GROUND LEASE AGREEMENT

**APN:** 545-611-36, 545-621-22 and 545-532-18

**LESSOR:** County of San Diego

**LESSEE:** Click or tap here to enter text., or its assignee

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GROUND LEASE AGREEMENT

This ground lease agreement (“Lease”) is made and entered into, effective as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Commencement Date”) by and between the County of San Diego, a political subdivision of the State of California (“County”), and Click or tap here to enter text. (“Lessee”). County leases to Lessee, and Lessee leases from County, the Premises described below upon the following terms and conditions:

# SUMMARY OF BASIC LEASE PROVISIONS

## Lessor

. County of San Diego

Address for notice:

County of San Diego

Attention: Director

Department of General Services

5560 Overland Avenue, Suite 410

San Diego, California 92123

## Lessee

. Click or tap here to enter text.

Address for notice:

c/o Click or tap here to enter text.

Click or tap here to enter text.

Click or tap here to enter text.

Attn: Click or tap here to enter text.

With copy to Investor Limited Partner at the following address:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## Premises

The leased premises (“Premises”) is defined in Section 2.1 and is further described and depicted on EXHIBIT “A” DESCRIPTION OF PREMISES attached to this Lease.

## DDA

. The County and Lessee are parties to that certain Disposition and Development Agreement dated [\_\_\_\_\_\_\_\_] (“DDA”) which provides for execution of this Lease and development of the Improvements, subject to specified conditions, for the purpose of providing housing affordable to low- and very low-income households as set forth in the County Regulatory Agreement. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the DDA.

## County Regulatory Agreement

. The County and Lessee are parties to that certain County of San Diego Memorandum of Restrictive Covenants and Regulatory Agreement recorded substantially concurrently with the execution of this Lease, which requires that the Premises be used for housing affordable to low- and very low-income households and other uses as specified (the “County Regulatory Agreement”).

## County’s and Lessee’s Lease Administrators

. This Lease shall be administered on behalf of County by the Director, Department of General Services or a designee (“County’s Lease Administrator”), and on behalf of Lessee by: [President], or by another person designated in writing by Lessee.

## Commencement Date

. The “Commencement Date” is the day on which all of the following have been completed: approval of this Lease by the County’s Board of Supervisors, and execution of this Lease by the County’s Director, Department of General Services and Lessee in accordance with the close of escrow provisions of the DDA, which date shall be added to the introductory paragraph of this Ground Lease.

## Term

. The “Construction Period” and “Operations Period” that comprise the “Term” are defined and set forth in Section 3.1.

## Rent

. The “Initial Rent”, “Base Rent”, and “Commercial Rent” are defined and set forth in Article 4. and are collectively referred to as “Rent” in this Lease.

## Additional Rent

. Any and all sums of money or charges other than the Rent required to be paid by Lessee to County pursuant to the provisions of this Lease shall be paid as “Additional Rent”.

## Permitted Use

. Lessee is authorized to use the Premises only for those purposes set forth in Section 6.2.

## Improvements

. The “Improvements” are all (i) buildings, structures, and other improvements constructed by Lessee on the Premises during the Term of the Lease.

## Leasehold Estate

. The “Leasehold Estate” is Lessee’s leasehold estate in the Premises and all Lessee’s rights, privileges, and options of any kind or nature under this Lease, upon and subject to all of the terms and conditions of this Lease, and any part of such leasehold estate and direct or indirect interest in such leasehold estate, including ownership and exclusive title to the Improvements during the Term (as defined in Section 3.1).

## Leasehold Mortgage

. A “Leasehold Mortgage” is a mortgage, deed of trust, or other security instrument, including, without limitation, an assignment of the rents, issues and profits, which has been approved by County in accordance with Article 15 and constitutes a lien on the Leasehold Estate and on any Improvements, including any modification or extension of the Leasehold Estate.

## Leasehold Mortgagee

. A “Leasehold Mortgagee” is the holder of a Leasehold Mortgage.

## Investor Limited Partner

. The “Investor Limited Partner” is the tax credit equity limited partner of Lessee during the term of the fifteen (15) year tax credit compliance period as described in Section 42(i)(1) of the Internal Revenue Code of 1986, as amended from time to time, or any corresponding provision or provisions of prior or succeeding law. The initial Investor Limited Partner as of the date of this Lease is Click or tap here to enter text., a Click or tap here to enter text. corporation, its successors and/or assigns.

## Exhibits

. The following exhibits are attached to this Lease and made a part of this Lease by this reference:

EXHIBIT “A” DESCRIPTION OF PREMISES

EXHIBIT “B” INSURANCE REQUIREMENTS - CONSTRUCTION PERIOD

EXHIBIT “C” INSURANCE REQUIREMENTS - OPERATIONS PERIOD

EXHIBIT “D” FORM OF NON-DISTURBANCE AND ATTORNMENT AGREEMENT FOR SUBLEASES

EXHIBIT “E” MEMORANDUM OF LEASE

EXHIBIT “F” LESSEE’S RESPONSE TO REQUEST FOR PROPOSALS

## Construction of Lease Provisions

. The provisions of this Article summarize for convenience only certain key terms of this Lease that are delineated more fully in the Articles and Sections referenced in this Lease. If a conflict between the provisions of this Article and the balance of this Lease occurs, the balance of this Lease shall control.

# LEASE OF PREMISES

## Description of Premises

. County leases to Lessee and Lessee leases from County, for the Rent and Additional Rent and upon the covenants and conditions set forth in this Lease, approximately Click or tap here to enter text. acres located in San Diego CA (“Premises”). The Premises is further described in EXHIBIT “A” DESCRIPTION OF PREMISES of this Lease.

## Mineral Rights

. Notwithstanding any provision of this Lease to the contrary, County expressly reserves all rights, title and interest in and to any and all gas, oil, mineral and water deposits located beneath the surface of the Premises. In exercising the rights reserved under this Section 2.2, County shall have no right to enter upon or use the surface of the Premises at any time during the Term for the purpose of operating or maintaining drilling or other installations for the development of any gas, oil, mineral or water deposits. Nothing herein shall be construed to prevent County from exploring for, developing and/or producing the oil, gas and/or other minerals in and under, or that may be produced from, the Premises by pooling or by directional drilling under the Premises from sites located on other property.

## Easements and Reservations

. Lessee accepts the Premises subject to any and all existing easements, right-of-ways, reservations and encumbrances of record as reflected on the title policy issued to Lessee as of the date hereof (“Existing Easements”). County shall not unreasonably or substantially interfere with Lessee’s use of the Premises as a result of exercising its rights under the Existing Easements. County acknowledges that certain encumbrances on County’s fee interest in the Premises are necessary for development and operating of the Project and County shall not unreasonably withhold its consent to any new easements that may be required in connection with the construction of the Improvements provided such easements are in a form that is reasonably acceptable to County.

# TERM

## Term

. The Term of this Lease shall be Click or tap here to enter text. (Click or tap here to enter text.) years (“Term”), beginning on the Commencement Date. The Term shall include the Construction Period, the Operations Period, each as defined below. The term “Lease Year” as used in this Lease shall mean the 12-month period beginning on the Commencement Date and each succeeding 12-month period thereafter during the Term.

The “Construction Period” of the Term commences upon the Commencement Date and expires upon on the earlier of (i) Click or tap here to enter text. (Click or tap here to enter text.) months from the Commencement Date, subject to extension for Force Majeure; (ii) the filing of the notice of completion for the development; or (iii) the issuance of a certificate of occupancy (including a temporary certificate of occupancy). County’s Lease Administrator, at its sole discretion, may approve extensions of the Construction Period for additional six (6) month periods, but in no event for a period in excess of five (5) years from the Commencement Date, upon written request by Lessee.

The “Operations Period” of the Term commences upon the expiration of the Construction Period (“Operations Period Commencement Date”) and continues until the expiration or earlier termination of this Lease.

## Holding Over

. If Lessee holds over in occupancy of the Premises after the expiration of the Term without the County’s written consent, Lessee shall become a tenant from month to month at a rate of two hundred percent (200.0%) of the fair market rent at the highest and best use as determined by a certified appraiser selected by County. Lessee shall be responsible for the cost of such appraisal. Any holdover shall be subject to the terms and conditions of this Lease, as applicable, and shall be subject to termination by County with thirty  (30) days written notice to Lessee.

## Ownership of Improvements; Surrender of the Premises; County Possession of Premises

### Definitions.

#### Fixtures. “Fixtures” means all fixtures permanently attached to the Premises, or the Improvements, and excludes trade fixtures, such as retail business trade equipment.

#### Original Useful Life. “Original Useful Life” means the expected number of years, starting from brand new condition, that each Fixture and item of Mechanical Equipment, as applicable, can be used at full capacity for its intended purpose, assuming no repairs or rehabilitation other than repairs or rehabilitation that would customarily be performed to address ordinary wear and tear.

#### Remaining Useful Life. The term “Remaining Useful Life” means: (i) with respect to the Improvements, the number of years that the Improvements can continue to be used at full capacity for their intended purpose, assuming no repairs or rehabilitation other than repairs or rehabilitation that would customarily be performed to address ordinary wear and tear, taking into consideration all aspects of the physical condition of the Improvements, all applicable Laws (defined in Section 6.4), and all other relevant factors, and (ii) with respect to the Fixtures and Mechanical Equipment, the percentage of the Original Useful Life remaining as determined by the Improvements Assessment.

#### Mechanical Equipment. “Mechanical Equipment” means all mechanical equipment serving the Improvements, including but not limited to, HVAC units, plumbing, sanitary fixtures, security systems, electrical distribution systems, fiber optic systems, cable systems, fans, vents, generators, elevators, elevator motors, and other equipment integral to the regular operations of the Improvements.

### Ownership of Improvements During Term. Title to all Improvements constructed or placed on the Premises by Lessee are and shall be vested in Lessee until the expiration or earlier termination of this Lease. County and Lessee agree for themselves and all persons claiming under County and Lessee that the Improvements are real property. During the Term, Lessee shall have the exclusive right to all tax benefits arising from any and all Improvements. During the Term of this Lease, Lessee alone shall be entitled to all federal and state tax benefits associated with the Improvements, Fixtures, and Mechanical Systems, including but not limited to the right to deduct all depreciation on Lessee’s income tax returns for such Improvements, Fixtures, and Mechanical Systems, amortize all capital costs, and claim any and all tax credits.

### Ownership of Improvements Upon the Expiration or Earlier Termination of Lease. Unless Restoration is required pursuant to Section 3.3.4, all Improvements, Fixtures and Mechanical Equipment on the Premises, upon the expiration or earlier termination of this Lease shall, without payment to Lessee, become County’s property free and clear of all Claims to or against them by Lessee and free and clear of all Leasehold Mortgages and any other taxes, liens, and Claims arising from Lessee’s use and occupancy of the Premises as of the date of expiration or earlier termination of this Lease. Subject to the Casualty provisions of Article 19 and condemnation provisions hereinbelow, Lessee shall, upon the expiration or earlier termination of this Lease, deliver the Premises and Improvements, including Fixtures and Mechanical Equipment, to County in good order, condition and state of repair, ordinary wear and tear excepted, and in accordance with the requirements of Section 3.3.4.

### Improvements Assessment; Restoration of Premises. Not less than nine (9) years before the expiration of the Term (“Improvement Assessment Deadline”), Lessee shall, at the Lessee’s sole expense, provide County with a report prepared by a qualified independent engineering consultant, which consultant shall be subject to County’s reasonable approval, assessing the condition of the Improvements (“Improvements Assessment”). The Improvements Assessment shall include the following: (a) an evaluation of the building structure, all building components, all Mechanical Equipment, and all Fixtures, (b) all repairs or replacements to the Improvements necessary to deliver the Improvements, including the Mechanical Equipment and Fixtures, to County in good order, condition, and state of repair, ordinary wear and tear excepted, and the costs of such repairs or replacements (“Good Condition Repairs”), (c) an evaluation of the estimated Remaining Useful Life of the Improvements, including the Mechanical Equipment and Fixtures, and (d) the following:

(i) if the estimated Remaining Useful Life of the Improvements (excluding the Mechanical Equipment and Fixtures) is less than fifteen (15) years from the end of the Term, all repair, rehabilitation, or replacement of the Improvement necessary to deliver the Improvements to County with an estimated Remaining Useful Life of at least fifteen (15) years from the end of the Term (“Useful Life Rehabilitation”), and the costs of all such Useful Life Rehabilitation listed separately from the items in (b) above; and

(ii) all repair, rehabilitation, or replacement of any Fixtures and Mechanical Equipment necessary to deliver all Fixtures and Mechanical Equipment to County with at least 45% of its Original Useful Life remaining at the end of the Term (“Fixtures and Mechanical Equipment Useful Life Rehabilitation”), and the costs of all such Fixtures and Mechanical Equipment Useful Life Rehabilitation listed separately from the items in (b) above.

County shall approve or disapprove the Improvements Assessment within one hundred and eighty (180) days after submittal of the Improvements Assessment, which approval shall not be unreasonably withheld. Any disapproval shall be given to the Lessee in writing with the reasons for disapproval and changes that would be sufficient to obtain approval. If County disapproves the Improvements Assessment, the Lessee shall resubmit for County approval the Improvements Assessment within sixty (60) days of County’s disapproval. If the Lessee fails to resubmit an Improvements Assessment satisfactory to County within sixty (60) days of County’s disapproval, the County’s Lease Administrator shall decide any dispute concerning the Improvements Assessment and the Lessee shall be bound by the decision.

#### If the Improvements Assessment specifies that the Improvements do not meet the Minimum Remaining Useful Life Requirements (as defined below), the County may require, by written notice, the Lessee to restore the applicable Improvements (including any and all Fixtures and Mechanical Equipment) and portion of the Premises to a graded condition by demolishing the applicable Improvements, leveling the site, and compacting filled excavations to ninety percent (90.0%) compaction (the “Restoration”). If County elects to require the Lessee to complete the Restoration, County shall provide Lessee written notice within one hundred and eighty (180) days of County approval of the Improvements Assessment (“County Restoration Notice”), and the Lessee shall complete the Restoration within one complete calendar year after the expiration of the Term.

#### If the Improvements Assessment specifies that the applicable Improvements meet the Minimum Remaining Useful Life Requirements, then Lessee shall complete the Good Condition Repairs, Useful Life Rehabilitation, and Fixtures and Mechanical Equipment Useful Life Rehabilitation to County’s reasonable satisfaction, at the Lessee’s sole cost and expense, before the expiration of the Term.

#### The term “Minimum Remaining Useful Life Requirements” means that the Improvements have an estimated Remaining Useful Life of at least fifteen (15) years from the end of the Term, as determined by the Improvements Assessment, or (b) the Improvements can be made to have an estimated Remaining Useful Life of at least fifteen (15) years from the end of the Term through Useful Life Rehabilitation, as determined by the Improvements Assessment. The preceding sentence notwithstanding, if the estimated costs of such Useful Life Rehabilitation exceeds fifteen percent (15%) of the then market value of the Improvement not taking into account any affordability restrictions as indicated in the Improvements Assessment, then Improvements shall be deemed to not meet Minimum Remaining Useful Life Requirements.

##### Additional Requirements to Meet Minimum Remaining Useful Life Requirements. In addition to the requirements set forth above, to meet the Minimum Remaining Useful Life Requirements, Lessee must comply with all of the following at the time of approval of the Improvements Assessment by the County, and throughout the remainder of the Term:

1) Lessee shall not have received any written notice which remains uncured in accordance with applicable law from any governmental body having jurisdiction over the Premises as to the violation of any laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions, or requirements.

2) Lessee shall have received no written notice which remains uncured of any failure of the Premises to comply with any requirements of (i) the insurance company which issued any insurance policy insuring the Improvements; (ii) any board of fire underwriters or other body exercising similar functions; (iii) any bonding company; or (iv) any mortgagee having a security interest in the Improvements, which failure could adversely affect the insurability of the Improvements or cause the imposition of extraordinary premiums or charges therefor or result in the cancellation of any insurance policy insuring the Improvements.

#### Upon receipt of the County Restoration Notice, Lessee shall establish an account in favor of County with an Eligible Independent Trustee (defined in Section 15.1.12), containing by the time of Lease expiration sufficient funds to cover the Restoration of the Improvements (“Restoration Fund”). Within thirty (30) days after delivery of the County Restoration Notice, the Lessee shall secure bids from three (3) licensed contractors for the Restoration. The Lessee shall, on the first day of the second month after delivery of the County Restoration Notice commence making annual payments equal to one eighth (1/8th) of the average of the three bids for the Restoration into the Restoration Fund. The Restoration Fund shall be maintained until completion of the Restoration and expended solely for the Restoration. The Restoration Fund shall also be explicitly available to County until completion of the Restoration for any Restoration work not completed by Lessee, provided that Lessee may draw on the Restoration Fund to complete the Restoration, and the availability of the Restoration Fund to the County shall not impact Lessee’s obligation to complete the Restoration. Interest earned on the Restoration Fund shall be added to the Restoration Fund. The amount by which the Restoration Fund exceeds the actual cost of the Restoration shall be delivered to Lessee in accordance with applicable law after completion of the Restoration. If the actual cost of the Restoration exceeds the Restoration Fund, the Lessee shall be responsible for payment of any amounts in excess of the Restoration Fund.

#### If the Improvements Assessment specifies that Improvements meet the Minimum Remaining Useful Life Requirements, then upon receipt of the County-approved Improvements Assessment, Lessee shall establish an account in favor of County with an Eligible Independent Trustee (defined in Section 15.1.12), containing by the time of Lease expiration sufficient funds to cover the Good Condition Repairs, Useful Life Rehabilitation, and Fixtures and Mechanical Equipment Useful Life Rehabilitation (collectively, the “Rehabilitation”) for the Improvements (“Rehabilitation Fund”). Within thirty (30) days after receipt of the Improvements Assessment, the Lessee shall secure bids from three (3) licensed contractors for the Rehabilitation. Lessee shall, on the first day of the second month after receipt of the Improvements Assessment commence making annual payments equal to one eighth (1/8th) of the average of the three bids for the Rehabilitation into the Rehabilitation Fund. The Rehabilitation Fund shall be maintained until completion of the Rehabilitation and expended solely for the Rehabilitation. The Rehabilitation Fund shall also be explicitly available to County until completion of the Rehabilitation for any Rehabilitation work not completed by Lessee provided that Lessee may draw on the Rehabilitation Fund to complete the Rehabilitation, and the availability of the Restoration Fund to the County shall not impact Lessee’s obligation to complete the Restoration. Interest earned on the Rehabilitation Fund shall be added to the Rehabilitation Fund. The amount by which the Rehabilitation Fund exceeds the actual cost of the Rehabilitation shall be delivered to Lessee in accordance with applicable law after completion of the Rehabilitation. If the actual cost of the Rehabilitation exceeds the Rehabilitation Fund, the Lessee shall be responsible for payment of any amounts in excess of the Rehabilitation Fund.

#### The Lessee intends to seek to avoid having to make any payments into the Restoration Fund or Rehabilitation Fund by maintaining the Improvements in a condition that will not require Restoration or Rehabilitation under the terms of this Section. Subject to the provisions of Article 14 and Article 15, County will not unreasonably withhold or delay consent to Lessee in connection with any refinancing or resyndication of the Improvements, the proceeds of which would be used to repair, rehabilitate, maintain, and improve the Improvements.

### Surrender of the Premises. Subject to the requirements of Section 3.3.4, Lessee shall surrender possession of the Premises and Improvements, Fixtures and Mechanical Equipment (if any), to County upon expiration or earlier termination of this Lease. Upon the expiration or earlier termination of this Lease for any reason, including but not limited to termination because of default by Lessee, but after the expiration of any New Lease rights of a Leasehold Mortgagee under Article 15, Lessee shall execute, acknowledge and deliver to County, within ninety (90) days following receipt of written demand, a good and sufficient deed where Lessee quitclaims all right, title and interest in the Premises and Improvements to County. If Lessee fails or refuses to deliver the quitclaim deed to County, County may prepare and record a notice reciting the failure of Lessee to record a quitclaim Deed, and the notice shall be deemed conclusive evidence of the termination of this Lease and of all right of Lessee or those claiming under Lessee to the Premises and Improvements. The foregoing sentence shall not apply in the event of a disputed termination of the Lease.

