property tax purposes over and above the current 2% per annum permitted amount. Nothing herein shall be deemed as a prohibition on Tenant's right to seek a welfare exemption for the Project or to appeal, challenge, or contest the eligibility of the Project for such exemption.

Tenant agrees that any such permitted proceedings shall be begun without undue delay after any contested item is imposed and shall be prosecuted to final adjudication with reasonable dispatch. Tenant shall give Agency prompt notice in writing of any such contest at least ten (10) days before filing any contests, except for related to the welfare exemption. Tenant may only exercise its right to contest an imposition hereunder if the subject legal proceedings shall operate to prevent the collection of the imposition so contested, or the sale of the Leasehold and/or Improvements, or any part thereof, to satisfy the same, and only if Tenant shall, prior to the date such imposition is due and payable, have given such reasonable security as may be required by Agency from time to time in order to insure the payment of such imposition to prevent any sale, foreclosure or forfeiture of the Leased Premises, or any part thereof, by reason of such nonpayment. In the event of any such contest and the final determination thereof adversely to Tenant, Tenant shall, before any fine, interest, penalty or cost may be added thereto for nonpayment thereof, pay fully and discharge the amounts involved in or affected by such contest, together with any penalties, fines, interest, costs and expenses that may have accrued thereon or that may result from any such contest by Tenant and, after such payment and discharge by Tenant, Agency will promptly return to Tenant such security as Agency shall have received in connection with such contest.

Agency shall cooperate reasonably in any such contest permitted by this Section 10.4, and shall execute any documents or pleadings reasonably required for such purpose. Any such proceedings to contest the validity or amount of Imposition or to recover back any Imposition paid by Tenant shall be prosecuted by Tenant at Tenant's sole cost and expense; and Tenant shall indemnify and save harmless Agency against any and all loss, cost or expense of any kind, including, but not limited to, reasonable attorneys' fees and expenses, which may be imposed upon or incurred by Agency in connection therewith.

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

The following insurance requirements shall only apply after Construction Loan Closing.

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, excluding earthquake insurance. 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 Four Million Dollars (\$4,000,000) for bodily injury or death to one or more persons, and at least Four Million Dollars (\$4,000,000) 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.

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 Lease taking into account the other properties, persons and risks covered by such blanket policy. All policies shall name Landlord 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."

12.6.5 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.

12.6.6 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.

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.

The following provisions of this Section 12.8 shall commence only upon Construction Loan Closing until which, the indemnification provisions of Section 309 of the DDA shall control:

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 (1) it arises out of the negligence or intentional or willful misconduct of Landlord or its Representatives; or (2) 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 Substances 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, constitute a default ("Default(s)") under this Lease by Tenant or Landlord, as applicable:

14.1.1 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

14.1.2 Any breach by Tenant of its obligations under the DDA, including without limitation the Agency Loan Documents, Agreement Affecting Real Property, and Environmental Indemnity, and the failure to cure such default under the terms of such documents; or

14.1.3 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 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 from Landlord if Rent for the prior calendar year is not paid by the twentieth (20th) day of July of each year of the Term or Extended Term, if applicable (or if the twentieth day falls on a Saturday or Sunday, the first Monday following the twentieth (20th) day of July).

14.2.3 If the alleged Default is nonpayment of Rent, 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, Tenant shall, after the Notice of Default, promptly and diligently commence curing the Default and shall have thirty (30) 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 thirty (30) day period, Tenant shall have such additional time as is reasonably necessary to cure such Default, but in any event no more than one hundred and twenty (120) days of receipt of the Notice of Default.

14.2.4 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 entire cure period applicable to that Default under the provisions of this Lease.

14.2.5 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 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' negligence or intentional or willful misconduct).

14.4 Notice of Landlord's Default; Tenant Waiver.

14.4.1 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.

14.4.2 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).

14.5 Landlord's Remedies.

14.5.1 In the event of any Uncured Default, then, subject to the rights of a Lender expressly set forth in this Lease, Landlord shall have the immediate option to terminate this Lease and all rights of Tenant hereunder by giving written notice of such termination, in which event the Parties shall have no further obligation to one another under this Lease.

