

DEED OF LEASE

between

FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY

as Landlord

and

[]

as Tenant

Premises:

Residences at Government Center II – 9 North

Government Center Parkway

Fairfax, Virginia

TABLE OF CONTENTS

RECITALS	7
ARTICLE 1 DEFINITIONS.....	7
ARTICLE 2 PREMISES AND TERM OF LEASE	17
Section 2.01. Premises.....	17
Section 2.02. Legal Description of the Land	17
Section 2.03. Term.....	17
Section 2.04. Use. During the Term	17
Section 2.05 Ownership of the Improvements.....	17
Section 2.06 Landlord’s Right to Terminate.....	18
ARTICLE 3 RENT	18
Section 3.03. Net Lease; Audit Rights.....	19
Section 3.05. Reimbursement of Expenses.....	19
ARTICLE 4 IMPOSITIONS	19
Section 4.01. Impositions.....	19
Section 4.02. Receipts.....	20
Section 4.03. Landlord’s Taxes.	20
Section 4.04. Impositions Beyond Term.....	20
Section 4.05. Tenant’s Contest.	21
Section 4.06. Contest Not Postpone Tenant’s Obligation.....	21
Section 4.07. Landlord Cooperation in Proceedings.	22
Section 4.08. Tax Bills.....	22
ARTICLE 5 DEPOSITS FOR IMPOSITIONS.....	22
Section 5.01. Impositions Subject to Deposit.....	22
Section 5.03. Rights of Mortgagee.	23
Section 5.04. Changes to Deposits to Impositions Account.	23
Section 5.05. Landlord’s Rights During an Event of Default.....	23
Section 5.06. Interest on Impositions Account.	24
ARTICLE 6 LATE CHARGES.....	24
ARTICLE 7 INSURANCE.....	24
Section 7.01. Required Insurance During the Term of the Lease.....	24

Section 7.02 Required Insurance During Construction Work.	26
Section 7.03. Additional Insurance Requirements.....	27
Section 7.04. Deposit of Insurance Premiums.	27
Section 7.05. Delivery of Certificates and Declaration Pages.	28
Section 7.06. Landlord’s Right to Procure Insurance.	28
ARTICLE 8 USE OF INSURANCE PROCEEDS.....	29
Section 8.01. Tenant’s Obligation to Restore.	29
Section 8.02. Restoration Approvals.	30
Section 8.04. Conditions Precedent to Disbursements.	31
Section 8.05. Major Casualty.....	33
Section 8.06. Deposit of Proceeds.	34
Section 8.07. No Abatement.	34
Section 8.08. As-Built Plans.	34
ARTICLE 9 CONDEMNATION	35
Section 9.01. Taking of All or Substantially All of Premises.....	35
Section 9.02. Date of Taking.	35
Section 9.03. Partial Taking: Tenant’s Obligation to Restore.	35
Section 9.05. Temporary Taking.	37
Section 9.06. Sale in Lieu of Condemnation.	38
Section 9.07. Participation in Proceedings.	38
Section 9.08. Claims for Personal Property.	38
ARTICLE 10 ASSIGNMENT, SUBLETTING, MORTGAGES, ETC.....	38
Section 10.01. Assignment; Subletting; Transfers.....	38
Section 10.02. Consent Limited to Transaction.....	42
Section 10.04. Leasehold Mortgages.	43
Section 10.05. Additional Mortgagee Requirement.	47
ARTICLE 11 INITIAL CONSTRUCTION OF THE PROJECT; RESTORATION; CAPITAL IMPROVEMENTS	49
Section 11.01. Initial Construction Work.	49
Section 11.02. Restoration – Construction Work in Excess of Ten Percent of the Replacement Value or That Would Affect the Exterior of any Building.	49
Section 11.03. Standards of Construction and Maintenance during Lease Term.	50
Section 11.04. Modification of Approved Plans and Specifications.	50
Section 11.05. Payment for Construction Work; Contested Matters.....	51
Section 11.06. Landlord’s Right to Use Field Personnel.....	51

Section 11.07. Commencement and Completion of all Construction Work.....	51
Section 11.08. Supervision of Architect.	52
Section 11.09. Capital Improvements.	52
Section 11.10. Submissions to Landlord for Capital Improvements.	53
Section 11.11. Completion of Construction Work.	53
Section 11.12. Construction Agreements.....	53
Section 11.13. Demolition of the Project.....	54
Section 11.14. Materials Incorporated in Project.....	54
ARTICLE 12 REPAIRS AND MAINTENANCE; CAPITAL RESERVE; PARKING.....	55
Section 12.01. Repairs.	55
Section 12.02 Capital Reserve.	56
Section 12.03. Maintenance Capital Reserve in the Event of a Transfer.	56
Section 12.04. Mortgagee and Reserves.	56
Section 12.05 Parking.....	57
Section 12.06. No Obligation on Landlord.....	57
ARTICLE 13 FIXTURES.....	57
Section 13.01. Property of Tenant.	57
Section 13.02. Maintenance, Repair and Replacement.....	57
ARTICLE 14 REQUIREMENTS OF PUBLIC AUTHORITIES AND OF INSURANCE UNDERWRITERS AND POLICIES	57
Section 14.01. Compliance with Applicable Laws.....	57
Section 14.02 Right to Contest.	58
Section 14.03. Environmental Requirements.....	58
ARTICLE 15 DISCHARGE OF LIENS; BONDS.....	59
Section 15.01. Creation of Liens.....	59
Section 15.02. Discharge of Liens.	60
Section 15.03. No Authority to Contract in Name of Landlord.....	60
ARTICLE 16 DELIVERY OF POSSESSION	61
ARTICLE 17 REPRESENTATIONS; POSSESSION	61
Section 17.01. As-Is Condition; No Representations.	61
Section 17.02. Delivery of Possession.....	61
Section 17.03. Tenant’s Representations.	61
ARTICLE 18 LANDLORD NOT LIABLE FOR INJURY OR DAMAGE, ETC.....	62
Section 18.01. No Liability for Injury.	62
Section 18.02. No Liability for Utility Failure.	62