### Subleases. At least 180 days prior to expiration of the Term, or immediately upon termination of the Lease, Lessee shall provide to County a current rent roll containing the contact information for all subtenants and other occupants and all subleases for such subtenants. Upon request by County prior to expiration of the Term, Lessee will provide all notices to subtenants required by applicable law with respect to expiration of the sublease term.

### County Possession of Premises. If the manner or method employed by County to re-enter or take possession of the Premises pursuant to the provisions of this Lease gives Lessee a cause of action for damages or in forcible entry and detainer, the total amount of damages to which Lessee shall be entitled in any action shall be one dollar ($1.00). This provision may be filed in any action brought by Lessee against County, and when filed shall constitute a stipulation by Lessee fixing the total damages to which Lessee is entitled in an action. Nothing in this Section shall preclude Lessee from seeking any equitable remedy including but not limited to (a) bringing an action to enjoin any County action or (b) requiring specific performance from the County.

### Personal Property. Lessee’s trade fixtures, furniture, furnishings, signs and other personal property (collectively, “Personal Property”) not permanently affixed to the Premises or Improvements shall remain the property of the Lessee. Lessee shall, at its sole expense, immediately repair any damage caused to the Improvements or by reason of the Lessee’s removal of any Personal Property.

### Fixtures and Mechanical Equipment. Subject to Section 3.3.4, all Mechanical Equipment and Fixtures shall become the property of County upon expiration or earlier termination of this Lease.

# RENT

## Rent

. “Initial Rent”, “Base Rent”, and “Commercial Rent” as defined below are collectively referenced as “Rent”.

## Initial Rent

. On the Commencement Date, Lessee shall pay to County an initial rent payment of Click or tap here to enter text. ($Click or tap here to enter text..00) (“Initial Rent”).

## Base Rent

. [Intentionally Blank]

## Commercial Rent

. Following the execution of any commercial sublease for any portion of the Premises (“Space Lease”, as defined in Section 14.6) Lessee shall pay to County 50% of all net rental proceeds (meaning, rental proceeds after payment of all costs and expenses of the operation of the commercial space) from the Space Lease (“Commercial Rent”) after Lessee receives a sum of net rental proceeds from the Space Lease equal to the sum of out-of-pockets costs (“Recoverable Costs”) incurred by Lessee to construct and improve the commercial space, including without limitation tenant improvements paid for by Lessee or its affiliate. The amount of construction costs included in Recoverable Costs shall be based on the Lessee’s final Project cost certification which shall be submitted to County no later than June 1 of the year following the year in which the Conversion Date occurs. If any such sublease is with an Affiliate of Lessee or is not otherwise an arm’s length market-rate transaction, and, in either event, the commercial sublease is not for a community-serving non-profit purpose, then the market rent for the sublease, as determined at Lessee’s expense by an MAI appraiser reasonably approved by County, shall be used for purposes of calculation of Commercial Rent. Lessee shall pay the Commercial Rent by June 1 of each year. Lessee shall pay the final Commercial Rent payment to County within 20 days of expiration or earlier termination of the Lease.

## Additional Rent

. Lessee shall pay, as additional rent (“Additional Rent”), all sums of money required to be paid pursuant to the terms of this Lease that are not payable as Rent. If time for payment of sums of money that qualify as Additional Rent are not expressly provided for in this Lease, the amounts or charges shall be payable as Additional Rent with the subsequent installment of Rent due. Nothing in this Section shall be deemed to suspend or delay the payment of any Additional Rent at the time it becomes due and payable under this Lease or to limit any other remedy of County.

## Address for Rent Payments

. All Rent and Additional Rent due under this Lease shall be made payable to the County of San Diego, and shall be considered paid when delivered to:

County of San Diego  
Department of General Services - Fiscal Section  
5560 Overland Avenue, Suite 410  
San Diego, California 92123-1294

County may, at any time, by written notice to Lessee, designate a different address for the Rent payments, effective thirty (30) days after delivery of notice. Lessee assumes all risk of loss and responsibility for payment of late charges if Rent or Additional Rent payments are made by mail.

## Failure to Pay Rent; Late Charge

. The late payment by Lessee of any Rent or Additional Rent will cause County to incur costs and expenses not contemplated under this Lease, the exact amount of which is difficult or impracticable to determine. These costs and expenses include, without limitation, administrative and collection costs, and processing and accounting expenses. If any Rent is not received by County before the sixth day of each calendar month, on the sixth day of the calendar month Lessee shall immediately pay to County a late charge equal to five percent (5.0%) of the overdue amount. If any Additional Rent is not received when due under this Lease, on the sixth day after the due date, Lessee shall immediately pay to County a late charge equal to five percent (5.0%) of the overdue amount. These late charges represent a reasonable estimate of the costs and expenses and are fair compensation to County for its loss caused by Lessee’s nonpayment. If Lessee pays the late charge but fails to pay all unpaid amounts of Rent or Additional Rent due under this Lease, County’s acceptance of the late charge shall not constitute a waiver of Lessee’s default with respect to the nonpayment by Lessee nor prevent County from exercising all other rights and remedies available to County under this Lease or under law. If Lessee fails to pay Rent or Additional Rent at the time it is due and payable, any unpaid amounts shall bear interest at the rate of ten percent (10.0%) per year from the date due to the date of payment, calculated on the basis of monthly compounding with actual days elapsed compared to a 360 day year. However, interest shall not be payable on late charges incurred by Lessee nor on any amounts on which late charges are paid to the extent this interest would cause the total interest to be in excess of that legally permitted.

If a dispute arises between County and Lessee as to the correct amount of Rent or Additional Rent owed by Lessee, County may accept any sum tendered by Lessee as payment, without prejudice to County’s claim as to the proper amount of Rent or Additional Rent owed. If it is subsequently determined that Lessee has not paid the full amount of Rent or Additional Rent, the late charge specified in this Lease shall apply only to that portion of the rent still due and payable from Lessee. Notwithstanding any provision of this Lease to the contrary, County’s Lease Administrator may in its sole discretion waive any interest or late charge upon written application of Lessee.

## Triple Net Lease; No Counterclaim or Abatement

. All Rent shall be paid absolutely net to County so that this Lease shall yield to County 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 County 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. County 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 Lessee hereunder shall not be released, discharged or otherwise affected, by reason of: (a) any damage to or destruction of the Premises or Improvements or any part thereof or any Condemnation of the Premises or the Improvements or any part thereof; (b) any restriction or prevention of or interference with any use of the Premises or the Improvements or any part thereof which materially interferes with Lessee’s possession or use of the Premises (other than a breach of County covenant of quiet enjoyment); (c) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other proceeding relating to County, or any action taken with respect to this Lease by any trustee or receiver of County with respect to this Lease by any trustee or receiver of County, or by any court, in any proceeding; (d) any claim which Lessee has or might have against County; or (e) any failure on the part of County to perform or comply with any of the terms hereof or of any other agreement with Lessee. Except as expressly provided in this Lease, the obligations of Lessee shall be separate and independent covenants and agreements.

# RESERVED

# USE

## Acceptance of Premises

. Prior to the Commencement Date, Lessee unconditionally accepted the condition of the Premises based on its own due diligence in accordance with the DDA. Lessee acknowledges that County has made no oral or written representations or warranties to Lessee regarding the condition of the Premises, and that Lessee has relied solely on its inspection of the Premises with respect to the condition of the Premises. The Premises is being leased in an “as is” condition, with no warranty, express or implied by County as to the condition of the soil, water, geology, or the presence of known or unknown faults, other site conditions, or the suitability of the Premises for the Project or the Improvements to be constructed by Lessee. If the soil, water, geology, or the presence of known or unknown faults, or other site conditions is not in all respects entirely suitable for the Improvements it is the sole responsibility and obligation of Lessee to take the necessary action to place the Premises in a condition entirely suitable for the development of the Project and construction of the Improvements.

## Permitted Uses

. Lessee covenants and agrees for itself, its successors, its assigns and every successor in interest to the Premises, that Lessee, such successors and such assignees shall use the Property only for development, operation, maintenance, and repair of affordable housing and ancillary uses and a Health Care Facility consistent with the DDA, Final Plans, City planning approvals for the Project, the County Regulatory Agreement, and this Lease (“Permitted Uses”). No change in the use of the Premises is permitted without the prior written approval of County. [Without limiting the foregoing, Lessee shall be permitted to master sublease the commercial space to its affiliate and further sublease the commercial space for general retail or office use, including, without limitation, as a healthcare facility and a community garden; provided however that none of the following shall be Permitted Uses: private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, off track betting or other gambling facility, vehicle repair services; on-premises dry cleaners (but drop off facilities for dry cleaners is permitted); sports bar; liquor store; all-night convenience store; night club; bar or restaurant where the sale of liquor shall constitute more than thirty-percent (30%) of gross sales; pawn shop; game arcade; sale or distribution of drug paraphernalia; sale or distribution of pornographic or sexually explicit materials, or sex paraphernalia; drug or alcohol treatment facilities or clinics, adult motion picture arcade, adult motion picture show, strip show or sale of nudity or sexual services; escort service or dating bureau; a check cashing or payday loan business (provided; however, a bank, credit union, savings and loan or similar financial institution shall be permitted); bail bonds business; any use providing, parole, juvenile detention or similar services; tattoo and piercing parlors and headshops; uses producing noise pollution or which are otherwise incompatible with residential uses; or food establishments open before 6 AM or after midnight.]

## Duties and Prohibited Conduct

. If Lessee is reasonably in doubt as to whether any particular use of the Premises is a Permitted Use, Lessee may request a written determination regarding the use from the County’s Lease Administrator, and Lessee will not be in breach or default under this Lease with respect to that particular use if Lessee abides by the determination. Lessee shall not use nor permit the use of the Premises in any manner that will create waste or a nuisance. Lessee shall not use, nor permit any person or persons to use the Premises for the sale or display of any goods and/or services that are in violation of Laws (defined below). Lessee shall keep the Premises in a decent, safe and sanitary condition, free from any objectionable noises or odors, except as may be typically present for the Permitted Uses specified in this Lease.

## Compliance with Laws

.Lessee, at Lessee’s sole expense, shall procure, maintain and hold available for County’s inspection any governmental license or permit required for the proper and lawful conduct of Lessee’s business. Lessee shall, at Lessee’s sole expense, shall at all times during the Term promptly comply with all applicable federal, State and local laws, rules, regulations, orders, covenants and restrictions of record, and requirements regulating the use by Lessee of the Premises and Improvements (“Laws”), whether or not the Laws were in effect at the time this Lease was executed. The final judgment of any court of competent jurisdiction, or the admission of Lessee or any sublessee or permittee, in any action or proceeding against Lessee or any sublessee or permittee, whether or not the County is a party to the action or proceeding, that Lessee, or any sublessee or permittee, has violated any law, statute, ordinance, rule, regulation, orders, covenant, restriction or requirement pertaining to the use of the Premises and Improvements, shall be conclusive as to that fact as between County and Lessee.

Notwithstanding any other provision of this Lease to the contrary, Lessee shall be responsible for payment of all costs of complying with the requirements of the Americans with Disabilities Act of 1990 (“ADA”) (42 USCS Sections 12101-12213), Title 24 of the California Code of Regulations (“Title 24”) and State of California Civil Code Section 54.1 as they may apply to the Premises and Improvements. Lessee’s obligations under this Lease shall include, without limitation, all costs of bringing the Premises and Improvements into compliance, and thereafter maintaining compliance with the requirements of Title III of the ADA (“Title III”) (42 USCS Sections 12181 - 12189) applicable during the Term as to the public accommodations and commercial facilities (but not to any residential spaces or residential services or serving spaces that are not subject to Title III), regardless of whether or not the particular requirements of compliance (i) are specifically required by the Permitted Uses of the Premises and Improvements, or (ii) may also be required of County under Title II of the ADA (“Title II”) (42 USCS Sections 12131 - 12165).

Lessee’s duty to comply with Laws shall include compliance with any and all zoning and land use regulations applicable to the Premises and Lessee’s intended use of the Premises (“Land Use Regulations”). County’s execution of this Lease shall in no way be deemed to constitute a determination by County that Lessee’s intended use of the Premises complies with applicable Land Use Regulations, nor shall it imply any conclusion by County regarding Land Use Regulations, even if County is the agency that enacts or implements the Land Use Regulations applicable to the Premises.

## Substance Abuse

. Lessee and its employees and agents shall not use or knowingly allow the use of the Premises for the purpose of unlawfully driving a motor vehicle or aircraft under the influence of an alcoholic beverage or any drug, or for the purpose of unlawfully selling, serving, using, storing, transporting keeping, manufacturing or giving away alcoholic beverages or any “controlled substance”, precursor or analog specified in Division 10 of the State of California Health and Safety Code.

## Compliance With Stormwater Laws

. Lessee’s use of the Premises and Improvements is subject to all federal, state and local laws, regulations, orders, policies and guidelines (“Stormwater Laws”) regarding the discharge of pollutants into the stormwater conveyance system. Lessee’s compliance with Stormwater Laws may require Lessee to develop, install, implement and maintain pollution prevention measures, source control measures and Best Management Practices (“BMPs”). BMPs can include operational practices, water or pollutant management practices, physical site features, or devices to remove pollutants from stormwater to affect the flow of stormwater or to infiltrate stormwater to the ground. BMPs applicable to Lessee’s use of the Premises or Improvements may include a requirement that all materials, wastes or equipment with the potential to pollute urban runoff be stored in a manner that either prevents contact with rainfall and stormwater, or contains contaminated runoff for treatment and disposal. Lessee is required to, and shall use, operate, maintain, develop, redevelop and retrofit the Premises and Improvements, as necessary, in accordance with Stormwater Laws restricting the discharge of non-stormwater at or from the Premises or Improvements and Stormwater Laws requiring pollution prevention measures, source control measures, or the installation or use of BMPs. Lessee shall develop, install, implement and/or maintain at Lessee’s sole cost and expense, any BMPs or similar pollution control devices required by Stormwater Laws and any implementing regulations or guidance. Lessee understands and acknowledges that the Stormwater Laws applicable to Lessee’s use of the Premises or Improvements may be changed from time to time by federal, state and/or local authorities, and that additional requirements may become applicable based on changes in Lessee’s activities or development or redevelopment by Lessee or County. Lessee shall conduct annual stormwater training and perform regular stormwater self-inspections, maintain records of all stormwater training and self-inspections, and provide all necessary documentation to County upon request. Lessee shall promptly supply County with copies of notices of violations, notices of non-compliance, or other similar type notices received from regulatory agencies regarding any issues or conditions at the Premises or Improvements related to stormwater and non-stormwater management practices, any discharge in stormwater or non-stormwater from the Premises or Improvements, or any prohibited discharge of non-stormwater from the Premises or Improvements. Lessee shall also provide the County with copies of the final reports Lessee submits to any regulatory agency regarding investigation and/or remediation of stormwater or non-stormwater pollution related issues at the Premises or Improvements and/or prohibited discharges of non-stormwater from the Premises or Improvements. Lessee shall develop, install, implement, and maintain any requested BMPs, corrective actions, and/or other pollution control practices at the Premises or Improvements at Lessee’s sole cost and expense. To the extent there is a conflict between any federal, State or local law, Lessee shall comply with the more restrictive provision. If County receives any fine or fines from any regulatory agency as a result of Lessee’s failure to comply with Stormwater Laws, Lessee shall reimburse County for the entire amount of the fine(s).

## Prevailing Wage

. Work performed by Lessee or its contractor(s) on a construction project on County-owned property pursuant to this Lease is “public work” under California Labor Code § 1720, *et seq.* . If Lessee will receive federal funds, work performed under this Lease may also be subject to the payment of prevailing wages pursuant to the Davis-Bacon Act, 40 U.S.C. § 3141, *et seq.*, or other federal law. Other work performed under this Lease may also be “public work” under Labor Code § 1720, *et seq.*  Lessee hereby expressly acknowledges and agrees that County has never previously represented to the Lessee or its contractor(s) for the Improvements in writing or otherwise, that any work under this Lease is not a “public work,” as defined in Section 1720 of the Labor Code. Lessee is solely responsible for ensuring prevailing wages (in the correct amount) are paid when required. Projects subject to the payment of prevailing wages are subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations, among other requirements. Lessee is solely responsible for ensuring all required job site postings and all certified payroll and other reporting applicable to it as an awarding body are completed, and all other requirements are met in accordance with State of California prevailing wage regulations, to the extent applicable. Information regarding prevailing wage requirements can be obtained from the Director, Department of Industrial Relations at www.dir.ca.gov, State of California Labor Code Section 1720, et seq., and Title 8 of the State of California Code of Regulations, Section 16000, et seq.

In connection with the development, alteration, repair, maintenance, and construction (as defined by applicable law) of the Improvements, including, without limitation, any public work (as defined by applicable law), if any, Lessee shall bear all risks of payment or non-payment of state prevailing wages and compliance with all requirements under State of California Labor Code Section 1720, et seq., and Title 8 of the State of California Code of Regulations, Section 16000, et seq., and all related statutes, regulations, and policies.

In addition to and without limiting any other indemnification and related provisions of this Lease, to the fullest extent permitted by law, Lessee shall indemnify, protect, defend and hold harmless the County its officers, employees, contractors, agents and attorneys, with counsel reasonably acceptable to County, from and against any and all loss, liability, damage, claim, cost, expense, and/or “increased costs” (including labor costs, penalties, reasonable attorney’s fees, court and litigation costs, and fees of expert witnesses) which, in connection with the development, construction, alteration, maintenance, and/or repair (as defined by applicable law) of the Improvements, including, without limitation, any and all public works (if any) (as defined by applicable law), results or arises in any way from noncompliance with any requirements under State of California Labor Code Section 1720, et seq., and Title 8 of the State of California Code of Regulations, Section 16000, et seq., and all related statutes, regulations, and policies. The foregoing indemnity shall survive completion of the Project and any expiration or earlier termination of this Lease.

## No Condominiums

. Except for the creation of condominium units required to divide ownership of the Premises to effectuate the financing structure for the Improvements as set forth in the DDA, Lessee shall not: (i) convert any portion of the Premises into condominiums, (ii) obtain or record any condominium declaration or restriction with respect to all or any portion of the Premises, (c) market, offer, or sell any condominium unit on the Premises, or (d) make any efforts, directly or indirectly, to accomplish any of the foregoing.

## Utilities

. Lessee shall provide and pay for all initial utility deposits and fees, and for all utilities and services necessary for its use of the Premises during the Term, including but not limited to gas, water, electricity, trash, sewer/septic tank charges and telephone. County shall have no responsibility to either provide or pay for any utilities or services. If any services are not separately metered or billed to Lessee but rather are billed to and paid by County, Lessee will pay to County its prorated share of the cost of the services, as determined by County, together with its prorated share of the cost of making the determination. County shall not be liable for any reason for any loss or damage resulting from an interruption of any of utilities or services.

## Recycling Program

. The County, in cooperation with other local public agencies, strongly encourages the recycling of glass, paper, cans, food waste, and other recyclable or reusable products and materials to reduce the carbon footprint and preserve space in local landfills. From and after the Conversion Date, County and Lessee shall work together to develop programs, materials, and signage to educate employees, sublessees, and visitors on the proper separation of recyclable materials.

# MECHANICS’ LIENS

## Mechanics’ Liens

. Lessee shall pay, or cause to be paid, all costs for work done by it, or caused to be done by it, on the Premises, and for all materials furnished for or in connection with any work on the Premises. If any lien is filed against the Premises, Lessee shall cause the lien to be discharged of record or bond over the lien pursuant to Section 7.2 below within twenty (20) business days after Lessee receives written notice that it is filed. In addition to and without limiting any other indemnification obligations under this Lease, Lessee shall indemnify, defend and hold County harmless from any and all liability, loss, damage, costs, attorneys’ fees and all other expenses on account of claims of lien of laborers or materialmen or others for work performed or materials or supplies furnished for Lessee or persons claiming under Lessee. This obligation to indemnify, defend, and hold harmless will survive the expiration or earlier termination of this Lease.