14.5.2 Notwithstanding the provisions of this Article 14 above to the contrary, if, within ten (10) days of Tenant's receipt of a Notice of Default with respect to a Non-monetary Default by Tenant, Tenant shall in good faith notify Landlord in writing that it disputes the existence of such Non-monetary Default and that it requests a determination of the existence or non-existence of such Non-monetary Default, then Landlord may not exercise its right to terminate this Lease pursuant to this Article 14 on account of such Non-monetary Default of Tenant until the expiration of the applicable cure period measured as if such cure period commenced upon the earlier of (i) the date of the determination that such Non-monetary Default exists, or (ii) the failure by Tenant to diligently and continuously pursue the legal proceeding. Subject to the rights of Lenders, if there is no express cure period for the default set forth in the Notice of Default, then the cure periods shall be the same as those provided in Section 14.2.3 herein. The exercise of Tenant's rights pursuant to this paragraph shall not impair or delay the ability of Landlord to exercise any rights or remedies other than to delay Landlord's right to terminate this Lease.

14.5.3 In the event the Uncured Default consists of Tenant's failure to pay Rent to Landlord, Landlord shall also 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.

14.5.4 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.

14.5.5 Right of Reentry

Subject to the notice and cure provisions of Section 14.2, the Agency shall have the right, at its option, to reenter and take possession of the Leased Premises with all Improvements thereon, and to terminate and revest in the Agency the Leasehold estate theretofore conveyed to the Tenant, if after conveyance of the Leasehold and prior to Substantial Commencement of Construction pertaining to the Leased Premises (or portion thereof), the Tenant (or its successors in interest) shall:

1. fail to commence construction of the Improvements on the Leased Premises (or portion thereof) as required by this Lease for a period of three (3) months after the date set forth in the Schedule of Performance (Attachment No. 5 to the DDA), provided that the Tenant shall not have obtained an extension or postponement to which the Tenant may be entitled pursuant to Section 14.8 hereof; or
2. abandon or substantially suspend construction of the Improvements on the Leased Premises (or portion thereof) for a period of three (3) months after written notice of such abandonment or suspension from the Agency, provided that the Tenant shall not have obtained an extension or postponement to which the Tenant may be entitled to pursuant to Section 14.8 hereof; or
3. assign or attempt to assign this Lease, or any rights herein, or transfer, or suffer any involuntary transfer of the Leased Premises, or any part thereof, in violation of this Lease, and such violation shall not be cured within thirty (30) days after the date of receipt of written notice thereof by the Agency to the Tenant.

Such right to reenter, repossess, terminate, and revest, shall be subject to and be limited by and shall not defeat, render invalid, or limit:

1. any Leasehold Mortgage instrument;
2. any rights or interests provided in this Lease for the protection of the holders of such Leasehold Mortgage instruments.

Upon the revesting in the Agency of title to the Leased Premises, or any part thereof, as provided in this section, the Agency shall, pursuant to its responsibilities under state law, use its diligent and good faith efforts to resell the Leasehold interests in the Leased Premises, or any part thereof, as soon and in such manner as the Agency shall find feasible and consistent with the objectives of such law and of the Redevelopment Plan to a qualified and responsible party or parties (as determined by the Agency), who will assume the obligation of making or completing the Improvements, or such other Improvements in their stead, as shall be satisfactory to the Agency and in accordance with the uses specified for the Leased Premises, or any part thereof, in the Redevelopment Plan. Upon such resale of the Leasehold interests in the Leased Premises, or any part thereof, the proceeds thereof shall be applied:

1. first, to reimburse the Agency on its own behalf or on behalf of the Agency of all costs and expenses actually incurred by the Agency, including but not limited to salaries to personnel engaged in such action, in connection with the recapture, management, and resale of the leasehold interests in the Leased Premises, or part thereof (but less any income derived by the Agency from the Leased Premises, or any part thereof, in connection with such management); all taxes, assessments and water and sewer charges with respect to the Leased Premises or part thereof (or, in the event the Leased Premises, or part thereof, is exempt from taxation or assessment or such charges during the period of ownership, then such taxes, assessments, or charges, as would have been payable if the Leased Premises, or part thereof, were not so exempt); 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 with respect to the making or completion of the agreed Improvements or any part thereof on the Leased Premises, or part thereof; and any amounts otherwise owing to the Agency by the Tenant and its successor or transferee; and
2. second, to reimburse the Tenant, its successor or transferee, up to the amount equal to (1) the costs incurred for the development of the Leased Premises, or part thereof, or for the construction of the agreed Improvements thereon, if such costs were incurred in accordance with the Method of Financing (Attachment No. 3 to the DDA) and Project Budget (Attachment No.7 to the DDA, less (2) any gain or income withdrawn or made by the Tenant therefrom or from the Improvements thereon. For purposes of this paragraph the term "cost incurred" shall include direct, out-of-pocket

expenses of development, but shall exclude Tenant's all overhead expenses, developer fees, and profit.