## Contest of Lien

. If Lessee contests any lien filed against the Premises, it shall furnish a bond, surety, undertaking or other security in connection therewith as required by law, or as requested by and satisfactory to County, to stay such proceeding, which bond, surety, undertaking or other security shall be sufficient to cause the lien to be insured against by the Title Company or removed as a lien against the Premises. If a final judgment establishing the validity or existence of a lien for any amount is entered, Lessee shall immediately pay and satisfy the judgment.

## Right to Cure

. If Lessee is in default in paying any charge for which a mechanics’ lien claim and suit to foreclose the lien have been filed, and has not provided security in accordance with Section 7.2 above, County may but shall not be required to, pay the claim. Any related costs, and the claim amount paid, together with reasonable attorneys’ fees incurred in connection with paying the claim (“Lien Costs”) shall be immediately due and payable from Lessee to County as Additional Rent, and Lessee shall pay the Lien Costs to County with interest at the rate specified in Section 16.5, calculated from the date(s) of County’s payment of the Lien Costs to Lessee’s payment of the Lien Costs to County.

## Notice of Lien

. If any claim of lien is filed against the Premises or any action against the Premises or any action affecting the title to the property of which the Premises is a part is commenced, the party receiving notice of the lien or action shall immediately give the other party written notice of the lien or action.

## Notice of Nonresponsibility

. County or its representatives shall have the right to enter and inspect the Premises, subject to the rights of subtenants, at all reasonable times and shall have the right to post and keep posted on the Premises notices of nonresponsibility or other notices which County may deem to be proper for the protection of County’s interest in the Premises. Lessee shall, on behalf of the County, before the commencement of any work which might result in any lien, post and maintain on the Premises, as record against the Premises, all notices of nonresponsibility providing for by the mechanics’ lien laws of the State of California.

# SECURITY

From and after the Commencement Date, County will have no responsibility for security of the Premises and Lessee, at its sole expense, shall be solely responsible for security of the Premises, and shall provide for such security through appropriate measures as reasonably determined by Lessee.

# DEVELOPMENT OBLIGATIONS; IMPROVEMENTS; PERSONAL PROPERTY; FIXTURES

## Development of the Project

. As partial consideration and security for the granting of this Lease by County, Lessee shall complete the development, design, and construction of the Improvements substantially in accordance with the Final Plans, as defined in Section 9.5, prior to the expiration of the Construction Period, subject to Section 3.1. The County’s review, direction, or approval throughout the design and construction of the Improvements shall not diminish, modify, or alter the duties, responsibilities, and obligations of the Lessee as specified in this Lease, nor shall it impose any financial obligation or other liability upon the County. The Project shall consist of capital improvements constructed in accordance with the requirements of this Lease. Lessee shall use good faith efforts to implement the Lessee’s Local, Small, and Disadvantaged Business and Disabled Veteran Business Participation Plan (attached hereto as Exhibit \_\_\_\_\_\_) in the development of the Project.

## Construction Requirements

. All Improvements made to the Premises shall be made under the supervision of a competent architect or licensed structural engineer and made in conformity with applicable governmental approvals. All work with respect to the Improvements must be performed in a good and workmanlike manner, and be diligently completed. Upon completion of the Improvements, the Lessee shall record a Notice of Completion in the office of the San Diego County Recorder, as required or permitted by law, and the Lessee shall deliver to County, within ten (10) days after completion of the work, a copy of the Certificate of Occupancy, and the building permit for the work. Lessee shall construct all Improvements in accordance with all applicable laws and regulations.

## Construction Plans

. Within one hundred twenty (120) days following completion of any Improvements on the Premises, Lessee shall furnish County with one (1) complete set of construction set plans including all RFI notes. CAD files are also to be converted to Acrobat Reader (\*.pdf format), which shall be included on disk, CD ROM or external storage device.

## Performance of Work

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### Diligent Construction

. Lessee shall cause its contractor to diligently commence and complete the actual construction of the applicable Improvements (a) in a good and workmanlike manner by qualified and adequately supervised workers; (b) in substantial compliance with the Final Plans, provided that Lessee shall be entitled to issue change orders that do not deviate substantially from the proposed Project as is reasonably necessary to complete the project; (c) in compliance with all governmental and quasi-governmental rules, regulations, laws and building codes (including safety requirements), and all requirements of the insurers of Lessee, County, Investor Limited Partner, and lenders; and (d) in a manner free from all design, material and workmanship defects.

### County’s Rules, Requirements

. Lessee must take all reasonably necessary measures to protect the adjacent property of County from Lessee’s construction activities.

### County’s Right to Enter

. County shall have the right during construction of the Improvements to enter the Premises for the purpose of inspecting construction progress. County will use its best efforts to minimize interference with Lessee’s construction of the Improvements and will give prior no less than 2 business days’ written notice to Lessee and contractor of County’s desire to enter the Premises. Entry shall be subject to compliance with jobsite health and safety rules (e.g., hard hats, safety vests, etc.).

### Mechanic’s Liens

. Lessee shall cause the Improvements to be constructed free of any vendor’s, mechanics’ or workers’ or other liens, as further provided in Article 7.

### Reports

. Upon the reasonable written request of the County, Lessee shall deliver to, within ten (10) business days after County’s request, copies of specific studies, reports and similar information, including all supplements, addenda and updates of the information, regarding the physical condition of the Premises (e.g., soils, geotechnical, hydrological, and environmental reports, studies, assessments and tests) obtained by Lessee except those prepared by Lessee’s legal counsel and subject to attorney client privilege.

### Completion of Improvements

. For purposes of satisfaction of the development obligation under Section 9.1, completion of development of the Improvements (“Completion”) shall be deemed to have occurred upon Lessee’s submission to County’s Lease Administrator of all of the following documents:

#### The final Certificate of Occupancy for the Improvements, as issued by the City of San Diego;

#### Copies of legally sufficient releases for all mechanics’ liens or other liens affecting the Premises or Improvements;

#### A certified copy of a notice of completion, recorded by Lessee in accordance with State law;

#### Copies of all building permits, indicating inspection and approval by the issuer of the permits; and

#### An architect’s or engineer’s certification that the Improvements have been constructed in accordance with the Final Plans and are one hundred percent (100.0%) complete in accordance with this Lease.

## Plans and Specifications

. Pursuant to the DDA, the Lessee has delivered to County’s Lease Administrator the plans and specifications prepared by the Lessee’s architect, including the following (collectively the “Plans”):

• Conceptual plans and site layout

• Building design and architectural treatment

• Exterior elevations

• Landscaping specifications

County’s Lease Administrator shall have the right to approve the Plans and all substantial changes to the Plans as set forth in the DDA. The Plans submitted to the County of San Diego in connection with the Approvals shall be deemed the “Final Plans”.

## Signs

. Lessee, Contractor, and subcontractors shall not post signs on any part of the Premises except as permitted by applicable laws and regulations.

# IMPROVEMENTS; OPTIONAL IMPROVEMENTS

## County Not Responsible for Taxes and Assessments Accruing Against Lessee

. Anything to the contrary in this Lease notwithstanding, County shall not pay any taxes or assessments accruing against Lessee on the Premises or any interest of Lessee in the Premises before, during, or after the Term, and all tax payments and assessments arising from the Leasehold Estate shall be the sole responsibility of Lessee.

## Lessee’s Responsibility for Taxes and Assessments

. From and after the Commencement Date, Lessee shall be solely responsible for payment of any taxes or assessments levied upon any Improvements, Fixtures, or Personal Property located on the Premises, to the extent that the taxes or assessments result from the business or other activities of Lessee upon, or in connection with, the Premises. As used in this Lease, the term “taxes” means all taxes, governmental bonds, special assessments, Mello-Roos assessments, charges, rent income, or transfer taxes, license and transaction fees, including, but not limited to, (i) any state, local, federal, personal or corporate income tax, or any real property or personal property tax, (ii) any estate inheritance taxes, (iii) any franchise, succession or transfer taxes, (iv) interest on taxes or penalties resulting from Lessee’s failure to pay taxes, (v) any increases in taxes attributable to the sale of the Leasehold Estate, or (vi) any taxes which are essentially payments to a governmental agency for the right to make improvements to the Premises. Lessee shall pay all taxes when due, and shall not allow any taxes, assessments or fees to become a lien against the Premises or any Improvements on the Premises. Nothing in this Section prevents or prohibits Lessee from contesting the validity of any tax, assessment, or fee or from applying for a welfare tax exemption for all or any portion of the Improvements in a manner authorized by law.

## Section 107.6 Statement

. Pursuant to California Revenue and Taxation Code Section 107.6, Lessee is notified that the terms of this Lease may result in the creation of a possessory interest, and if a possessory interest is vested in Lessee, Lessee may be subjected to the payment of real property taxes levied on the possessory interest.

# REPAIRS; MAINTENANCE

## Lessee’s Repair and Maintenance Obligations

. Lessee, at its sole expense, shall at all times during the Term of this Lease repair, maintain in good and tenantable condition and replace, as necessary, the Premises, the Improvements, all Fixtures and other equipment installed in the Premises, including all items of repair, maintenance, alteration, improvement or reconstruction that may be required at any time or from time to time by a governmental agency having jurisdiction over the Premises. These obligations shall apply regardless of whether the repairs, restorations and replacements are ordinary or extraordinary, foreseeable or unforeseeable, capital or noncapital, or the fault or not the fault of Lessee, its agents, employees, invitees, visitors, sublessees or contractors. All replacements made by Lessee shall be made in accordance with this Lease and shall be of like size, kind and quality to the items replaced. Lessee shall provide for trash removal, at its sole expense, and shall maintain all trash receptacles and trash areas in a clean, orderly and first class condition.

## Lessee’s Failure to Maintain

. If Lessee refuses or neglects to repair, replace, or maintain the Premises and Improvements in a manner reasonably satisfactory to County, County may, upon giving to Lessee written notice and opportunity to cure in accordance with Article 16, make the repairs or perform the maintenance on behalf of and for the account of Lessee. If County makes or causes any repairs to be made or performed, as provided for in this Lease, Lessee shall pay the cost of the repairs or maintenance to County, including administrative costs, as Additional Rent, promptly upon receipt of an invoice for the work.

## County Not Obligated to Repair or Maintain; Lessee’s Waiver of State of California Civil Code Section 1942

. To the extent that any remedies specified in this Lease conflict or are inconsistent with any provisions of State of California Civil Code Section 1942 (“CC Section 1942”), or any successor statute to CC Section 1942, the provisions of this Lease shall control. Lessee specifically waives any right it may have pursuant to CC Section 1942 to effect maintenance or repairs to the Premises and to abate and resulting costs from Rent or Additional Rent due to the County under this Lease.

# EXCULPATION, INDEMNIFICATION AND INSURANCE

## Definition of “Lessee Parties” and “County Parties”

. For purposes of this Lease, the term “Lessee Parties” refers singularly and collectively to Lessee and Lessee’s officers, members, partners, agents, affiliates, lenders, employees, and independent contractors as well as to all persons and entities claiming through any of these persons or entities. The term “County Parties” refers singularly and collectively to County and its elected officials, officers, directors, affiliated entities, agents, servants, and employees.

## Definition of Claims

. For purposes of this Lease, “Claims” means any and all claims, losses, costs, damage, expenses, liabilities, liens, actions, causes of action (whether in tort or contract, law or equity, or otherwise), charges, assessments, fines, and penalties of any kind (including consultant and expert expenses, court costs, and attorneys’ fees actually incurred).

## Exculpation

. The following exculpation provisions (“Exculpation Provisions”) shall apply:

### Exculpation

. To the fullest extent permitted by law, Lessee, on its behalf and on behalf of all Lessee Parties, waives all Claims against County Parties arising out of, knowingly and voluntarily assumes the risk of, and agrees that County Parties shall not be liable to Lessee Parties for any of the following occurrences arising at the Premises or in connection with Lessee, or any Lessee Party’s, use of the Premises:

#### Injury to or death of any person; or

#### Loss of, injury or damage to, or destruction of any tangible or intangible property, including the resulting loss of use, economic losses, and consequential or resulting damage of any kind from any cause.

Provided, however that the County Parties shall not be exculpated from liabilities arising out of the, gross negligence or willful misconduct of any of the County Parties.

No County Party, other than the County shall have any personal liability or responsibility for any of the responsibilities or liabilities of County under this Lease. No Lessee party, other than Lessee, shall have any personal liability or responsibility for any of the responsibilities or liabilities of Lessee under this Lease, unless and until the Lessee Party becomes lessee under this Lease or any New Lease provided under Article 15.

### Survival of Exculpation Provisions

. The provisions of this Section 12.3 shall survive the expiration or earlier termination of this Lease until all Claims within the scope of the Exculpation Provisions are fully, finally, and absolutely barred by the applicable statutes of limitations.

### Lessee’s Acknowledgment of Fairness

. Lessee acknowledges that the Exculpation Provisions of this Lease were negotiated with County, that the consideration for the Exculpation Provisions is fair and adequate, and that Lessee had a fair opportunity to negotiate, accept, reject, modify, or alter the Exculpation Provisions of this Lease.

### No Exculpation for Non-delegable Duties

. The Exculpation Provisions of this Lease may not be interpreted or construed as an attempt by County to be relieved of liability arising out of a non-delegable duty on the part of County.

### Waiver of Civil Code Section 1542

. With respect to the Exculpation Provisions of this Lease, Lessee waives the benefits of State of California Civil Code Section 1542, which provides:

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

Notwithstanding anything to the contrary in this Section 12.3.5, this release does not apply to any claim arising from (1) County’s access or use of the Premises pursuant to any easement or other access rights provided by Lessee, (2) the gross negligence or willful misconduct of County Parties, and (3) any Claims arising from the Demolition (as such term is defined in the DDA).

### Indemnification

. The following indemnification provisions (“Indemnification Provisions”) shall apply:

#### Lessee’s Indemnification of County Parties

. To the fullest extent permitted by law, Lessee shall, at Lessee’s sole expense and with counsel reasonably acceptable to County, indemnify, protect, defend, and hold harmless (“Lessee’s Indemnification”) County Parties from and against all Claims, from any cause, arising out of or relating (directly or indirectly) to this Lease, the tenancy created under this Lease, or the Premises and Improvements, including, without limitation:

##### The use or occupancy, or manner of use or occupancy, of the Premises and Improvements, by Lessee Parties, or of any invitee, guests, sublessee, or licenses, or any other person occupying or using the Premises and Improvements;

##### Any act, error, omission, or negligence of Lessee Parties or of any invitee, guest, sublessee or licensee of Lessee Parties in, on, or about the Premises and Improvements;

##### Lessee’s conducting of its business;

##### Any alterations, activities, work, or things done, omitted, permitted, allowed, or suffered by Lessee Parties in, at, or about the Premises and Improvements, including construction of Improvements,

##### The violation of or failure by Lessee Parties to comply with any applicable laws, standards, rules, regulations, orders, decrees, or judgments; and

##### Any breach or default in performance of any obligation on Lessee’s part to be performed under this Lease, whether du ring the Term or after the expiration or earlier termination of the Term.

### Type of Injury or Loss

. Lessee’s Indemnification extends to and includes Claims for:

#### Injury to any persons (including death at any time resulting from that injury);

#### Loss of, injury or damage to, or destruction of property (including all loss of use resulting from that loss, injury, damage, or destruction); and;

#### All economic losses and consequential or resulting damage of any kind;

### Active or Passive Negligence; Strict Liability

. Except as provided in this Section, Lessee’s Indemnification shall apply, without limitation, to Claims caused by the concurrent negligent act or omission, whether active or passive, of County Parties, and regardless of whether liability without fault or strict liability is imposed or sought to be imposed on County Parties. Lessee’s Indemnification shall not apply to the extent that a final judgment of a court of competent jurisdiction establishes that a Claim was caused solely by the negligence or willful misconduct of a County Party.

### Indemnification Independent of Insurance Obligations

. The Indemnification Provisions provided in this Lease may not be construed or interpreted as in any way restricting, limiting, or modifying Lessee’s insurance or other obligations of this Lease and is independent of Lessee’s insurance and other obligations. Lessee’s compliance with the insurance requirements and other obligations of this Lease shall not in any way restrict, limit, or modify Lessee’s Indemnification obligations under this Lease.

### Survival of Indemnification

. The Indemnification Provisions of this Section 12.3 shall survive the expiration or earlier termination of this Lease until all Claims against County Parties involving any of the indemnified matters are fully, finally, and absolutely barred by the applicable statutes of limitations.

### Duty to Defend

. Lessee’s duty to defend County Parties is separate and independent of Lessee’s duty to indemnify County Parties. The duty to defend includes Claims for which County Parties may be liable without fault or strictly liable. The duty to defend applies regardless of whether the issues of negligence, liability, fault, default, or other obligation on the part of Lessee Parties have been determined. The duty to defend applies immediately, regardless of whether County Parties have paid any sums or incurred any detriment arising out of or relating (directly or indirectly) to any Claims. It is the express intention of County and Lessee that County Parties be entitled to obtain summary adjudication or summary judgment regarding Lessee’s duty to defend County Parties at any stage of any claim or suit within the scope of the Indemnification Provisions. Notwithstanding the forgoing, if a final judgment of a court of competent jurisdiction establishes that a Claim was caused by the gross negligence or willful misconduct of a County Party, County shall be responsible for the costs of defending that Claim.

### Insurance

. In addition to and without limiting Lessee’s Indemnification obligations under this Lease, Lessee shall at its sole expense provide and maintain during the Term and for any other period required in this Lease, insurance in the amounts and form specified in this Section and in EXHIBIT “B” INSURANCE REQUIREMENTS - CONSTRUCTION PERIOD and EXHIBIT “C” INSURANCE REQUIREMENTS - OPERATIONS PERIOD of this Lease.

### Compliance with Insurer Requirements

. Lessee shall, at Lessee’s sole expense, comply with all requirements, guidelines, rules, orders, and similar mandates and directives pertaining to the use of the Premises, imposed by Lessee’s insurers.

### Survival of Insurance Requirements

. Lessee shall, at Lessee’s sole expense, maintain in full force and effect the insurance required under this Lease and shall name County Parties and any lender specified by County as additional insureds, for a period of no less than two (2) years after expiration or earlier termination of this Lease.

### Insurance Independent of Exculpation and Indemnification

. The insurance requirements set forth in this Lease are independent of Lessee’s exculpation, indemnification, and other obligations under this Lease and shall not be construed or interpreted in any way to restrict, limit, or modify Lessee’s exculpation, indemnification, and other obligations or to limit Lessee’s liability under this Lease.

# HAZARDOUS MATERIALS

## Hazardous Materials Laws - Definition

. The term “Hazardous Materials Laws” means any and all federal, state or local laws, rules, decrees, orders, regulations or court decisions (including “common law”), including without limitation the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C., §9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C., §1801 et seq.), the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C., §6901 et seq.), the California Hazardous Waste Control Act and the Carpenter-Presley-Tanner Hazardous Substance Act, State of California Health and Safety Code Section 25100, et seq., and Section 25300, et seq., the California Environmental Quality Act of 1970, and the Porter-Cologne Water Quality Control Act, Cal. Water Code Section 13000, et seq. relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under or about the Premises, soil and ground water conditions or other similar substances or conditions.

## Hazardous Materials - Definition

. The term “Hazardous Materials” means any chemical, compound, material, substance or other matter that:

### Is a flammable, explosive, asbestos, radioactive nuclear medicine, vaccine, bacteria, virus, hazardous waste, toxic, overtly injurious or potentially injurious material, whether injurious or potentially injurious by itself or in combination with other materials;

### Is controlled, referred to, designated in or governed by any Hazardous Materials Laws;

### Gives rise to any reporting, notice or publication requirements under any Hazardous Materials Laws; or

### Is any other material or substance giving rise to any liability, responsibility or duty upon the County or Lessee with respect to any third person under any Hazardous Materials Law.

### Hazardous Materials do not include any substances customarily used in construction, development, operation, or maintenance of residential real estate, provided such substances are used in accordance with all applicable laws.

## Lessee Obligations

. During the Term of this Lease, Lessee shall comply with the following provisions unless otherwise specifically approved in writing by County’s Lease Administrator:

### From and after the Commencement Date, Lessee shall not cause or permit any Hazardous Materials to be brought, kept, or used in or about the Premises or the Improvements by Lessee, its agents, employees, sublessees, assigns, contractors or invitees, except as is customary in Lessee’s Permitted Uses of the Premises, as described in Section 6.2, such as, for example, customary amounts of residential and retail cleaning supplies.

### Any handling, transportation, storage, treatment or usage by Lessee of Hazardous Materials that is to occur on the Premises or the Improvements following the Commencement Date shall be in compliance with all applicable Hazardous Materials Laws.

### Any leaks, spills, release, discharge, emission or disposal of Hazardous Materials that may occur on the Premises or the Improvements following the Commencement Date shall be promptly and thoroughly cleaned and removed from the Premises or the Improvements by Lessee at its sole expense, and any discharge shall be promptly reported in writing to County, and to any other appropriate governmental regulatory authorities.

### No friable asbestos shall be constructed, placed on, deposited, stored, disposed of, or located by Lessee in the Premises or the Improvements.

### No underground improvements related to the storage or extraction of Hazardous Materials or resources, including but not limited to treatment or storage tanks, or water, gas or oil wells shall be placed on or installed at the Premises by Lessee on the Premises or the Improvements without County’s prior written consent; except that Lessee may construct and operate water collection and treatment facilities as required by Laws.

### Lessee shall, at Lessee’s sole cost and expense, conduct and complete all investigations, studies, sampling, and testing procedures and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials in accordance with applicable Hazardous Materials Laws and as required by applicable law on, from, or affecting the Premises or the Improvements, regardless of the source or original location of such Hazardous Materials, in accordance with all applicable Hazardous Materials Laws and as may additionally be required by any Leasehold Mortgagee and Investor Limited Partner.

### Activities proposed by the Lessee that involve disturbing asbestos materials on site shall only be conducted in accordance with all federal, state and local asbestos rules and regulations including, but not limited to, the California Occupational Safety and Health Administration (Cal/OSHA), Environmental Protection Agency (EPA) and Air Pollution Control District (APCD), with prior written consent of the County, as follows:

#### Prior to conducting asbestos related activities, the Lessee shall notify the County of the proposed work at least one month in advance. The notification shall include the location of work, type of asbestos containing material (ACM) to be removed and a work plan indicating the work practices and methods of control to be used during the abatement activity to control asbestos fiber release. The County Occupational Health Program shall review the work plan and may modify the plans as necessary.

#### Any asbestos related activities shall be performed by a contractor that is registered with Cal/OSHA and certified by the California Contractors State Licensing Board to perform asbestos work. Any asbestos related activities shall be overseen by a California Certified Asbestos Consultant (CAC), or a Certified Site Surveillance Technician under the direction of a CAC.

#### Replacement products used in tenant improvements or other construction activities shall not contain asbestos. Any replacement products used by Lessee shall be verified as non-asbestos products by using Material Safety Data Sheets (MSDS) and/or having the architect or project engineer verify that ACMs were not used.

#### Lessee shall promptly supply County with copies of all notices, reports, correspondence, and submissions made by Lessee to the United States Environmental Protection Agency, the United Occupational Safety and Health Administration, and any other local, state or federal authority which requires submission of any information concerning environmental matters or hazardous wastes or substances pursuant to applicable Hazardous Materials Laws.

### Lessee shall promptly notify County of any liens threatened or attached against the Premises or the Improvements pursuant to any Hazardous Materials Law. From and after the Commencement Date, if such a lien is filed against the Premises, then within twenty (20) days following the filing or before any governmental authority commences proceedings to sell the Premises or the Improvements pursuant to the lien, whichever occurs first, Lessee shall either: (a) pay the claim and remove the lien from the Premises or the Improvements, or (b) furnish either (1) a bond or cash deposit reasonably satisfactory to County in an amount not less than the claim from which the lien arises, or (2) other security satisfactory to County in an amount not less than that which is sufficient to discharge the claim from which the lien arises. Upon the expiration or earlier termination of this Lease, subject to Section 3.3, Lessee shall surrender the Premises and Improvements to County without any outstanding violations of and in full compliance with all Hazardous Materials Laws affecting the Premises and Improvements, and in accordance with the requirements of this Article 13.

## Lessee Due Diligence and Acceptance of Condition of Premises

. Lessee has conducted its own inspections, including a Phase II Environmental Assessment (if necessary), to familiarize itself with the condition of the Premises, including the presence of any Hazardous Materials and has unconditionally accepted the condition of the Premises based on its own due diligence in accordance. Lessee has unconditionally and irrevocably acceptance of the Premises in its “as is” physical condition, with no warranty, express or implied by County as to the presence of Hazardous Materials, or the condition of the soil, its geology, or the presence of known or unknown faults. If the condition of the Premises is not in all respects entirely suitable for the use or uses to which such Premises will be put, then it is the sole responsibility and obligation of Lessee to place the Premises in all respects in a condition suitable for the Project, solely at Lessee’s expense.

## Indemnification

. In addition to and without limiting any other indemnification obligations under this Lease, from and after the Commencement Date, Lessee, its successors, and assigns, shall protect, indemnify, defend (with counsel selected by County), reimburse and hold County and its elected officials, officers, employees and agents harmless (collectively, the “Hazardous Materials Indemnity Obligation”) from any Claims (defined in Section 12.2), judgments, damages, penalties, fines, costs or expenses (known or unknown, contingent or otherwise), liabilities (including sums paid in settlement of Claims), personal injury (including wrongful death), property damage (real or personal) or loss, including any attorneys’ fees, consultant fees, and expert fees (consultants and experts to be selected by County) which arise from or in connection with the presence or suspected presence of Hazardous Materials including the soil, ground water, or soil vapor on or under the Premises or the Improvements. Without limitation of the preceding sentence, the Hazardous Materials Indemnity Obligations apply to costs incurred in connection with investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any Hazardous Materials Laws because of: (a) the presence of Hazardous Materials in the soil, ground water, or soil vapor on the Premises, regardless of the source or original location of such Hazardous Materials except for any such Hazardous Materials that are present on the Property as a result of activities of County, its employees, contractors, or agents that occurred during the period from the acceptance of the condition of the Property by Developer under Section 201of the DDA to the Closing under the DDA, and (b) any release, discharge, exposure, or displacement, or migration of Hazardous Materials caused by any act or omission of Lessee. The Hazardous Materials Indemnity Obligations shall survive the expiration or earlier termination of this Lease until all Claims involving any of the indemnified matters are fully, finally, and absolutely barred by the applicable statutes of limitations.

## Remedies Cumulative; Survival

. The provisions of this Article 13 shall be in addition to any and all common law obligations and liabilities Lessee may have to County, and any remedies and the environmental indemnities provided for in this Article 13 shall survive the expiration or earlier termination of this Lease and/or any transfer of all or any portion of the Premises, or of any interest in this Lease, and shall be governed by the laws of the State of California.

## Inspection

. If County has reasonable cause to believe that Lessee is not in compliance with this Article 13, County and County’s agents, servants, and employees including, without limitation, legal counsel and environmental consultants and engineers retained by County, may (but without the obligation or duty to do so), after reasonable prior written notice and from time to time, (except in the event of an emergency, or prior to the Commencement Date, in which case no notice shall be required), inspect the Premises or the Improvements to determine whether Lessee is complying with Lessee’s obligations set forth in this Article 13 and to perform reasonable environmental inspections and samplings, during regular business hours (except in the event of an emergency) or during any other hours agreed to by County and Lessee. If Lessee is not in compliance with Lessee’s obligations set forth in this Article 13, after notice (except in the event of an emergency, or prior to the Commencement Date, in which case no notice shall be required) and the expiration of the applicable cure period. County shall have the right, in addition to County’s other remedies available at law and in equity, to enter the Premises or the Improvements and take any action that County in its sole judgment deems appropriate to remediate any actual contamination or an imminent threat of contamination caused by Lessee’s failure to comply. County will use reasonable efforts to minimize interference with Lessee’s use of Premises or the Improvements but shall not be liable for any interference caused by County’s entry and remediation efforts pursuant to and in compliance with this Section. Upon completion of any sampling or testing County will (which will be conducted at Lessee’s expense if County’s actions are a result of Lessee’s default under this Lease) restore the affected area of the Premises or Improvements from any damage caused by County’s sampling and testing.

# TRANSFER AND ASSIGNMENT

## General Restriction of Transfers

. Lessee shall have no right to make any Transfer except as specifically provided in this Article 14. The term “Transfer” includes any of the following, whether voluntary or involuntary, direct or indirect: (i) assignment of all or any part of this Lease, or any interest in this Lease, (ii) any total partial sale, transfer, conveyance, sublease, or assignment of the whole or any part of the Premises, Improvements, or Leasehold Estate, (iii) any change in Control (defined below) of Lessee. Lessee recognizes that the qualifications and identity of Lessee are of particular concern to the County prior to Completion of construction because of the importance of the development of the Premises to the general welfare of the community and the fact that a change in control of Lessee is for practical purposes a transfer or disposition of the Leasehold Estate by Lessee. Lessee further recognizes that it is because of such qualifications and identity that the County is entering into the Lease with Lessee. Therefore, no voluntary or involuntary transferee of Lessee shall acquire any rights or powers under this Lease except as expressly permitted in this Lease, and Lessee represents and agrees that there shall be no Transfer without the prior written approval of the County in accordance with following conditions and requirements. Any Transfer in violation of this Article 14 shall constitute a material default under this Lease. In the absence of full compliance with this Article 14 and a specific written agreement signed by County (if applicable), Lessee, and the proposed transferee, no Transfer shall be effective or deemed to relieve Lessee from any obligations or liability under this Lease.

## Definitions

. For purposes of this Article 14, the following definitions apply:

“Person” means an individual, partnership, Limited Partnership, trust, estate, association, corporation, limited liability company, or other entity, domestic or foreign.

“Control” means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether by ownership of equity interests, by contract, through election of the members of the Board or Directors, or otherwise. It shall be a presumption that Control with respect to a corporation or limited liability company is the right to exercise or Control, directly or indirectly, more than fifty percent (50%) of the voting rights attributable to the Controlled corporation or limited liability company, and that the administrative general partner of a limited partnership Controls the limited partnership.

“Affiliate” means: (1) any Person directly or indirectly Controlling, Controlled by or under common Control with another Person; (2) any Person owning or Controlling ten percent (10%) or more of the outstanding voting securities of such other Person; or (3) if that other Person is an officer, director, member or partner, any company for which such Person acts in any such capacity.

## Assignment and Sublease after Completion

. Except as otherwise provided in this Article 14, after Completion of the Improvements, Lessee shall have the right to assign its interest in the Lease or to sublet all (but not part) of the Improvements to any other party subject to the prior written approval of County, said approval not to be unreasonably withheld, conditioned, or delayed. County’s approval shall be given if the Lessee is not in default under this Lease, has disclosed and provided documentation of all terms of the proposed assignment or sublease (which documentation shows the Transfer is consistent with and does not attempt to modify any terms of this Lease), and has provided documentation to County sufficient to establish that the proposed assignee or sublessee meets all of the following requirements: has prior experience owning and/or managing a real property development comparable to the Improvements, and manages not less than 500 affordable multifamily residential units (provided that such condition may be satisfied by a property manager engaged by such assignee or subtenant that manages, directly or indirectly not less than 500 affordable residential multifamily apartment units). No such assignment or sublease shall be effective or deemed to relieve Lessee until the assignee or sublessee has entered a written agreement with County to be bound by and assume the terms of this Lease. Subject to the requirement for a written agreement with County under Section 14.8, following transfer or assignment of the Lease by Lessee, Lessee will be released from its obligations under the Lease.

## Request for Assignment or Sublease

. Except as otherwise specified in Sections 14.6 and 14.7 for specific Transfers, Lessee shall provide County with written notice of any proposed Transfer of this Lease and all required documentation for County review, at least thirty (30) days prior to the proposed Transfer. Lessee shall provide County with all documentation of all terms of the proposed Transfer and information regarding the proposed transferee. The County will approve or disapprove a request for Transfer within thirty (30) days of receipt of a request for transfer and sufficient documentation and information for the County to evaluate the proposed Transfer. If the County disapproves a request for a Transfer it will specify the reasons for disapproval. Failure to approve or disapprove the Transfer within the thirty (30) day period will be deemed disapproval.

## Additional Permitted Transfers

. The following Transfers (“Permitted Transfers”) set forth in this Section 14.5 shall be permitted at any time, subject to the requirements of this Section. Transfers contemplated by Sections 14.5.1 through Section 14.5.3 are subject to County’s reasonable approval, which approval shall be granted if at least thirty (30) days prior to the proposed Transfer, the Lessee discloses and provides documentation of all terms of the proposed Transfer, and has provided documentation to County sufficient to establish that the proposed Transfer meets one or more of the definitions in those Sections, and is otherwise consistent with the requirements of this Lease. Transfers contemplated under Section 14.5.4 do not require approval are subject to the requirements of Section 14.5.4. Transfers under Section 14.5.1, Section 14.5.2 or Section 14.5.6 do not require County’s approval.

### Any transfer of an indirect interest in Lessee that does not result in a change in Control of Lessee;

### The granting of reasonable easements to facilitate construction or operation of the Improvements;

### The grant and exercise of an option and/or right of first refusal given by Lessee to a general partner of Lessee in accordance with the Lessee’s Partnership Agreement on or around the expiration of the tax credit compliance period;

### Any Transfer of an investor limited partner’s interest in the Lessee or any removal and replacement of the general partner of the Lessee by its investor limited partner in accordance with Lessee’s partnership agreement that was provided to County under the DDA; provided Lessee or its limited partner has provided County with notice of any such proposed Transfer and documentation sufficient to establish that the proposed Transfer meets the provisions of this Section 14.5.4 at least ten (10) days prior to the Transfer.

### Any Transfer of an investor limited partner’s interest in the Lessee after the fifteen (15) year tax credit compliance period so long as the transferee is Controlled by Affirmed Housing Group, Inc. or its affiliate.

### The limitations on Transfer contained in this Lease shall not be deemed to apply to or prevent, nor shall County’s approval be required in connection with (a) the granting of any collateral assignments related to a Leasehold Mortgage, security interest related to a Leasehold Mortgage or other collateral required to secure a Leasehold Mortgage expressly described in this Lease; (b) the exercise by any Leasehold Mortgagee (or its nominee) of its right to foreclose its Leasehold Mortgage by power of sale or judicial foreclosure or to acquire Lessee’s leasehold interest by deed in lieu thereof; or (c) any Transfer of this Lease by a Leasehold Mortgagee (or its nominee) having acquired Lessee’s interest in this Lease as a result of its rights under the Leasehold Mortgage.

## Commercial Subleases

. The Lessee shall have the right to enter into a master sublease agreement (“Space Lease”) for commercial space in the Project (“Space Lessee”) subject to the following conditions:

### Each Space Lease shall contain a provision requiring the Space Lessee to attorn to County and to be subordinate to any Leasehold Mortgage, to the Leasehold Mortgagee, or any person designated in a notice from the Leasehold Mortgagee. If Lessee defaults under this Lease and if the Space Lessee is notified of Lessee’s default and instructed to, the Space Lessee shall make sublessee’s rental payments to County or Leasehold Mortgagee as required under this Lease and the Leasehold Mortgage.

### The term of each Space Lease shall not exceed the remainder of the Lease Term.

### Each Space Lessee shall execute an attornment agreement with County in substantially the form attached to this Lease as Exhibit “D”.

### For any Space Lease that will be coterminous with the Term of this Lease, Lessee must obtain from the Space Lessee at the time of execution of the Space Lease, an agreement and estoppel certificate from the Space Lessee verifying the termination date of the Space Lease and documenting the Space Lessee’s agreement to vacate the Premises prior to expiration of the Term.

## Residential Subleases

. The Lessee shall have the right to enter into residential subleases to residents in the residential portion of the Improvements so long as such residential subleases do not exceed the Term of the Lease, comply with all requirement of the County Regulatory Agreement, and include a provision requiring attornment to County.

## Written Agreement with County Required

. Except for the residential subleases under Section 14.7, no Transfer shall have any effect or relieve Lessee from any obligations or liability until the proposed transferee has executed a written agreement with County assuming all obligations under the Lease. Any rights acquired by a transferee pursuant to any Transfer shall be subject to each and every covenant, condition and restriction set forth in this Lease and to all of the rights and interest of County under this Lease except as may be otherwise specifically provided in this Lease. If a conflict between the provisions of this Lease and the provisions of any Transfer document occurs, the provisions of this Lease will control.

## Transfer Fee; Estoppel Fee; Subordination, Attornment and Non‑Disturbance Agreement Fee

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### Transfer Fee

. If County is requested to consent to a Transfer under this Lease, Lessee shall reimburse County for all legal fees incurred resulting from the request, and pay County a nonrefundable fee (“Transfer Fee”) to reimburse County or County’s agent for costs and expenses incurred in connection with the request. The Transfer Fee shall be delivered to County concurrently with Lessee’s request for consent. The Transfer Fee in effect as of the Commencement Date of this Lease is one thousand dollars ($1,000.00).

### Estoppel Fee

. If County is requested to issue an estoppel certificate, Lessee shall pay County a nonrefundable fee (“Estoppel Fee”) for County’s costs incurred in connection with the request. The Estoppel Fee shall be delivered to County concurrently with Lessee’s request for the estoppel. The Estoppel Fee in effect as of the Commencement Date of this Lease is five hundred dollars ($500.00).

### Non-Disturbance and Attornment Fee

. If County is requested to execute a NDA, Lessee shall pay County a nonrefundable fee (“NDA Fee”) for County’s costs incurred in connection with the request. The NDA Fee shall be delivered to County concurrently with Lessee’s request to execute the NDA. The NDA Fee in effect as of the Commencement Date of this Lease is seven hundred fifty dollars ($750.00).

### Fee Adjustments

. County reserves the right to adjust the Transfer Fee, Estoppel Fee and NDA Fee from time to time during the Term of this Lease (“Fee Adjustment”). The base for computing a Fee Adjustment shall be the Consumer Price Index for All Urban Consumers (1982-84=100) for the Los Angeles-Riverside-Orange County Area CPI-U, as published by the U.S. Department of Labor, Bureau of Labor Statistics. The Fee Adjustment shall be determined by use of the following formulas:

Transfer Fee: A = $1,000.00 x (B/C)

Estoppel Fee: A = $500.00 x (B/C)

NDA Fee: A = $750.00 x (B/C)

Where:

“A” equals the adjusted Transfer Fee, Estoppel Fee or NDA Fee;

“B” equals the monthly “Consumer Price Index”, as described in Section 14.10 of this Lease, published for the month most closely preceding the date of request for consent to transfer; and

“C” equals the monthly “Consumer Price Index”, as described in Section 14.10, published for the month of the Operations Period Commencement Date of this Lease.

The fees listed above shall only apply following expiration of the Construction Period.

## Consumer Price Index for Fee Adjustment

. The consumer price index which shall be used as the source for the Consumer Price Index numbers in Section 14 shall be that published by the United States Department of Labor, entitled United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for the Los Angeles-Riverside-Orange County Area, all items of the index entitled “Consumer Price Index for All Urban Consumers” for the Los Angeles-Riverside-Orange County Area (1982 84 = 100). If the index used for the Fee Adjustment is discontinued or revised during the Term, then County and Lessee shall agree upon a substitute index or computation for purposes of computing the Fee Adjustment. If County and Lessee cannot agree on a substitute index, the substitute index or computation shall be determined by arbitration pursuant to the provisions of the State of California Code of Civil Procedure.