Any balance remaining after such reimbursements shall be retained by the Agency as its property. The Agency shall also be entitled to exercise all of its rights under the Assignment of Agreements (Attachment No. 11 to the DDA).

To the extent that the right established in this section involves forfeiture, it must be strictly interpreted against the Agency, the party for whose benefit it is created. The rights established in this

section are to be interpreted in light of the fact that the Agency will convey the Leasehold to the Tenant for development and not for speculation in undeveloped land.

For purposes herein, "Substantial Commencement of Construction" means (i) Closing has occurred; and (ii) Tenant has completed the first floor of structural framing of the above-ground vertical structure, in accordance with the Development Permit No. 2009-07 for development of the Leased Premises ("Construction Framing Event"); and (iii) Tenant has not made a transfer contrary to this Lease, which shall be determined at the time of the Construction Framing Event. Upon the satisfaction of clauses (i) to (iii), above, the right of reentry established in this section shall terminate. Within a reasonable period after Tenant's written request for acknowledgement that Substantial Commencement of Construction has occurred, and after Agency's verification of the same, the Agency shall send Tenant a written acknowledgment that Substantial Commencement of Construction has occurred.

14.5.6 Cross-Default – Among Parcels

Notwithstanding any provision to the contrary in this Lease, in the event that Tenant subdivides the Leased Premises into a vertical subdivision, all of the rights and obligations of the Agency and Tenant under this Lease shall apply without limitation to each parcel of the subdivision.

Furthermore, a material default of any obligation pertaining to one parcel prior to the Construction Framing Event shall constitute a material default for the other parcels comprising the subdivision such that the non-defaulting party may exercise its rights and remedies as to all parcels. A default of any obligation pertaining to one parcel after the Construction Framing Event shall not constitute a default pertaining to any other parcel(s) comprising the subdivision.

14.6 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.

14.7 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.

14.8 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 Substances 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

In the event that Tenant does not obtain a commitment for Multifamily Housing Program ("MHP") financing from the California Department of Housing and Community Development ("HCD") on or before **December 31, 2011**, either Party may terminate this Lease by providing

written notice to the other Party. At the expiration or earlier termination of this Lease, Tenant shall surrender to Landlord possession of the Leased Premises free and clear of all liens, encumbrances and Mortgages other than those, if any, created by Landlord, those which both extend beyond the Term or Extended Term, if applicable, 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 Article 6, 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. 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 - MISCELLANEOUS

17.1 Landlord’s Representations and Warranties.

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

17.1.1 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.

17.1.2 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.

17.1.3 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.

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

17.1.5 Landlord makes no representation or warranty as to the condition of the title to the Leased Premises except as provided in Section 206 of the DDA.

17.2 Tenant's Representations and Warranties.

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

17.2.1 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.

17.2.2 The representatives of Tenant executing this Lease are fully authorized to execute the same.

17.2.3 This Lease has been duly authorized, executed, and delivered by Tenant, and will constitute a legal, valid, and binding agreement of Tenant.

17.2.4 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.

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

17.3 Survival of Representations, Warranties and Covenants.

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

17.4 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.

17.5 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.

17.6 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 date of addressee's refusal to accept delivery, 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) (except for Permitted Lenders) 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
 401 B Street, Suite 400
 San Diego, CA 92101
 Attn: Executive Director
 Tel: 619-235-2200
 Fax: 619-236-9148

With a copy to: Kane, Ballmer & Berkman

515 S. Figueroa Street, Suite 1850
Los Angeles, California 90071
Attn: Murray O. Kane
Tel: 213-617-0480
Fax: 213-625-0931

and, if to Tenant: Broadway Tower Associates, L.P.
c/o BRIDGE Housing Corporation
345 Spear Street, Suite 700
San Francisco, CA 94105
Attn: President
Tel: 415-989-1111
Fax: 415-495-4898

With a copies to: BRIDGE Housing Corporation – Southern California
2202 30th Street
San Diego, CA 94104
Attn: Director of Development
Tel: 619-231-6300
Fax: 619-231-6301

Goldfarb & Lipman, LLP
1300 Clay Street, 11th floor
Oakland, CA 94612
Attn: Polly V. Marshall
Tel: 510-836-6336
Fax: 510-836-1035

17.7 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.