## Security Assignment of Space Leases

. Subject to the rights of any Leasehold Mortgagee, as security for the performance of Lessee’s obligations hereunder, Lessee hereby grants to County a security interest in and to all of Lessee’s right to receive any rentals or other payments under all Space Leases and this Lease shall constitute a security agreement for such purposes under laws of the State of California. County is authorized to file such financing statements reasonably necessary to perfect such security interest.

## Assignment by County

. If County sells or otherwise transfers fee simple title to the Premises, the purchaser or transferee thereof shall be deemed to have assumed County’s obligations hereunder which arise on or after the date of sale or transfer, and County shall thereupon be relieved of all liabilities hereunder accruing from and after the date of such transfer, but this Lease shall otherwise remain in full force and effect. If County assigns County’s interest under this Lease without transferring fee simple title to the Premises to the same person, County as holder of fee simple title to the Premises shall remain liable for the performance of fee holder’s obligations under this Lease.

## Merger of Estates

. County and Lessee hereby agree and acknowledge that the County’s fee interest in the real property on which the Premises is located (the “Fee Estate”) and remainder interest in the Improvements and the Lessee’s interest in the Premises and the Improvements shall at all times be separate and apart, and shall in no event be merged, notwithstanding the fact that the Lease or the Leasehold Estate created thereby, or any interest in either thereof, may be held directly or indirectly by or for the account of any person who shall own the fee estate in the Premises and the Improvements or any portion thereof; and no such merger of estates shall occur by operation of law, or otherwise, unless and until all persons at the time having any equity or secured financing interest of record in the fee estate and all persons having any equity or secured financing interest of record in the Lease or the Leasehold Estate, shall join in the execution of a written instrument effecting such merger of estates and record such instrument among the land records of San Diego County, California.

## Non-Disturbance and Attornment

. Upon request, the County will enter into a Non-Disturbance and Attornment Agreement in substantially the form attached as Exhibit “D” with any subtenant (excluding Residential tenants) authorized under this Article 14.

# LEASEHOLD FINANCING AND INVESTOR LIMITED PARTNER PROVISIONS

## Right to Encumber

. Lessee shall have no right to encumber the Leasehold Estate except as explicitly authorized under this Lease. Lessee shall have no right to encumber County’s fee interest in the Premises.

### Subject to the requirements of this Article 15 from and after the Commencement Date, Lessee shall have the right at any time and from time to time to encumber its Leasehold Estate by one or more Leasehold Mortgages, subject to the prior written approval of County, said approval not to be unreasonably withheld, conditioned, or delayed. Lessee shall deliver to County a substantially final copy of the Leasehold Mortgage and related documents, and all information necessary to allow County to confirm satisfaction of the requirements of this Article 15 at least thirty (30) days prior to the proposed recordation of the Leasehold Mortgage. County’s approval of the Leasehold Mortgage may not be withheld, conditioned, or delayed, so long as all of the following conditions are satisfied as evidenced by sufficient documentation provided to County:

#### the Leasehold Mortgagee is an Institutional Lender (defined below),

#### the Leasehold Mortgage does not encumber the County’s fee interest in the Premises,

#### the Leasehold Mortgage does not cover any interest in any real property other than the Leasehold Estate and does not cover more than one indebtedness; and

#### the Leasehold Mortgage meets all requirements of this Article 15 and is not otherwise inconsistent with the terms of this Lease.

“Institutional Lender” shall mean: (1) a bank, trust company, insurance company, investment company, money management fund, credit union, savings bank, pension, welfare or retirement fund or system or real estate investment trust; (2) a trustee or issuer of collateralized mortgage obligations, commercial mortgage backed securities or similar investment entity; (3) an entity that is a “qualified institutional buyer” within the meaning of Rule 144A under the United States Securities Act of 1933, as amended, or an entity that is an institutional “accredited investor” within the meaning of Regulation D under the Securities Act of 1933, as amended; or (4) any Person that is a subsidiary of any one of the foregoing entities, and has total assets of not less than $600,000,000 and a net worth of not less than $250,000,000, or such person has engaged a nationally or regionally recognized commercial servicer to administer and service the Leasehold Mortgage; or (5) a public agency, including but not limited to the San Diego Housing Commission, or the California Department of Housing and Community Development; (6) Any general partner of the Lessee or any Affiliate thereof.

### Required Provisions in Leasehold Mortgage

. Each Leasehold Mortgage shall contain, and shall be deemed to contain, the following provisions or their substantial equivalent. Each Leasehold Mortgagee, by accepting its Leasehold Mortgage, shall be deemed to have agreed to the following provisions. Such provisions reflect the definitions contained in this Lease. All such terms shall be deemed to be modified in the Leasehold Mortgage as appropriate to reflect the definitions in such Leasehold Mortgage.

1. The Leasehold Mortgage attaches solely to the Leasehold Estate and does not encumber the County’s Fee Estate. This Leasehold Mortgage is subject to all the terms and conditions of the Lease.
2. Notwithstanding anything to the contrary in the Leasehold Mortgage, Leasehold Mortgagee shall have no right to receive any Condemnation award proceeds or Casualty insurance proceeds (collectively, “Loss Proceeds”) except to the extent (and under the conditions) payable to Lessee or Leasehold Mortgagee under this Lease.
3. No successor Leasehold Mortgagee’s interest in the Leasehold Estate (“Successor Lessee”) shall have any rights under the Lease unless and until such Successor Lessee has executed, acknowledged, and delivered to the County an instrument, in recordable form, by which Successor Lessee assumes all obligations under the Lease (except as otherwise provided in the Lease), subject to all terms of the Lease, including terms that limit the liability of any Lessee.
4. a Leasehold Mortgage shall not be deemed to constitute an assignment or Transfer of the Leasehold Estate, nor shall any Leasehold Mortgagee, as such, or in the exercise of its rights under this Lease, be deemed to be an assignee, transferee, or mortgagee in possession of the Leasehold Estate so as to require such Leasehold Mortgagee, as such, to assume or otherwise be obligated to perform any of Lessee’s obligations under this Lease except when, and then only for so long as, such Leasehold Mortgagee has acquired ownership and possession of the Leasehold Estate pursuant to a Foreclosure Event (defined in Section 15.2.1.3) under its Leasehold Mortgage (as distinct from its exercise of Leasehold Mortgagee’s Cure Rights).

### No extension, modification, change or amendment to a Leasehold Mortgage shall be effective, or binding upon County, unless and until approved in writing by County, which approval shall be granted so long as such extension, modification, change, or amendment satisfies the applicable requirements of this Article 15 and does not otherwise conflict with this Lease. Along with any request for County approval under this Section, Lessee shall provide all information and documentation necessary to allow County to determine whether the proposed extension, modification, change, or amendment to the Leasehold Mortgage satisfies the applicable requirements of this Article 15 and does not otherwise conflict with this Lease, and County shall respond to such request within twenty business (20) days of County’s receipt of all such information and documentation.

### Lessee shall deliver to County promptly after execution by Lessee a true and verified copy of any Leasehold Mortgage or extension, modification, change, amendment, or assignment thereof, together with the name and address of the Leasehold Mortgagee or assignee.

### Immediately following the recordation of any Leasehold Mortgage, Lessee, at Lessee’s expense, shall cause to be recorded in the office of the San Diego County Recorder, a written request for delivery to County of a copy of any notice of default and of any notice of sale under the Leasehold Mortgage, as provided by the statutes of the State of California. The Leasehold Mortgage documents shall include a provision requiring that a copy of any notice of default or any notice of sale to be delivered to the County. County shall have thirty (30) days in which to cure any default after the time for Lessee to cure the default has expired. Neither County’s right to cure any default nor any exercise of the right to cure a default shall constitute an assumption of Lessee’s liability under the Leasehold Mortgage.

### Subject to the requirements of this Article 15, any Leasehold Mortgagee shall have the unrestricted right to participate in and securitize its interest in the Leasehold Mortgage without the necessity of obtaining any consent from County. Any Leasehold Mortgagee shall have the right to assign its Leasehold Mortgage without the necessity of obtaining any consent from County if the following conditions are met: (a) the assignee is an Institutional Lender; (b) the assignment does not result in or involve any extension, modification, change, or amendment to the Leasehold Mortgage (other than identifying a new Leasehold Mortgagee), (c) Lessee or the Leasehold Mortgagee provides prompt notice of the assignment and contact information of the assignee to County. No assignment in violation of this Section will be effective or binding against the County.

### The County will not in any way subordinate any of its rights under this Lease to any Leasehold Mortgagee and any Leasehold Mortgagee who forecloses on its Leasehold Mortgage shall agree to abide by and be bound by all the terms of this Lease during the term of its ownership of the Leasehold Estate.

### If a conflict between the provisions of this Lease and the provisions of any Leasehold Mortgage occurs, the provisions of this Lease will control.

### Any delivery of a deed or assignment of the Leasehold Estate or assignment of the Lease pursuant to foreclosure proceedings, or deed or assignment in lieu of foreclosure, to the Leasehold Mortgagee or other purchaser shall not be subject to the prior written consent of County, but any subsequent purchaser or transferee of all or any portion of the Lease, Improvements, or Leasehold Estate following such a foreclosure of the Leasehold Mortgage (or delivery of a deed or assignment of the Lease in lieu of foreclosure) shall be subject to the prior written consent of County as provided in Article 14.

### County acknowledges that Lessee may encumber the Leasehold Estate as provided in this Article 15 and grant to the Leasehold Mortgagee a collateral assignment in and to all rights of the Lessee under this Lease, including all of Lessee’s rents and profits from the Leasehold Estate, as security for the Leasehold Mortgage.

### County acknowledges that any mortgage now or hereafter encumbering County’s fee interest in the Premises shall either (i) be subject and subordinate in all respects to the Lease and to the Leasehold Estate or (ii) shall provide recognition and non-disturbance protection to Lessee and its successors and assigns by means of a separate agreement reasonably acceptable to Lessee, the Investor Limited Partner, and the Leasehold Mortgagee in all respects. Lessee shall not encumber County’s fee interest in the Premises.

### Unless otherwise agreed to by the County, all insurance proceeds for Casualty under Article 19 shall be deposited with an Eligible Independent Trustee (defined below) reasonably acceptable to the Leasehold Mortgagee, to act as the insurance trustee and disburse such proceeds in accordance with the requirements of Article 19. Unless otherwise agreed to by the County, all condemnation proceeds which Tenant is required to use for repair, reconstruction, or restoration of the Improvements or Premises following Condemnation under Article 20 shall be deposited with an Eligible Independent Trustee reasonably acceptable to the Leasehold Mortgagee, to act as the trustee and disburse such proceeds in accordance with the requirements of Article 20. County further agrees that (i) the Leasehold Mortgagee may participate in any suits or proceedings relating to such insurance or condemnation proceeds, causes of action, claims, awards or recoveries and is authorized to adjust any loss covered by insurance and participate with County and Lessee in the adjustment of or any condemnation claim and to settle or compromise any claim or action in connection with respect to an insured loss and participate in settlements or compromises of condemnation claims, (ii) the Leasehold Mortgagee is entitled to payment of any Condemnation award proceeds or insurance proceeds for Casualty that are payable to Tenant and not required to be used for repair, restoration, or reconstruction of the Premises or Improvements under Article 19 and Article 20, and (iii) County shall not terminate the Lease solely on the basis of a Casualty or Condemnation affecting the Premises or Improvements (except in the case of total condemnation, which shall be governed by Section 20.1) without the prior written consent of the Leasehold Mortgagee, unless the Leasehold Mortgage is paid in full, provided that this does not in any way limit, restrict, or impose any requirement of Leasehold Mortgagee’s consent on County’s right to terminate this Lease for an Event of Default. “Eligible Independent Trustee” means a depository institution or trust company not affiliated with the Leasehold Mortgagee and insured by the Federal Deposit Insurance Corporation, the short-term unsecured debt obligations or commercial paper of which are rated at lease “A-1+” by S&P and “P-1” by Moody’s, and “F-1+” by Fitch and the long-term unsecured debt obligations or which are rated at least “A+” by S&P, “A2” by Moody’s, and “AA-” by Fitch acceptable to Leasehold Mortgagee in Leasehold Mortgagee’s reasonable discretion.

### In the event that the Leasehold Mortgagee, or an affiliate of Leasehold Mortgagee that is assigned Leasehold Mortgagee’s foreclosure rights for purposes of exercising Leasehold Mortgagee’s foreclosure rights under the Leasehold Mortgage (“Foreclosure Affiliate”), acquires title to the Leasehold Estate through foreclosure of the Leasehold Mortgage (or delivery of a deed or assignment of the Lease in lieu of foreclosure), any liability of the Leasehold Mortgagee or such Foreclosure Affiliate to County under the Lease shall be limited to the value of the Leasehold Mortgagee’s or Foreclosure Affiliate’s interest in the Leasehold Estate and the Ground Lease, including the value of all insurance required under the Lease or otherwise held in connection with the Lease. The provisions of this Section 15.1.13 shall apply only to the Leasehold Mortgagee or the Foreclosure Affiliate, and shall not apply to any subsequent assignee of the Leasehold Estate or Lease, or to any purchaser at a foreclosure sale or subsequent purchaser.

### By acquiring title to the Leasehold Estate, the Leasehold Mortgagee, the Foreclosure Affiliate, or other purchaser shall become responsible and liable for the obligations of Lessee under the Lease, but shall only be liable to County under the Lease for its acts or omissions taking place and claims and obligations accruing during the period in which it holds title to the Leasehold Estate or an interest in the Ground Lease; provided, however, that the Leasehold Mortgagee or Foreclosure Affiliate shall be obligated to cure any monetary default of the previous Lessee that remained outstanding at the time of foreclosure (or assignment or deed in lieu of foreclosure), and nothing in this v relieves the Leasehold Mortgagee or Foreclosure Affiliate of that obligation.

### Notice of Leasehold Mortgages. If Lessee enters into any Leasehold Mortgage that complies with the definition of such term, then the Leasehold Mortgagee under such Leasehold Mortgage shall be entitled to all Mortgagee Protections (as against both the County and any successor holder of the Fee Estate) from and after such date as Lessee or the Leasehold Mortgagee has given the County written notice of such Leasehold Mortgage and Leasehold Mortgagee, accompanied by a copy of the Leasehold Mortgage, recorded or unrecorded. No change of address of such Leasehold Mortgagee, or assignment of such Leasehold Mortgage, shall be effective against the County unless and until such Leasehold Mortgagee shall have given the County written notice of such change or assignment. The Investor Limited Partner will also be entitled to Mortgagee Protections until such time as the Investor Limited Partner is not a member a Lessee.

### Termination of Leasehold Mortgagee’s Rights If a Leasehold Mortgagee is entitled to Mortgagee Protections, then such entitlement shall not terminate unless and until such time, if any, as either (1) the Leasehold Mortgage shall have been satisfied and discharged of record, except through a Foreclosure Event; (2) such Leasehold Mortgagee has consented in writing to the termination of its Mortgagee Protections; or (3) after the County has complied with all Mortgagee Protections, the County has validly terminated this Lease, no Leasehold Mortgagee has validly requested (and is entitled to) a New Lease, and the New Lease Option Period has expired.

## Additional Protections

. During the continuance of any Leasehold Mortgage until such time as the lien of any Leasehold Mortgage has been extinguished, and if a true and verified copy of such Leasehold Mortgage was delivered to County together with a written notice of the name and address of the owner and holder thereof as required under this Article 15, the following provisions benefitting the Leasehold Mortgagee shall apply with respect to the Leasehold Mortgagee. Additionally, during the Tax Credit Compliance Period applicable to Lessee, which means the fifteen (15) year tax credit compliance period as described in Section 42(i)(1) of the Internal Revenue Code of 1986, as amended from time to time, or any corresponding provision or provisions of prior or succeeding law, the following provisions benefitting the tax credit equity investor limited partner (“Investor Limited Partner”) shall apply with respect to the Investor Limited Partner.

### Definitions. The following definitions shall apply for purposes of this Section 15.2.

#### Bankruptcy Proceeding

. Any bankruptcy, insolvency, reorganization, composition, or similar proceeding, whether voluntary or involuntary, under Title 11, United States Code, or any similar state or federal statute for the relief of debtors, including any assignment for the benefit of creditors or similar proceeding.

#### Event of Default

. “Event of Default” shall have the definition set forth in Section 16.1.

#### Foreclosure Event

. A “Foreclosure Event” means any transfer of title to the Fee Estate or the Leasehold Estate as the result of any: (1) judicial or nonjudicial foreclosure; (2) trustee’s sale; (3) deed, transfer, assignment, or other conveyance in lieu of foreclosure; (4) other similar exercise of rights or remedies in the nature of “1” through “3” under any Leasehold Mortgage; or (5) transfer by operation of or pursuant to any Bankruptcy Proceeding, in each case (“1” through “5”) whether the transferee is a Mortgagee, a party claiming through a Mortgagee, or a third party.

#### Leasehold Mortgagee’s Cure

. “Leasehold Mortgagee’s Cure” means any Leasehold Mortgagee’s or Investor Limited Partner Cure of an Event of Default (defined in Section 16.1) and any actions taken by a Leasehold Mortgagee to cure an Event of Default.

#### Leasehold Mortgagee’s Cure Rights. “Leasehold Mortgagee’s Cure Rights” means all rights of Leasehold Mortgagee(s) or Investor Limited Partner to cure any Event of Default by Lessee.

#### Leasehold Mortgagee’s Representative. A “Leasehold Mortgagee’s Representative” means from time to time any agent, assignee, designee, nominee, or representative of a Leasehold Mortgagee or Investor Limited Partner, provided that such agent, assignee, designee, nominee, or representative is a wholly owned subsidiary, full time employee, legal counsel, or bona fide loan servicer, custodian, or collateral agent of the Leasehold Mortgagee or Investor Limited Partner, as applicable.

#### Mortgagee Protections. The “Mortgagee Protections” means, as to any Leasehold Mortgagee or Investor Limited Partner, all rights, protections, and privileges of such Leasehold Mortgagee or Investor Limited Partner as expressly provided for under this Lease, including the following: (1) any right to receive notices and/or to cure defaults (including, in the case of a Leasehold Mortgagee or Investor Limited Partner, all Leasehold Mortgagee’s Cure Rights); (2) any requirement for Leasehold Mortgagee’s or Investor Limited Partner Consent to any matter; (3) in the case of a Leasehold Mortgagee, all provisions of this Lease relating to a New Lease and all rights of any New Lessee or Successor Lessee; and (4) all other rights, protections, and privileges of such Leasehold Mortgagee or Investor Limited Partner under this Lease.

#### New Lease. A “New Lease” means a new lease of the Premises, effective as of (or retroactively to) the date of termination of this Lease, for the remainder of the Term of this Lease, considered as if this Lease had not been terminated, with New Lessee, on all the same terms and provisions of this Lease and in the same form as this Lease. Any New Lease shall include all rights, and privileges of Lessee under this Lease, but shall not include any obligations of Lessee that have already been performed and no longer apply. Any New Lease or a memorandum thereof shall be in recordable form, and shall include all the same Mortgagee Protections for the benefit of any Leasehold Mortgagee of New Lessee as provided in this Lease.

#### New Lease Delivery Date. A “New Lease Delivery Date” means the date when the County and New Lessee enter into a New Lease.

#### New Lease Option Period. A “New Lease Option Period” means, upon the occurrence of a termination of this Lease (other than as the result of the scheduled expiration date of the Term or termination for casualty or condemnation under Article 19 or Article 20), a period that begins on the date of such termination and ends on the date 90 days after the County has given every Leasehold Mortgagee Notice of such date of termination. The New Lease Option Period shall be tolled and extended during any period during which any Leasehold Mortgagee’s right to require the County to enter into a New Lease is restricted or impaired by a Bankruptcy Proceeding, but not if such restriction or impairment is a result of the acts or omissions of such Leasehold Mortgagee).

#### New Lessee. A “New Lessee” means the Leasehold Mortgagee that requests a New Lease, or its Leasehold Mortgagee’s Representative, or such other Lessee under a New Lease as such Leasehold Mortgagee shall select (but excluding the Lessee originally named in this Lease), all as designated by such Leasehold Mortgagee.

#### Uncurable Default. An “Uncurable Default” is any non-monetary Event of Default that by its nature is impossible for the Leasehold Mortgagee to cure, despite the Leasehold Mortgagee gaining possession of the Premises

### County shall not agree with Lessee to any mutual termination nor accept any surrender by Lessee of this Lease (except upon the expiration of the Lease Term as provided herein), nor shall Lessee consent to any substantive amendment or modification of this Lease which has a material impact on the interests of a Leasehold Mortgagee or Investor Limited Partner, without the prior written consent of the Leasehold Mortgagee and Investor Limited Partner, which consent shall not be unreasonably withheld, conditioned, or delayed. The following procedure shall be used to obtain the prior written consent of Leasehold Mortgagee or Investor Limited Partner under this Section: i) County shall make a request to the Leasehold Mortgagee and Investor Limited Partner for any such consent in writing by certified mail, return receipt requested (“First Request”); (ii) if Leasehold Mortgagee or the Investor Limited Partner does not respond within thirty (30) days after receipt (or refusal to accept delivery) of the First Request, County shall make a second request to Leasehold Mortgagee or Investor Limited Partner, as applicable, for such consent in writing by certified mail, return receipt requested (“Second Request”); (iii) if the Leasehold Mortgagee or Investor Limited Partner, as applicable, does not respond to County in writing by certified mail, return receipt requested, received (or refused to be received) by County within thirty (30) days after receipt (or refusal to accept delivery) of the Second Request, then the Leasehold Mortgagee or the Investor Limited Partner, as applicable, shall be deemed to have granted its consent. Failure of the Leasehold Mortgage or Investor Limited Partner to approve the proposed substantive amendment within thirty (30) days of receipt of notice from County shall constitute unreasonable delay, and in the event of such unreasonable delay by the Leasehold Mortgagee or Investor Limited Partner, the proposed substantive amendment or modification shall be deemed approved by the Leasehold Mortgagee or Investor Limited Partner. Nothing in this Section limits County’s right to terminate this Lease for an Event of Default after any applicable notice and cure period as otherwise provided in this Lease.

### Leasehold Mortgagee and Investor Right to Cure. The Leasehold Mortgagee and Investor Limited Partner shall have the right, but not the obligation, at any time prior to termination of this Lease, to pay all of the Rents due hereunder, to provide any insurance, to pay any taxes and make any other payments, to make any repairs and improvements and do any other act or thing required of Lessee hereunder, and to do any act or thing which may be necessary and proper to be done in the performance and observance of the covenants, conditions, and agreements hereof to prevent the termination of this Lease. All payments so made and all things so done and performed by the Leasehold Mortgagee or Investor Limited Partner shall be as effective to prevent a termination of this Lease as the same would have been if made, done and performed by Lessee instead of by the Leasehold Mortgagee. If an Event of Default is cured by the Leasehold Mortgagee or Investor Limited Partner, this Lease shall continue in full force and effect as if such Event of Default had not occurred. This subparagraph establishes the right but not the obligation of Leasehold Mortgagee and Investor Limited Partner to cure or attempt to cure any Event of Default, and the Leasehold Mortgagee and Investor Limited Partner may abandon or discontinue its efforts to cure at any time.

### Cure Rights. All rights of County to terminate this Lease as the result of the occurrence of any such Event of Default shall be subject to and conditioned upon County having first given the Leasehold Mortgagee and Investor Limited Partner written notice of such Event of Default and the Leasehold Mortgagee having failed to remedy such default or to complete the actions authorized under this Section within the prescribed time frames. If an Event of Default occurs, then County shall so notify all known Leasehold Mortgagees and Investor Limited Partners who Lessee has provided County notice in accordance with this Article 15. To the extent permitted by applicable State of California law, the time periods provided in this Section for cure of Lessee’s defaults under this shall be in lieu of, and not in addition to, any similar time periods described by State of California law as a condition precedent to the commencement of legal action against Lessee for possession of the Premises.

#### Monetary Default. Leasehold Mortgagee and Investor Limited Partner shall have thirty (30) days after receipt of such written notice to fully cure any default in the payment of any monetary obligations of Lessee under this Lease and must thereafter continue to faithfully perform all such monetary obligations.

#### Non-Monetary Default. For a non-monetary Event of Default, the Leasehold Mortgagee and Investor Limited Partner shall have ninety (90) days beyond those cure periods provided to Lessee under this Lease, and if Investor Limited Partner has commenced to cure during such ninety (90) day period, such cure period shall be extended as long as reasonably necessary to effectuate such cure provided that the Leasehold Mortgagee or Investor Limited Partner is diligently and continuously prosecuting such cure to completion; provided, however, that in no event shall the County be precluded from exercising remedies for an Event of Default if its rights become or are about to become materially jeopardized by any failure to cure the default or the default is not cured within one hundred and eighty (180) days after the notice of default is provided to the Leasehold Mortgagee or Investor Limited Partner. In addition, Investor Limited Partner may cure a default caused by its general partner, by (a) removing such general partner (or commencing and diligently prosecuting such removal of the general partner to completion) from the tax credit limited partnership or, if Lessee is a limited liability company, by removing (or commencing and diligently prosecuting such removal of the general partner to completion) any Affiliate of general partner from the Lessee and (b) fully curing the default, and (excepting any Uncurable Defaults) (c) thereafter complying with the terms and conditions of this Lease. Any such Transfer of the general partner interest is a Permitted Transfer under Section 14.5.4 of this Lease.

#### Non-Monetary Default Requiring Possession to Cure. A non‑monetary Event of Default under this Lease which in the nature thereof cannot be remedied by the Leasehold Mortgagee shall be deemed to be remedied if (i) within ninety (90) days after receiving written notice from County setting forth the nature of such Event of Default, the Leasehold Mortgagee acquires the Lease or commences foreclosure or other appropriate proceedings in the nature thereof, (ii) the Leasehold Mortgagee diligently and continuously prosecutes any such proceedings to completion, (iii) the Leasehold Mortgagee fully cures any default in the payment of any monetary obligations of Lessee under this Lease within thirty (30) days after receipt of the required written notice and thereafter continues to faithfully perform all such monetary obligations, and (iv) after acquiring the Lease, the Leasehold Mortgagee performs all of the obligations of Lessee under this Lease as and when the same are due, accruing after Leasehold Mortgagee has obtained possession of the Property. Following the date on which the Leasehold Mortgagee (or its Affiliate) obtains title to and possession of the Premises, any Uncurable Default shall be deemed cured for purposes of County’s right to terminate the Lease for such Event of Default as between County and Leasehold Mortgagee (or its Affiliate) such that County shall not terminate this Lease on the basis of such Uncurable Default.

### Bankruptcy Proceeding. If the Leasehold Mortgagee is prohibited by any Bankruptcy Proceeding involving Lessee from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof, the times specified in Section 15.2 above for commencing or prosecuting such foreclosure or other proceedings shall be extended for the period of such prohibition, provided that the Leasehold Mortgagee has fully cured any default in the payment of any monetary obligations of Lessee under this Lease and continues to pay currently such monetary obligations as and when the same fall due, and provided that the Leasehold Mortgagee diligently works to remove any such prohibition.

To the extent that cure by the Investor Limited Partner of a non-monetary default is prohibited by any Bankruptcy Proceeding involving Lessee, the time period for such cure shall be extended for the period of such prohibition, provided that the Investor Limited Partner has fully cured any default in the payment of any monetary obligations of Lessee under this Lease and continues to pay currently such monetary obligations as and when the same fall due, and provided that the Investor Limited Partner diligently works to remove any such prohibition.

### Rejection of Lease in Bankruptcy Proceeding. If Lessee (as debtor in possession) or a trustee in bankruptcy for Lessee rejects this Lease in any Bankruptcy Proceeding affecting Lessee, then such rejection shall be deemed Lessee’s assignment of the Lease and the Leasehold Estate to a Successor Lessee (to be designated by Lessee’s Leasehold Mortgagee(s)), in the nature of an assignment in lieu of foreclosure, subject to all Leasehold Mortgages. Upon such deemed assignment, this Lease shall not terminate. Each Leasehold Mortgagee shall continue to have all the rights of a Leasehold Mortgagee as if the Bankruptcy Proceeding had not occurred, unless such Leasehold Mortgagee shall disapprove such deemed assignment by Notice to the County within thirty days after such Leasehold Mortgagee received Notice of the rejection of this Lease in Bankruptcy Proceedings. If any court of competent jurisdiction shall determine that this Lease shall have been terminated notwithstanding the deemed assignment provided for in place of rejection of this Lease, then Leasehold Mortgagee(s) shall continue to be entitled to a New Lease as provided in this Lease.

### Leasehold Mortgagee’s Right to Enter Premises. The County and Lessee authorize each Leasehold Mortgagee to enter the Premises as necessary to effect Leasehold Mortgagee’s Cure and take any action(s) reasonably necessary to effect Leasehold Mortgagee’s Cure. A Leasehold Mortgagee’s rights under this paragraph or exercise of such rights shall not constitute control of the Premises or mean that such Leasehold Mortgagee has possession of the Premises or liability to the County or Lessee.

### Foreclosure of a Leasehold Mortgage, whether by judicial proceedings or by virtue of any power of sale contained in the Leasehold Mortgage, or any conveyance of the Lease from Lessee to the Leasehold Mortgagee by virtue or in lieu of foreclosure or other appropriate proceedings in the nature thereof, shall not require the consent of County or constitute a breach of any provision of or a default under this Lease. Upon such foreclosure, County shall recognize the Leasehold Mortgagee or any other foreclosure sale purchaser, as Lessee hereunder so long as the Leasehold Mortgagee or the foreclosure purchaser agrees in writing to abide by all of the provisions of the Lease, and to assume liability for and perform all obligations under the Lease accruing from and after the date the Leasehold Mortgage acquires Lessee’s title to the Premises, and so long as there is no outstanding monetary default under this Lease, regardless of when such default occurred or obligation accrued, or foreclosure sale purchaser cures the outstanding monetary default. If the Leasehold Mortgagee becomes the Lessee under this Lease or under any New Lease obtained pursuant to Section 15.2.10 below, the Leasehold Mortgagee shall be liable for the obligations of Lessee under this Lease or such New Lease arising during the period of time that the Leasehold Mortgagee is the Lessee hereunder or thereunder, and for any outstanding monetary default, regardless of when such monetary default occurred or monetary obligation accrued. If, in conformance with Article 14 and Article 15 of this Lease, the Leasehold Mortgagee subsequently assigns or transfers its interest under this Lease after acquiring the same by foreclosure or by an acceptance of a deed in lieu of foreclosure or subsequently assigns or transfers its interest under any such New Lease, and in connection with any such assignment or transfer the Leasehold Mortgagee takes back a mortgage or deed of trust encumbering such Leasehold Estate to secure a portion of the purchase price given to the Leasehold Mortgagee for such assignment or transfer, then such mortgage or deed of trust shall be considered a Leasehold Mortgage as contemplated under this Section if it meets all of the requirements of this Article 15, and any such qualifying Leasehold Mortgagee shall be entitled to receive the benefit of and shall be bound by the provisions of this Article 15 and any other provisions of this Lease intended for the benefit or burden of the holder of a Leasehold Mortgage.

### Leasehold Mortgagee’s Right To A New Lease. If this Lease terminates before its stated expiration date for any reason (including an Event of Default or rejection in a Bankruptcy Proceeding affecting Lessee), but excluding a termination for casualty or condemnation under Article 19 or Article 20, then (in addition to any other or previous notice required to be given by the County to a Leasehold Mortgagee) the County shall, within ten (10) business days, give notice of such termination to each Leasehold Mortgagee. Upon a Leasehold Mortgagee’s request given within the New Lease Option Period, the County shall enter into a New Lease with New Lessee, provided that such Leasehold Mortgagee shall, on the New Lease Delivery Date: (1) pay to the County any and all sums then due under this Lease as if this Lease had not been terminated; and (2) agree to cure all then uncured nonmonetary defaults (other than Uncurable Defaults), within a reasonable period after the New Lease Delivery Date with reasonable diligence. The following additional provisions shall apply to any New Lease:

#### Priority. Any New Lease made pursuant to this Section 15.2 shall have the same priority with respect to any lien, charge or encumbrance on County’s fee estate as did this Lease and the New Lessee under such New Lease shall have the same right, title and interest in and to the Leasehold Interest as Lessee had under this Lease.

#### Adjustment for Net Income. On the New Lease Delivery Date, the County shall pay New Lessee an amount equal to the net operating income derived from the Premises (gross income from subleases and other operations conducted at the Premises less Rent and reasonable operating expenses, and any other amounts owed to County in connection with the Lease) during the period from the date of termination of the Lease to the New Lease Delivery Date, provided that New Lessee concurrently pays the County all sums required to be paid the County pursuant to this Lease, as if the Lease had not been terminated, and not already paid to the County from gross income of the Premises.

#### Pendency of Dispute. If the County and New Lessee disagree regarding any payment due the County as a condition to execution of a New Lease, then New Lessee (if an Institutional Lender or a Leasehold Mortgagee’s Representative acting for an Institutional Lender) shall not be required to pay the disputed portion of such payment (as a condition to obtaining a New Lease) provided that such New Lessee: (1) on the New Lease Delivery Date pays the County the full amount not in controversy and (2) agrees in writing to pay any additional sum ultimately determined to be due promptly upon such determination with interest at the Prime Rate from the New Lease Delivery Date. The parties shall cooperate to determine any disputed amount promptly in accordance with the New Lease.

#### Assignment of Certain Items. On the New Lease Delivery Date, the County shall assign without recourse to New Lessee all of the County’s right, title and interest in and to all: (1) moneys, if any, then held by, or payable to, the County that Lessee (or Leasehold Mortgagee) would have been entitled to receive but for termination of this Lease; (2) leases affecting any portion of the Premises (which leases, upon such assignment by the County to New Lessee, shall become subleases arising from the Leasehold Estate under the New Lease); and (3) security deposits of subtenants under the Lease.

#### Preservation of Former Subleases. Between the date of termination of the Lease and the New Lease Delivery Date (or the expiration of the New Lease Option Period, if no Leasehold Mortgagee requests a New Lease): (1) the parties acknowledge that any subleases shall be direct leases between the County and the former subtenant; (2) the County shall not, except with Leasehold Mortgagee’s written consent (which shall not be unreasonably withheld), cancel any such direct lease or accept any cancellation, termination, or surrender of such a direct lease (unless such termination shall be effected as a matter of law upon the termination of this Lease, in which case such direct lease shall, at New Lessee’s option, be reinstated as a Sublease arising from the New Lease on the New Lease Delivery Date) without consent by New Lessee; or (3) enter into any new leases of the Premises or any portion thereof, except with Leasehold Mortgagee’s written consent (which shall not be unreasonably withheld). At the request of New Lessee, on the New Lease Delivery Date the County shall enter into and NDA in substantially the form attached as Exhibit “D” with any commercial subtenants as to which the County would otherwise be required to deliver NDA’s under this Lease.

#### The County’s Costs and Expenses. If a Leasehold Mortgagee requires the County to enter into a New Lease, then such Leasehold Mortgagee shall pay all reasonable expenses, including transfer taxes and reasonable legal costs incurred by the County in connection with any Event of Default and termination of this Lease, recovery of possession of the Premises, and preparation, execution, and delivery of the New Lease and any memorandum of the New Lease requested by New Lessee.

#### Survival. All rights of any Leasehold Mortgagee, and obligations of the County, regarding a New Lease shall survive the termination of this Lease for the duration of the New Lease Option Period.

### Interaction of Mortgages with other Estates and Parties.

#### Interaction with Leasehold Mortgages. Any Leasehold Mortgage shall attach solely to the Leasehold Estate, and shall not encumber or attach to the County’s fee estate or affect, limit, or restrict the County’s rights and remedies under this Lease except as expressly provided in this Lease. If this Lease terminates and the New Lease Option Period has expired without any Leasehold Mortgagee requesting a New Lease, then the obligations formerly secured by the Leasehold Mortgage shall be unsecured. Upon a Foreclosure Event under a Leasehold Mortgage, the Leasehold Mortgagee or Successor Lessee shall succeed only to the Leasehold Estate. Any Foreclosure Event under a Leasehold Mortgage shall not extinguish, terminate, or otherwise adversely affect the County’s fee estate (subject to this Lease) or the rights of any fee mortgagees as against the County or its fee estate (which shall in all events, except termination of this Lease, remain subject to this Lease).

#### Leasehold Mortgagee’s Representative. Any Leasehold Mortgagee may exercise its rights (including all Mortgagee Protections and the benefit thereof) under this Lease, or perform any action permitted to be taken by a Leasehold Mortgagee, through a Leasehold Mortgagee’s Representative.

#### Interaction Between Lease and Leasehold Mortgage. A Leasehold Mortgagee may, by notice to the County, temporarily or permanently waive any Mortgagee Protections as specified in such notice. Any such waiver shall be effective in accordance with its terms as against such Leasehold Mortgagee and its successors and assigns. Any such waiver shall not bind any subsequent Leasehold Mortgagee under a subsequent Leasehold Mortgage granted by Lessee. Lessee’s default as mortgagor under a Leasehold Mortgage shall not constitute an Event of Default under this Lease except to the extent that Lessee’s acts or omissions, in and of themselves, constitute an Event of Default under this Lease.

#### Fee Mortgages. Any mortgage, deed of trust, or other security instrument, including, without limitation, an assignment of the rents, issues and profits, constituting a lien on the Fee Estate (each, a “Fee Mortgage”) shall be subject and subordinate to, and shall not attach to: (1) this Lease and the Leasehold Estate (whether held by Lessee, a Successor Lessee, or a New Lessee); (2) any New Lease and the Leasehold Estate thereunder; (3) any judgment arising from the County’s breach of this Lease; (4) any estate (including a subleasehold and a leasehold mortgagee estate) directly or indirectly arising from this Lease or any New Lease or the Leasehold Estate under either (so long as this Lease or such New Lease has not been terminated in accordance with its terms and in compliance with all rights of Leasehold Mortgages); (5) Lessee’s or New Lessee’s and any Leasehold Mortgagee’s rights and remedies under this Lease; and (6) any rights of a Leasehold Mortgagee with respect to the Leasehold Estate. Any holder of a Fee Mortgage (each, a “Fee Mortgagee,”), and in the event of a foreclosure of a Fee Mortgage or delivery of a deed in lieu of such foreclosure, the Fee Mortgagee or grantee or successful bidder at the foreclosure sale, shall succeed only to the Fee Estate, subject to items “1” through “6”.

#### Conflicts Among Mortgagees. If more than one Mortgagee desires to exercise any Mortgagee Protection, then the party against whom such Mortgagee Protection is to be exercised shall be required to recognize either: (1) only the Fee Mortgagee or Leasehold Mortgagee, as applicable, that desires to exercise such Mortgagee Protection and whose Fee Mortgage or Leasehold Mortgage, as applicable, is most senior in lien (as against other Mortgages of like type) or (2) such other Fee Mortgagee or Leasehold Mortgagee, as applicable, as has been designated in writing by all Fee Mortgagees or all Leasehold Mortgagees, as applicable, to exercise such Mortgagee Protection. Priority of Mortgages shall be conclusively evidenced by (in order of precedence of application): (x) written agreement among the affected Mortgagees; (y) a report or certificate of a title insurance company licensed to do business in the State; or (z) joint written instructions of all Mortgagees (Fee or Leasehold, as applicable). Neither Lessee nor the County shall be obligated to determine the relative priorities of any Mortgages. With respect to any Mortgagee Protections that by their nature can only be exercised by the most senior of the Leasehold Mortgagees (such as the right to a New Lease), pending the determination of priority, any time period that applies to Leasehold Mortgagees’ exercise of such Mortgagee Protections shall be tolled, provided that such tolling shall not (a) extend for more than 60 days or (b) apply to any other Mortgagee Protections.