17.8 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.

17.9 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 17.9 shall be construed to limit or waive the provisions concerning restrictions on Transfer set forth in Article 9 hereof.

17.10 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.

17.11 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.

17.12 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.

17.13 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.

17.14 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.

17.15 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.

17.16 Exhibits.

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

17.17 Short Form of Lease.

Prior to Agency’s conveyance of the Leased Premises to Tenant, the Parties shall execute and thereafter record with the County Recorder of San Diego County a Memorandum of Lease, attached hereto as Exhibit C, giving notice of the existence of this Lease and the Term hereof.

17.18 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. Tenant has the right to designate representatives to accompany the Landlord’s representatives on such inspections. Landlord agrees to coordinate with Tenant to schedule such inspections so that Tenant’s representatives may attend the inspections, in the discretion of such Tenant.

17.19 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 each Lender holding a Leasehold Mortgage.

17.20 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.

17.21 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.

17.22 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.

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

TENANT:

BROADWAY TOWER ASSOCIATES, L.P.,
a California limited partnership

By: BRIDGE SC, LLC
a California limited liability company,
its managing general partner

By: BRIDGE Housing Corporation –
Southern California, a California
nonprofit public benefit corporation,
its sole and managing member

By: _____
Kimberly McKay,
Vice President

LANDLORD:

REDEVELOPMENT AGENCY OF THE CITY OF
SAN DIEGO

Dated: _____

By: _____

William Anderson
Assistant Executive Director

APPROVED AS TO FORM
AND LEGALITY

Jan I. Goldsmith
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____

Murray O. Kane

EXHIBIT A

LEGAL DESCRIPTION OF THE LEASED PREMISES

EXHIBIT B

SITE MAP

EXHIBIT C

MEMORANDUM OF LEASE

OFFICIAL BUSINESS

Document entitled to free
recording per Government
Code Section 6103.

Recording Requested by and
When Recorded Mail to:

THE
REDEVELOPMENT AGENCY OF THE CITY SAN DIEGO
c/o CENTRE CITY DEVELOPMENT CORPORATION
401 B Street, Suite 400
San Diego, California 92101

Attn: Executive Director

MEMORANDUM OF LEASE

1. Parties. This Memorandum of Lease is entered into by and among the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO (collectively, "Landlord"), and BROADWAY TOWER ASSOCIATES, L.P., a California limited partnership ("Tenant"). The Lease (as defined below) was executed by Landlord on _____.

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 seventieth (70th) anniversary of the Commencement Date. 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 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

Dated: _____

By: _____

William Anderson
Assistant Executive Director

“Tenant”

[BRIDGE HOUSING CORPORATION], L.P.,
a California limited partnership

By: BRIDGE SC, LLC

a California limited liability company,
its managing general partner

By: BRIDGE Housing Corporation –
Southern California, a California
nonprofit public benefit corporation,
its sole and managing member

By: _____

Kimberly McKay,
Vice President

On _____ before me, _____, a Notary Public, 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 by and among the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO ("Landlord"), and [BROADWAY TOWER ASSOCIATES, 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: _____

EXHIBIT E
OPERATING AND MAINTENANCE AGREEMENT
[BEHIND THIS PAGE]

OPERATING AND MAINTENANCE AGREEMENT

THIS OPERATING AND MAINTENANCE AGREEMENT (“Agreement”) is entered into as of _____, 2011, by and among the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic (“Agency”), the CITY OF SAN DIEGO, a municipal corporation (the “City”), and BROADWAY TOWER ASSOCIATES, L.P., a California limited partnership (“Developer”). Agency, and Developer may be individually referenced herein as “Party” and collectively referenced herein as “Parties.”

RECITALS

A. The City is the owner of an approximately 25,000 square foot site located at the corner of Ninth Avenue and Broadway in the City of San Diego, California (“Property”). The existing warehouse located on the Property is currently being leased to THE ISAIAH PROJECT, INC., a non-profit corporation (“TIP”), on a month to month basis, in accordance with the terms of that certain Business Rental Agreement, entered into as of January 20, 2011, a copy of which is attached hereto as Exhibit “A” (“TIP Lease”). A portion of the Property is currently being leased to FIVE STAR PARKING, a California general partnership (“Five Star”), on a month to month basis, in accordance with the terms and conditions of that certain Business Rental Agreement, entered into as of March 16, 2006, a copy of which is attached hereto as Exhibit “B” (“Five Star Lease”).