#### No Merger. Without the written consent of the County, Lessee, Leasehold Mortgagees, and Investor Limited Partner, the Fee Estate and the Leasehold Estate shall remain distinct and separate estates and shall not merge, notwithstanding the acquisition of both the Fee Estate and the Leasehold Estate by the County, Lessee, a New Lessee, any Leasehold Mortgagee, or a third party, whether by purchase or otherwise.

#### Collection of Subrent. If, pursuant to the Lease, the County collects any subrent from any subtenant, then after the County has applied such subrent only to pay any Rent then due under this Lease, the County shall remit to Leasehold Mortgagee, and not to Lessee, any remaining subrent. Lessee hereby directs the County accordingly. Leasehold Mortgagee shall apply any such subrent in compliance with its Leasehold Mortgage or the documents secured by such Leasehold Mortgage.

### County and Lessee shall, in accordance with applicable Law and County’s standard procedures, cooperate in including in this Lease by suitable amendment from time to time, any provision which may be reasonably requested by any Leasehold Mortgagee or Investor Limited Partner which is reasonably necessary for financing the construction or operation of the Improvements on commercially reasonable terms or for implementing the provisions of this Article 15; provided, however, that any such amendment shall not in any way affect the Term, Rent, or any compensation to be paid to County under this Lease, nor have any substantial adverse impact on any rights of County under this Lease, as determined by the Director, and the Lessee shall pay or reimburse County for all costs and expenses incurred by it in connection with any such amendment, including reasonable attorneys’ fees.

### County and Lessee agree to execute, acknowledge, and deliver to any approved Leasehold Mortgagee and Investor Limited Partner, an agreement in form reasonably acceptable to County prepared at the sole expense of Lessee, reaffirming the applicability of the provisions of this Article 15 to a particular Leasehold Mortgage, and the Lessee shall pay or reimburse County for all costs and expenses incurred by it in connection with any such amendment, including reasonable attorneys’ fees. Any such amendment may be approved and authorized by the County’s Lease Administrator.

### County also agrees to execute the lease rider required by the California Tax Credit Allocation Committee in connection with any low-income housing tax credit financing used in connection with the Improvements, subject County’s reasonable review and modification as needed to accurately reflect the terms of this Lease and the Project. County further agrees to execute State of California Department of Housing and Community Development (“HCD”) documents as typically required of lessors by HCD under HCD’s statutes, regulations, and published policies and guidelines in connection with HCD’s affordable housing finance programs, subject County’s reasonable review and modification as needed to accurately reflect the terms of this Lease and the Project.

## Obligations of Lessee

. Nothing contained in this Lease or in any Leasehold Mortgage shall be deemed or construed to relieve Lessee from the obligation of full and faithful observance and performance of its covenants, conditions, and agreements contained in this Lease, or from any liability for the non-observance or non-performance thereof, or to require or provide for the subordination to the lien of such Leasehold Mortgage of any estate, right, title or interest of County in or to the Premises or this Lease.

## County’s Lien Waivers

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### As to Lessee. From and after the Commencement Date, Lessee shall have the absolute right from time to time during the Lease Term and without County’s further approval, written or otherwise, to grant and assign a mortgage or other security interest in all of Lessee’s furniture, trade fixtures (excluding Fixtures), equipment, inventory and other personal property (“Lessee’s Personal Property”) to a Leasehold Mortgagee in connection with a Leasehold Mortgage. County agrees, upon reimbursement for all of its costs and expenses including reasonable attorney’s fees, to execute such confirmation, certificates, and other documents as a Leasehold Mortgagee may reasonably request (with such conditions as County may reasonably impose) in connection with a Leasehold Mortgage, including subordination of any claims arising by way of any County lien against Lessee’s Personal Property (whether created by statute, contract or otherwise), subject to County’s reasonable review and approval.

### As to Space Lessees. On request, County shall execute and deliver to subtenants of any non-residential space (“Space Lessees”), upon reimbursement for all of County’s costs and expenses including reasonable attorney’s fees, a County waiver and consent for the benefit of lenders to the Space Lessees, pursuant to which County consents to the installation of furniture, trade fixtures, equipment, inventory and other Personal Property (“Space Lessee’s Personal Property”) in the Space Lessee’s premises, subordinates any lien or security interest in any of the Space Lessee’s Personal Property, agrees to allow the Space Lessee’s lender access to its subleased premises in order to remove the Space Lessee’s Personal Property therefrom or otherwise realize on its security interest in such property from the subleased premises, and to provide County, the Space Lessee, and its lender with such other protections as are reasonably appropriate under the circumstances. County shall have the right to approve the form of County waiver and consent, which approval shall not be unreasonably withheld, conditioned or delayed, provided that no provision of the waiver and consent shall have any material adverse impact on the County’s interests. The Space Lessee’s Personal Property shall not include equipment or machinery constituting real estate fixtures or such equipment or machinery which is necessary to the operation of the premises of any lessee under a Space Lease. Any right to remove the Space Lessee’s Personal Property shall be subject to the requirement that the lender repair and restore, at lender’s expense, any damage to the Improvements resulting from such removal to County’s reasonable satisfaction.

# DEFAULTS BY LESSEE; COUNTY’S REMEDIES

## Events of Default

. The occurrence of any of the following shall be an “Event of Default” under this Lease:

1. Lessee fails to pay any Rent, Additional Rent, or any other payment required under this Lease within five (5) business days after notice that the payment was not received when due;
2. Lessee fails to perform any other obligation to County under this Lease and this failure continues for sixty (60) days after written notice from County, except that if Lessee begins to cure its failure within the sixty (60) day period but by its nature the failure cannot be cured within such period, then, so long as Lessee continues to diligently, continuously, and in good faith works to cure its failure, the sixty (60) day period shall be extended for a period as is reasonably necessary to complete the cure, but not to exceed a maximum of one hundred and twenty (120) days;
3. Lessee commences any proceeding under any law relating to bankruptcy, insolvency, reorganization or relief of debts, or seeks appointment of a receiver, trustee, custodian or other similar official for Lessee or for any substantial part of its property, or any such proceeding is commenced against Lessee, and either continues for a period exceeding sixty (60) days or results in the entry of an order for relief against Lessee which is not fully stayed within sixty (60) days after entry;
4. Lessee becomes insolvent or bankrupt, does not generally pay its debts as they become due, or admits in writing its inability to pay its debts, or makes a general assignment for the benefit of creditors;
5. Any third party initiates any process to obtain a levy or attachment or otherwise seize all or any portion of the Leasehold Estate, the Improvements, Fixtures, or Lessee’s Personal Property, which is not reversed, released, or stayed within thirty (30) days.

## Remedies

. Upon the occurrence and continuance of an Event of Default past applicable notice and cure periods, in addition to all remedies available at law or in equity, without limitation, County shall have the right, without further notice or demand of any kind to Lessee or any other person, to terminate this Lease, and terminate Lessee’s right of possession, in which case this Lease shall terminate, and Lessee shall immediately surrender possession of the Premises to County and have no further claim on the Premises and Improvements under this Lease. Immediately following such termination, County shall have the right to reenter and take possession of the Premises and Improvements. Upon an Event of Default, County shall be entitled to recover from Lessee all damages incurred by County by reason of Lessee’s default, including without limitation thereto, the following: (i) the worth at the time of award of any unpaid Rent, and Additional Rent which had been earned at the time of such termination; plus (ii) the worth at the time of award of the amount by which the unpaid Rent, and Additional Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that is proved could have been reasonably avoided; plus (iii) the worth at the time of award of the amount by which the unpaid Rent and Additional Rent for the balance of the Lease Term after the time of award exceeds the amount of such rental loss that is proved could have been reasonably avoided; plus (iv) any other amount necessary to compensate County for all the damages proximately caused by Lessee’s failure to perform its obligations under this Lease or which in the ordinary course of events would be likely to result therefrom, including, without limitation, costs of reletting, completing and maintaining the Improvements, leasing commissions, cost of repairs, renovation or demolition of the Improvements and all other costs of returning the Premises to a marketable condition; plus (v) all attorneys’ fees and costs incurred by County in retaking the Premises and collecting amounts due from Lessee; plus (vi) at County’s election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law. As used in (i) above, the “worth at the time of award” is computed using an interest rate at the maximum rate allowed by State of California law. In addition to all other remedies, the County has the remedy described in State of California Civil Code Section 1951.4: “County may continue lease in effect after Lessee’s breach and abandonment and recover Rent or Additional Rent as it becomes due, if Lessee has right to sublet or assign, subject only to reasonable limitations.”

## County’s Remedies Cumulative

. All of County’s remedies under this Lease shall be in addition to all other remedies County may have at law or in equity. Waiver by County of any breach of any obligation by Lessee shall be effective only if it is in writing, and shall not be deemed a waiver of any other breach, or any subsequent breach of the same obligation. County’s acceptance of payment by Lessee shall not constitute a waiver of any breach by Lessee except for any breach with respect to the payment so accepted. County may advance such monies and take such other actions for Lessee’s account as reasonably may be required to cure or mitigate any default by Lessee. Lessee shall immediately reimburse County for any such advance, and such sums shall bear interest at the default interest rate until paid.

## No Punitive or Consequential Damages

. Neither County nor Lessee shall be entitled to any punitive, special, indirect, collateral, or consequential damage award against the other party in any action or proceeding arising out of or related to this Lease or for any lost profits suffered or claimed to be suffered.

## Interest

. Any amounts, other than Rent or Additional Rent, due from Lessee under the provisions of this Lease which are not paid when due shall bear interest at the rate of four percent (4.0%) over the discount rate charged from time to time by the Federal Reserve Bank of San Francisco, but not to exceed the maximum rate which County is permitted by law to charge.

## Request for Information

. Within ten business (10) days after County’s request, Lessee shall provide County, any financial, legal and business information concerning any of the matters addressed in this Article 16.

# DEFAULTS BY COUNTY; REMEDIES

If County neglects or fails to perform or observe any of the terms, covenants, or conditions of this Lease on its part to be performed or observed within sixty (60) days after written notice of default or, when more than sixty (60) days is required because of the nature of the default, and County fails to proceed diligently to cure the default after written notice of the default, then Lessee may sue for specific performance and County shall be liable to Lessee for any and all damages sustained by Lessee as a result of County’s breach; provided, however, that: (i) any money judgment resulting from any default or other claim arising under this Lease shall be satisfied only out of the current rents, issues, profits and other income County receives from its operation of Premises, net of all current operating expenses, liabilities, reserves and debt service associated with the operation of the Premises (for purposes of this Article 17 only, “Net Income”), (ii) no other real, personal or mixed property of County, wherever located, shall be subject to levy on any judgment obtained against County, (iii) if the Net Income is insufficient to satisfy the judgment, Lessee will not institute any further action, suit, claim or demand, in law or in equity, against County for or on the account of the deficiency, and (iv) the neglect or failure shall not constitute consent by County for Lessee to perform or observe the terms, covenants or conditions of this Lease at County’s expense. Lessee waives, to the extent permitted under law, any right to satisfy any money judgment against County except from Net Income.

# ABANDONMENT

Subject to Force Majeure, the Casualty provisions of Article 19, and the Condemnation provisions of Article 20, Lessee shall not vacate or abandon the Premises and Improvements at any time during the term of this Lease nor permit the Premises to remain unoccupied for a period of longer than five (5) consecutive days during the term of this Lease. If Lessee abandons, vacates or surrenders the Premises, or is dispossessed by process of law, or otherwise, any Personal Property or Fixtures belonging to Lessee and left on the Premises shall, at the option of County, be deemed abandoned. County may dispose of any Personal Property and Fixtures deemed abandoned in any manner provided by State of California law and is relieved of all liability for disposing any Personal Property or Fixtures. These provisions shall not apply if the Premises are closed and business temporarily discontinued due to a Force Majeure event as defined in Section 29.10 of this Lease.

# DAMAGE OR DESTRUCTION

## Damage and Restoration

. Subject to the provisions of Section 19.5, if, at any time after the Commencement Date and during the Term, all or any part of the Premises or Improvements are damaged or destroyed by any cause (“Casualty”), Lessee shall, at Lessee’s sole expense, repair, restore and reconstruct the Premises and Improvements to substantially the same condition that existed immediately prior to the Casualty in substantial conformance with the Final Plans (as may be modified pursuant to this Lease), subject to any changes necessary to comply with then applicable Laws and with any upgrades or improvements proposed by Lessee and reasonably approved by County. All such work shall be promptly constructed in a good and workmanlike manner according to and in conformance with all Laws and the requirements of this Lease.

## Rent Abatement

. There shall be no rent abatement, allowance, reduction, or suspension of any Rent or Additional Rent because of any Casualty.

## Application of Insurance Proceeds

. In the event of a Casualty, all insurance proceeds shall be applied first to fully repair, restore, and reconstruct the Premises and Improvements, and any insurance proceeds remaining after completion of all such repair, restoration, and reconstruction in accordance with this Lease, including resolution of any mechanics liens in accordance with Article 7, shall be paid to Lessee, or the Leasehold Mortgagee as required under the Leasehold Mortgage. If the insurance proceeds are insufficient to pay all costs to fully repair, restore, and reconstruct the Premises and Improvements as required under this Lease, Lessee shall pay the deficiency and shall proceed to complete the repair, restoration and reconstruction of the Premises and Improvements and pay the cost of completing the repair, restoration and reconstruction, or shall be in default under this Lease.

## Exclusive Remedies

. Notwithstanding any Casualty, Lessee shall not be released from any of its obligations under this Lease, except to the extent and upon the conditions expressly stated in this Article 19. County and Lessee expressly waive the provisions of State of California Civil Code Sections 1932(2) and 1933(4) with respect to any damage or destruction of the Premises and Improvements and agree that their rights shall be exclusively governed by the provisions of this Article 19.

## Exceptions to Repair and Reconstruction Requirement

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### Last Five Years of Term. If a Casualty occurs during the final five (5) years of the Term, and if such damage or destruction cannot be substantially repaired within one (1) year from the date of such damage or destruction, subject to the rights of the Leasehold Mortgagee, County or Lessee may elect to terminate this Lease by written notice delivered to the other within sixty (60) days. If Lessee or County elects to terminate this Lease under this Section 19.5.1, Lessee shall promptly perform or complete all of the following, and the Lease shall terminate upon Lessee’s performance or completion of all of the following: (i) complete Restoration (defined in Section 3.3) of the Premises, (ii) pay to the County the one-time amount equal to the Rent for lesser of three (3) Lease Years or what would have been the remainder of the Term without the termination, (iii) following completion of Restoration, deliver possession of the Premises to County and quitclaim all right, title, and interest in and to the Premises, and (v) cause to be discharged all liens and encumbrances on the Premises resulting from any act or omission of Lessee. If Lessee or County elects to terminate the Lease under this Section 19.5.1, Lessee shall not be entitled to recover any sums from County, including but not limited to any lost profit, business opportunity or administrative or legal expenses as a result of termination of the Lease pursuant to this Section. If neither Lessee or County elects to terminate the Lease under this Section, Tenant shall repair, restore and reconstruct the Premises and Improvements in accordance with Section 19.1, then Lessee shall at Lessee’s sole expense, repair, restore and reconstruct the Premises and Improvements.

### Insurance Proceeds Deficiency. If the cost of repair or reconstruction following a Casualty exceeds the available insurance proceeds by more than ten percent (10%), Lessee may elect to terminate the Lease, subject to and following performance of all of the following by Lessee: (i) completion of Restoration (defined in Section 3.3), (ii) payment to the County of a one-time amount equal to the Rent for three (3) Lease Years, (iii) following completion of Restoration, delivery of possession of the Premises to County and quitclaim all right, title, and interest in and to the Premises, and (v) discharge of all liens and encumbrances on the Premises resulting from any act or omission of Lessee.

### Application of Insurance Proceeds. If County or Lessee elect to terminate the Lease under Section 19.5.1, or if Lessee elects to terminate the Lease under Section 19.5.3, Tenant shall use as much of the available insurance proceeds as is necessary to complete Restoration (defined in Section 3.3). Tenant’s duties of Restoration under Sections 19.5.1 and 19.5.3 is not contingent upon the availability of insurance proceeds; however, all insurance proceeds sufficient to complete Restoration shall be made available to Lessee by the Eligible Independent Trustee. The remainder of the insurance proceeds following completion of Restoration shall be used first to pay off any amounts still owing under the Leasehold Mortgage, and next to pay to the County the applicable required payment under Sections 19.5.1 and 19.5.3, and finally to Lessee.

### Leasehold Mortgagee Application of Insurance Proceeds. Leasehold Mortgagee Application of Insurance Proceeds. Any provision of this Lease to the contrary notwithstanding, Leasehold Mortgagee may apply insurance proceeds to retire the Leasehold Mortgage obligations, subject to an amount of the such proceeds sufficient to either (a) complete Restoration or (b) repair, restore, and reconstruct the Premises and Improvements in accordance with Section 19.1 (“Repair”) first being deposited in a separate account with an Eligible Independent Trustee approved by County and Lessee, to be held in trust and disbursed only for Repair or Restoration in accordance with this Section. If Leasehold Mortgagee elects to apply insurance proceeds to retire the Leasehold Mortgage obligations under this Section, then Lessee shall elect within one hundred twenty (120) days after the Casualty to either complete Restoration or Repair, and before any Casualty insurance proceeds are applied to any Leasehold Mortgage obligations, a sufficient amount of the Casualty insurance proceeds shall be deposited with the Eligible Independent Trustee to complete the Restoration or Repair (the “Escrowed Proceeds”). The amount of the Escrowed Proceeds shall be determined by a qualified independent engineering consultant, which consultant shall be subject to County’s reasonable approval. If Lessee elects to perform the Restoration under this Section, then this Lease shall terminate upon the satisfaction of the conditions set forth in Section 19.5.1 for Lease termination. Any provision of this Lease or any Leasehold Mortgage to the contrary notwithstanding, no Casualty insurance proceeds shall be applied to any Leasehold Mortgage obligation except in strict compliance with this Section.

### No Rent Abatement. There shall be no abatement or reduction in Construction, Rent, or Additional Rent during the time from the occurrence of the Casualty until the date of termination of the Lease following completion of all conditions for termination of the Lease under Section 19.5.1 or 19.5.3.

# CONDEMNATION

## Termination for Total Condemnation

. If all of the Premises is taken under eminent domain or inverse condemnation (collectively, “Condemnation”) by a party other than County, or, if less than all of the Premises is taken under Condemnation, and Lessee reasonably determines the remainder of the Premises not taken is unsuitable for the purposes permitted by the Lease (“Constructive Total Condemnation”), then Lessee may, with the consent of the Leasehold Mortgagee, terminate this Lease as of the date of the taking by delivery of written notice of the election within sixty (60) business days after the party has been notified of the taking.

## Continuation of Lease After Partial Taking

. If a partial taking of the Premises occurs and this Lease is not terminated by County or Lessee under Section 20.1, this Lease shall remain in full force and effect as to any portion of the Premises remaining, and: (1) this Lease will no longer be in effect as of the date of the taking for the portion of the Premises taken by the public entity; (2) the Condemnation proceeds shall be allocated and disbursed in accordance with Section 20.3; (3) At its sole expense, and regardless of whether Condemnation award proceeds are sufficient to cover costs of restoration, Lessee shall restore the remaining portion of the Premises to create a reasonably sound and economically feasible architectural unit substantially suitable for the purposes for which they were used immediately before the taking, using good workmanship and new first-class materials, in accordance with the requirements of Article 9 and Article 10 of this Lease.