B. The Agency and Developer entered into that certain Disposition and Development Agreement dated as of December 15, 2009 subsequently assumed or partially assumed by the City (the “DDA”), pertaining to the redevelopment of the Property with a 250-unit multi-family housing project, to be operated as rental housing that is affordable to Low Income and Very Low Income households (“Project”), as more specifically described in the DDA. DDA as used herein shall mean, refer to and include the DDA, as well as any riders, exhibits, addenda, implementation agreements, amendments and attachments thereto (which are hereby incorporated herein by this reference) or other documents expressly incorporated by reference in the DDA.

C. Concurrently herewith, the Agency, the City, and Developer entered into that certain First Amendment to Disposition and Development, to allow for commencement of the Ground Lease term to occur prior to the Developer’s procurement of construction financing for the Project. City and Agency agreed to the earlier commencement of the Ground Lease provided that Developer assumes the TIP Lease and the Five Star Lease, (ii) TIP and Five Star shall be allowed to remain as sub-tenants on the Property until Construction Loan Closing, and (iii) City shall operate and maintain the Property, including management of the TIP Lease and the Five Star Lease until Construction Loan Closing, in accordance with this Agreement.

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

1. Recitals. The Recitals and attachments referenced above are hereby incorporated by reference into this First Amendment and adopted by the parties to this First amendment as true and correct.
2. Defined Terms. Capitalized terms used in this Agreement shall have the meaning given them in the DDA unless specifically provided otherwise herein.

Agreement:

In consideration of the foregoing recitals and for other consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

Section 1. Operation and Use.

Upon the Parties' execution of the Ground Lease, Developer shall assume the City's rights and obligations under the TIP Lease and the Five Star Lease, and City or Agency shall be authorized to operate and maintain the Property, including management of the TIP Lease and the Five Star Lease, at no cost or liability to the Developer, until the Construction Loan Closing, unless the DDA and Ground Lease are sooner terminated due to Developer's failure to obtain the MHP Funding Commitment on or before **December 31, 2011**, as provided in the DDA. City shall cause all rent revenues owed by TIP and Five Star ("Rent"), if any, under the TIP Lease and the Five Star Lease to be paid directly to the City or Agency. City or Agency shall undertake all obligations assumed by Developer under the TIP Lease and the Five Star Lease until the Construction Closing Event. The Parties acknowledge, understand, and agree that in the event that the DDA and Ground Lease are terminated due to Developer's failure to obtain the MHP Funding Commitment on or before **December 31, 2011**, the Developer's rights and obligations under the TIP Lease and the Five Star shall be deemed as automatically re-assigned to the City or Agency and this Agreement shall terminate.

Section 2. Execution. This Agreement may be simultaneously executed in any number of counterparts, each of which when so executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement.

Section 3. Validity. If any one or more of the terms, provisions, promises, covenants, conditions or option provisions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reasons whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, conditions, and option provisions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

Section 4. Amendments. This Agreement may only be amended in writing executed by the Parties hereto.

Section 5. Entire Agreement It is understood that there are no oral agreements between the parties affecting this Agreement, and this Agreement supersedes and cancels any and all previous negotiations and understanding, if any, between the parties and none will be used to interpret or construe this Agreement.

SIGNATURES ON NEXT PAGE

IN WITNESS WHEREOF, Agency, City, and Developer have signed this Operating and Maintenance Agreement as of the dates set opposite their signatures.

REDEVELOPMENT AGENCY OF THE CITY OF
SAN DIEGO

Dated: _____

By: _____

Janice L. Weinrick
Deputy Executive Director

APPROVED AS TO FORM

AND LEGALITY

Jan Goldsmith
Agency General Counsel

By: _____

Kevin Reisch

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____

Susan Y. Cola

BROADWAY TOWER ASSOCIATES, LP,
a California limited partnership

By: BRIDGE SC, LLC
a California limited liability company,
its managing general partner

By: BRIDGE Housing Corporation –
Southern California, a California
nonprofit public benefit corporation,
its sole and managing member

By: _____

Kimberly McKay,
Vice President

EXHIBIT A

**TIP LEASE
[BEHIND THIS PAGE]**

EXHIBIT B

**FIVE STAR LEASE
[BEHIND THIS PAGE]**