## Awards

. Subject to the condition that the amount of Condemnation proceeds paid to the Leasehold Mortgagee must not be less than the total award minus the value of the County’s interest in the Premises or portion of the Premises under the Lease (as set forth in Section 20.3.1 below) that was taken pursuant to the Condemnation, any Condemnation proceeds shall be applied first to the actual out-of-pocket costs incurred by County and Lessee in the Condemnation proceedings, and then allocated as follows.

### Total Condemnation

. In the event of a total Condemnation, the Condemnation proceeds, after payment of the costs of the Condemnation proceedings for County, Lessee, and Leasehold Mortgagee, shall be allocated as follows:

#### First, County shall receive the fair market value the land constituting the Premises, considered as unimproved.

#### Second, the Leasehold Mortgage shall receive the amount of the portion of the proceeds attributable to Lessee’s interest in the Lease and Leasehold Estate required to be paid to the Leasehold Mortgagee under the terms of the Leasehold Mortgage.

#### Third, Lessee shall receive the value of Lessee’s interest in the Lease and the Leasehold Estate (inclusive of the value of the Improvements), minus the amount paid to the Leasehold Mortgagee under Section 20.3.1.5 (“Lessee’s Share”).

#### Fourth, a sum equal to County’s Remainder Share. Any remainder shall belong to the Lessee.

#### Partial Condemnation

. In the event of a partial Condemnation, the Condemnation proceeds, after payment of the costs of the Condemnation proceedings, shall be applied first to restoration of the Improvements and Premises in accordance with Section 20.2. After Lessee has completed and fully paid for the restoration, including satisfaction of any mechanic’s liens in accordance with Article 7, any remaining Condemnation award proceeds shall be paid first to County in an amount equal to the value of the portion of the Rent, and Additional Rent attributable to the portion of the Premises taken by the Condemnation, and then to Lessee or Leasehold Mortgagee as required under the Leasehold Mortgage.

#### Temporary Condemnation

. If the whole or any part of the Property is taken temporarily by Condemnation, then the Lease shall remain in full force and effect, there shall be no abatement or reduction in Rent or Additional Rent and Lessee shall be required to continue to make Rent and Additional Rent payments as required under the Lease, and the Lessee (or the Leasehold Mortgagee as required under the Leasehold Mortgage) shall receive the full amount of compensation awarded for the taking.

## Lessee’s Right to Separately Pursue Remedies

. Nothing this Article 20 shall limit Lessee’s right to separately pursue compensation or damages from the condemning public agency for lost revenues, business interruption, lost value of plans and permits, and moving and relocation expenses, Lessee shall be solely entitled to any such compensation for damages free and clear of any claim by County, provided, however, that no such claim or compensation shall in any way reduce the amount of any Condemnation award proceeds payable to County under this Article 20.

# SALE OR MORTGAGE BY COUNTY

## Sale or Mortgage

. County may at any time after the Commencement Date and receipt of building permits and commencement of vertical construction, without the consent of Lessee, sell, purchase, exchange, transfer, assign, lease, encumber or convey County’s interest in whole or in part, in this Lease, the Premises, the realty underlying the Premises and/or any portion of or interest in the realty or improvements on the Premises (collectively, “Sale”), provided that any seller or transferee expressly assumes this Lease and the documents evidencing and securing a mortgage or encumbrance include subordination and non-disturbance language ensuring the protection of the leasehold interest created by the Ground Lease, to the Lessee’s reasonable satisfaction, as well as language providing that a foreclosure or an uncured default under the mortgage or encumbrance will not result in an automatic termination of the Ground Lease.

## Assignment by County

. If County sells or otherwise transfers the Fee Estate, this Lease shall otherwise remain in full force and effect; provided, however, the purchaser or transferee of the Fee Estate shall expressly assume County’s rights and obligations hereunder which arise on or after the date of sale or transfer, and County shall thereupon be relieved of all liabilities hereunder accruing from and after the date of such transfer except for any liabilities arising from County’s rights or obligations not assumed by purchaser or transferee. County shall use good faith efforts to provide Lessee with (i) a minimum of thirty (30) days’ advance written notice of any planned sale or transfer of the Premises to a non-governmental entity, and (ii) to the extent permitted by applicable law, a minimum of sixty (60) days’ written notice in advance of any publication of a Request for Proposal relating to the County’s fee interest in the Premises.

## Release on Sale

. Upon the completion of a Sale in accordance with this Article 21, County shall be released from all liability toward Lessee and Lessee’s successors and assigns arising from this Lease because of any act, occurrence, or omission of County occurring after the Sale.

# INVESTOR LIMITED PARTNER RIGHTS

Whenever County delivers any notice hereunder, including without limitation any notice of default, County shall concurrently deliver a copy of such notice to the Investor Limited Partner in accordance with and at such address(es) set forth in Section 1.2 or at such other address(es) as have been previously delivered to County in writing in accordance with the Notice provisions of this Lease at the time such notice is given. County shall provide Investor Limited Partner an opportunity, at the Investor Limited Partner’s option, to cause the cure of such default within the cure periods set forth below, prior to exercising any remedies under the Lease. County agrees that the Investor Limited Partner will have ten (10) days after the Investor Limited Partner’s receipt of notice of such default to cure, or cause the cure of a monetary default under the Lease, and ninety (90) days after the Investor Limited Partner’s receipt of such notice to cure any non-monetary defaults under the Lease, or, as to non-monetary defaults, such longer period as is reasonably necessary for the Investor Limited Partner to cause cure, provided that cure is commenced within the above cure period and diligently prosecuted, including, without limitation, such time period as is necessary to remove Lessee’s general partner, if necessary in order to effect a cure. County agrees to accept cure by the Investor Limited Partner as if such cure were made by Lessee.

# SUBORDINATION; ATTORNMENT

## Subordination

. Without the necessity of any other document being executed and delivered by Lessee, this Lease is and shall be junior, subject and subordinate to any existing or future permits or approvals issued by the United States of America or any local, State of California or federal agency affecting the control or operation of the Premises. Lessee shall be bound by the terms and provisions of any permits or approvals. This Lease is and shall also be senior to all ground leases, mortgages, deeds of trust and other security instruments of any kind now covering the leasehold estate, or any portion of the leasehold estate.

## Attornment

. If any proceedings are brought for foreclosure, or if the exercise of the power of sale under any mortgage or deed of trust made by County covering the Premises that complies with the terms of this Lease occurs, Lessee shall attorn to the purchaser upon any foreclosure or sale of the Premises and recognize the purchaser as landlord under this Lease, and the purchaser shall be bound by all the terms and conditions of this Lease.

# COUNTY’S RIGHT OF ACCESS

County, its agents, employees, and contractors may enter the Premises and Improvements at any time in response to an emergency, and also at reasonable hours after reasonable prior written notice of not less than 48 hours to: (a) inspect the Premises and Improvements, (b) exhibit the Premises and Improvements to prospective purchasers or tenants, (c) determine, if it has reasonable cause to believe that Lessee is not in compliance, whether Lessee is complying with its obligations under this Lease (including its obligations with respect to compliance with Hazardous Materials Laws), (d) post notices of non-responsibility or similar notices, and (e) exercise rights under Section 2.3, if any. All work performed pursuant to this Article will be done as promptly as reasonably possible and all work and entry by the County pursuant to this Article shall be performed in a manner that does not unreasonably interfere with Lessee or any occupants or subtenants. Following completion of County’s entry under this Article, County shall promptly restore the Premises and Improvements to the same or better condition as existed prior to the County’s entry and promptly repair any damage to the Premises and Improvements caused by the County’s work or under this Article. Lessee waives any claim of injury or inconvenience to Lessee’s business, interference with Lessee’s business, loss of occupancy or quiet enjoyment of the Premises and Improvements, or any other loss caused by County’s entry onto the Premises pursuant to and in compliance with this Article.

# QUIET ENJOYMENT

Provided that Lessee is not in default under this Lease, Lessee shall peacefully and quietly have, hold and enjoy the Premises throughout the Term, without hindrance, ejection or molestation by County, or any person lawfully claiming through or under County.

# NOTICES

All notices, demands, requests or other communication required or permitted to be given or served under this Lease (“Notice” or “Notices”) shall be in writing, and (i) delivered in person to an officer or authorized representative of the other party, and if to Lessee, then also to any Leasehold Mortgagee, (ii) sent by United States Postal Service, certified or registered mail, postage prepaid, (iii) sent by courier delivery service, or (iv) delivered by electronic mail, with the original document subsequently delivered by United States Postal Service First Class Mail to the other party at the addresses specified in Section 1.2 of this Lease. Mailed Notices shall be deemed to have been given, delivered and received three (3) business days after the date the Notice is posted by the United States Postal Service. All other Notices shall be deemed given, delivered and received upon actual receipt. Either party may, by written notice delivered pursuant to this Section, at any time designate a different address to which Notices shall be sent.

# AFFIRMATIVE ACTION PROGRAM FOR VENDORS

During the Term, Lessee shall comply with the Affirmative Action Program for Vendors (as defined in the San Diego County Administrative Code Section 84 et seq.) pertaining to employment of disabled persons, as set forth in Article IIIK (commencing at Section 84) of the San Diego County Administrative Code, which is incorporated into this Lease by this reference. Lessee is informed that the County’s Affirmative Action Program for Vendors provides that its requirements shall not apply to any lessee, or subcontractor of a Lessee, who has a regular, paid workforce of less than fifteen (15) employees. In accordance with San Diego County Administrative Code Section 84.6, as an option for compliance with this Article 27, Lessee provide to the County Director of Purchasing and Contracting written certification that Lessee (i) has an Affirmative Action Program substantially consistent with the objectives of the County Affirmative Action Program for Vendors which is approved by an agency of the Federal Government, or (ii) is otherwise complying with all Federal or State disabled persons hiring requirements. A copy of this Affirmative Action Program will be furnished to Lessee by the County’s Lease Administrator upon Lessee’s request.

# WAIVER OF RELOCATION ASSISTANCE BENEFITS

Lessee is informed and acknowledges the following: By entering into this Lease and becoming a tenant of County, Lessee may become entitled to receipt of “relocation assistance benefits” (“Relocation Benefits”) pursuant to the Federal Uniform Relocation Assistance Act (42 U.S.C. Section 4601 et seq.) and/or the California Relocation Assistance Law (Cal. Government Code Section 7270 et seq.) (collectively, the “Relocation Statutes”), should County at some time make use of the Premises in such a way as to “displace” Lessee from the Premises. Pursuant to the Relocation Statutes, County may then become obligated to make payments to Lessee even where the displacement of Lessee does not otherwise constitute a breach or default by County of its obligations pursuant to this Lease. In consideration of County’s agreement to enter into this Lease, to the fullest extent permitted by law, Lessee waives any and all rights it may now have, or may subsequently obtain, to Relocation Benefits arising out of the County’s assertion or exercise of its contractual rights to terminate this Lease pursuant to its terms, whether or not the rights are contested by Lessee or any other entity, and releases County from any liability for payment of Relocation Benefits. Lessee does not waive its rights to Relocation Benefits to the extent that Lessee’s entitlement to Relocation Benefits may arise out of any condemnation or pre-condemnation actions taken by the County or any other public agency with respect to the Premises. Lessee shall in the future execute any further documentation of the release and waiver provided by this Article 28 as reasonably required by County.

# GENERAL PROVISIONS

## Authority

. Lessee represents and warrants that it has full power and authority to execute and fully perform its obligations under this Lease pursuant to its governing instruments, without the need for any further action, and that the person(s) executing this Lease on behalf of Lessee are the duly designated agents of Lessee and are authorized to act on behalf of Lessee.

## Brokers

. Lessee warrants that it has had no dealings with any real estate broker or agent in connection with the negotiation and/or execution of this Lease. If any broker other than the brokers acknowledged in writing by County make claim for monies owed, Lessee shall indemnify, defend and hold County harmless from the claim, which obligations shall survive the expiration or earlier termination of this Lease.

## Captions

. The captions, headings and table of contents appearing in this Lease are inserted for convenience only and in no way define, limit, construe, or describe the scope or intent of the provisions of this Lease.

## Approvals

. Except as otherwise expressly provided in this Lease, approvals required of County or Developer in this Agreement, including the attachments, shall not be unreasonably withheld, conditioned or delayed. All approvals shall be in writing. Except as otherwise expressly provided in this Lease, failure by either party to approve a matter within the time provided for approval of the matter shall not be deemed a disapproval, and failure by either party to disapprove a matter within the time provided for approval of the matter shall not be deemed an approval. Except as otherwise expressly provided in this Lease, approvals or consent required of County shall be deemed granted by the written approval of the County’s Lease Administrator in his or her discretion. Notwithstanding the foregoing, the County’s Lease Administrator may, in his or her sole discretion, refer to the governing body of County any item requiring County approval; otherwise, “County approval” or “County consent” means and refers to approval or consent by the County’s Lease Administrator.

## Business Days

. The term “business days” as used in this Lease means any calendar day other than a Saturday, Sunday or official County holiday.

## Cumulative Remedies

. If a default under this Lease occurs, each party’s remedies shall be limited to those remedies set forth in this Lease. The remedies under this Lease are cumulative and not exclusive of any other remedies under this Lease to which the non-defaulting party may be entitled.

## Exhibits

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

## Entire Agreement

. This Lease, together with all addenda, exhibits and riders attached to this Lease, and the DDA, constitute the entire agreement between County and Lessee with respect to the subject matter of this Lease, and all prior or contemporaneous agreements, understandings and representations, oral or written, are superseded.

## Estoppel Certificate

. Subject to payment of fees required under Section 15.10, County and Lessee shall, from time to time, within ten business (10) business days after request from the other party or from any Leasehold Mortgagee, investor, Space Lessee, or a holder or prospective holder of a Fee Mortgage or a purchaser or prospective purchaser of the fee interest in the Premises, execute and deliver to each other, to the applicable Leasehold Mortgagee or a holder or prospective holder of a Fee Mortgage or a purchaser or prospective purchaser of the fee interest in the Premises or to any person whom the requesting party may designate, an estoppel certificate consisting of statements, if true, that (a) this Lease is in full force and effect, with payment of rent and other charges hereunder being current through the date of the certificate (or stating the date through which rent and all other applicable charges hereunder have been paid); (b) this Lease has not been modified or amended (or setting forth all modifications and amendments); (c) to the best of such party’s knowledge and belief (based solely upon such party’s customary internal investigation undertaken with respect to similar requests, and without waiving any such default should it learn, subsequent to execution of such statement, that the other party was then in default), the other party is not then in default beyond any applicable notice, cure or grace period under this Lease; and (d) to the best of such party’s knowledge and belief (based solely upon such party’s customary internal investigation undertaken with respect to similar requests, and without waiving any such default should it learn, subsequent to execution of such statement, that the other party was then in default), such other factual statements as County, Lessee, Leasehold Mortgagee, prospective lender to either County or Lessee, Space Lessee, investor or purchaser from either County or Lessee, may reasonably request.

## Force Majeure

. If County or Lessee is prevented or delayed from performing any act or discharging any obligation under this Lease, except for the payment of Rent, Additional Rent, or other payment required under this Lease by Lessee, because of any and all causes beyond either party’s reasonable control, including but not limited to unusual delays in deliveries, abnormal adverse weather conditions, unavoidable Casualties, strikes, labor disputes, inability to obtain labor, materials or equipment, acts of God, governmental restrictions, regulations or controls, any hostile government actions, civil commotion and fire or other Casualty, legal actions attacking the validity of this Lease or the Lessee’s occupancy or use of the Premises, or any other Casualties beyond the reasonable control of either party except casualties resulting from Lessee’s negligent operation or maintenance of the Premises (“Force Majeure”), performance of the act shall be excused for the period of the delay, and the period for performance of the act shall be extended for a period equivalent to the period of the delay. Force Majeure shall not include any bankruptcy, insolvency, or financial inability or financial considerations of Lessee.

## Governing Law

. This Lease shall be governed, construed and enforced in accordance with the laws of the State of California.

## Interpretation

. The language of this Lease shall be construed simply according to its plain meaning and shall not be construed for or against either party.

## Joint and Several Liability

. If more than one person or entity executes this Lease as Lessee, each of them is jointly and severally liable for all of the obligations of Lessee under this Lease.

## Liquidated Damages

. Any payments by Lessee to County under this Lease described as liquidated damages represent the parties’ reasonable estimate of County’s actual damages under the described circumstances, the actual damages being uncertain and difficult to ascertain in light of the impossibility of foreseeing the state of the leasing market at the time of the various deadlines set forth in this Lease.

## Modification

. The provisions of this Lease may not be modified, except by a written instrument signed by County and Lessee.

## Partial Invalidity

. If any provision of this Lease is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected by the determination. Each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

## Payments

. Except as may otherwise be expressly stated in this Lease, each payment required to be made by Lessee shall be in addition to, and not a substitute for, other payments to be made by Lessee under this Lease.

## Successors and Assigns

. This Lease shall be binding on an inure to the benefit of County and Lessee and their successors and assigns, except as may otherwise be provided in this Lease.

## Time of Essence

. Time is of the essence of each and every provision of this Lease.

## Waiver

. No provision of this Lease or the breach of any provision of this Lease shall be deemed waived, except by written consent of the party against whom the waiver is claimed. The waiver by County of any breach of any term, covenant or condition contained in this Lease shall not be deemed to be a waiver of the term, covenant or condition of any subsequent breach of the term, covenant or condition, or of any other term, covenant or condition contained in this Lease. County’s subsequent acceptance of partial Rent or Additional Rent or performance by Lessee shall not be deemed to be an accord and satisfaction or a waiver of any preceding breach by Lessee of any term, covenant or condition of this Lease or of any right of County to a forfeiture of this Lease by reason of the breach, regardless of County’s knowledge of the preceding breach at the time of County’s acceptance. The failure on the part of County to require exact or full and complete compliance with any of the covenants, conditions of agreements of this Lease shall not be construed as in any manner changing or waiving the terms of this Lease or as estopping County from enforcing in full the provisions of this Lease. No custom or practice which may arise between County and Lessee in the course of administering this Lease shall be construed to waive, estop or in any way lessen County’s right to insist upon the full performance of, or compliance with, any term, covenant or condition of this Lease by Lessee, or construed to inhibit or prevent County’s exercise of its rights with respect to any default, dereliction or breach of this Lease by Lessee.

## Memorandum of Lease

. Concurrently with the execution of this Lease, the parties will execute a “Memorandum of Lease” in the form attached to this Lease as EXHIBIT “E” MEMORANDUM OF LEASE and cause it be recorded in the Official Records of the San Diego County Recorder.

## Counterparts

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

29.23 Electronic Signatures. The words “execution,” “signed,” “signature,” and words of like import shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall have the same legal effect and enforceability as a manually executed signature or the use of a paper-based record keeping system, to the extent provided for in the Uniform Electronic Transaction Act (“UETA”) Civil Code Section 1633.1 – 1633.17.Notwithstanding the foregoing, original signature(s) of the authorized representative(s) of each Party shall be required for each document to be recorded.

## Third Party Beneficiaries

. This Lease has been made and is made solely for the benefit of the County and the Lessee and their respective successors and permitted assigns, and, as to specific provisions setting forth rights for the Leasehold Mortgagee, any Leasehold Mortgage and, as to provisions setting forth specific rights for the Limited Partner, the Limited Partner. Nothing in this Lease is intended to confer any rights or remedies under or by reason of this Lease on any persons other than the parties to it, any Leasehold Mortgagee, Limited Partner, and their respective successors and permitted assigns. Nothing in this Lease is intended to relieve or discharge the obligation or liability of any third persons to any party to this Lease.

[signatures on following page]

**SIGNATURES**

County and Lessee have duly executed this Lease as of the day and year written below. The Lease shall be effective as of the date of its execution by the County’s Lease Administrator.

LESSEE:

[*insert signature block*]

COUNTY:

County of San Diego, a political subdivision of the State of California

|  |  |
| --- | --- |
| Dated: | By:  Marko Medved, P. E., CEM, Director Department of General Services |
|  |  |
|  |  |
| Approved as to form and legality: |  |
|  |  |
| Dated: | By:  Inna Zazulevskaya,  Senior Deputy County Counsel |