Section 18.03. No Liability for Soil Conditions.	62
ARTICLE 19 INDEMNIFICATION OF LANDLORD AND OTHERS	62
Section 19.01. Indemnification.	62
Section 19.02. Not Affected by Insurance.	64
Section 19.03. Notice and Defense Process.	64
Section 19.04. Survival.	64
ARTICLE 20 LANDLORD’S RIGHT OF INSPECTION; RIGHT TO PERFORM TENANT’S COVENANTS.	64
Section 20.01. Landlord Right of Inspection.	64
Section 20.02. Landlord Right to Cure.	65
Section 20.03. Reimbursement of Landlord.	65
Section 20.04. No Duty on Landlord.	65
ARTICLE 21 [RESERVED]	66
ARTICLE 22 NO ABATEMENT OF BASE RENT OR ADDITIONAL COSTS.....	66
ARTICLE 23 NO UNLAWFUL OCCUPANCY	66
Section 23.01. No Unlawful Use.	66
Section 23.02. No Adverse Possession.	66
ARTICLE 24 EVENTS OF DEFAULT; CONDITIONAL LIMITATIONS, REMEDIES, ETC.	67
Section 24.01. Events of Default.	67
Section 24.02. Expiration and Termination of Lease.	68
Section 24.03. Effect of Termination.....	69
Section 24.04. Survival of Obligations.	69
Section 24.05. Tenant’s Waiver.....	69
Section 24.06. Leasing Default.....	70
Section 24.07. Bankruptcy Defaults and Remedies.....	71
Section 24.08. No Reinstatement.....	72
Section 24.09. Waiver of Notice of Re-Entry; Waiver of Jury Trial.....	72
Section 24.10. No Waiver by Landlord.	72
Section 24.11. Injunction.	73
Section 24.12. Rights Cumulative.	73
Section 24.13. Enforcement Costs.....	73
ARTICLE 25 NOTICES.....	73
Section 25.01. Notice Addresses.	73
Section 25.02. When Notices Deemed Given.....	74

Section 25.03. Notices to Mortgagees.	75
ARTICLE 26 OPERATION AND MANAGEMENT OF THE PROJECT; RESIDENTIAL UNITS; BOOKS AND RECORDS	75
Section 26.01. Property Manager.....	75
Section 26.06. Acts of Residential Tenants.	77
Section 26.07. Collection of Rental Payments from Residential Tenants.	77
Section 26.08. Record Keeping.	77
Section 26.09. Rent Roll.	78
ARTICLE 27 SUBORDINATION; LANDLORD MORTGAGES	78
Section 27.01. Lease Not Subordinate.	78
Section 27.02. Landlord Mortgage.	78
Section 27.03. No Impairment of Title.	78
Section 27.04. Easements.	78
ARTICLE 28 GUARANTY	79
ARTICLE 29 CERTIFICATES BY LANDLORD AND TENANT.....	79
Section 29.01. Tenant Estoppels.....	79
Section 29.02. Landlord Estoppels.	79
ARTICLE 30 CONSENTS AND APPROVALS	80
Section 30.01. Consent Not a Waiver.....	80
Section 30.02. Consent Not To Be Unreasonably Delayed.....	80
Section 30.03. Landlord Not Liable for Money Damages.....	80
ARTICLE 31 SURRENDER AT END OF TERM	80
Section 31.01. Surrender at End of Term.	80
Section 31.02. Delivery of Residential Leases and Other Agreements.	81
Section 31.03. Abandonment of Property.....	81
Section 31.04. Survival.	81
ARTICLE 32 ENTIRE AGREEMENT	81
ARTICLE 33 QUIET ENJOYMENT.....	82
ARTICLE 34 DISPUTE RESOLUTION	82
Section 34.01. Mediation.	82
Section 34.02. Discovery.	82
Section 34.03. Non-Binding Presumption.	82
Section 34.04. Judicial Proceedings.....	83
ARTICLE 35 INVALIDITY OF CERTAIN PROVISIONS	83
ARTICLE 36 RECORDING OF MEMORANDUM	83

ARTICLE 37 MISCELLANEOUS	83
Section 37.01. Captions.	83
Section 37.02. Table of Contents.....	83
Section 37.03. Pronouns.	83
Section 37.04. Depository Charges.....	84
Section 37.05. More than One Entity.....	84
Section 37.06. Limitation of Liability.....	84
Section 37.07. No Merger.....	85
Section 37.08. Refuse.	85
Section 37.09. No Brokers.....	85
Section 37.10. Amendments in Writing.....	85
Section 37.11. Governing Law.	85
Section 37.12. Successors and Assigns.....	85
Section 37.13. Sections.....	85
Section 37.14. Plans Specifications.	85
Section 37.15. Licensed Professionals.....	86
Section 37.16. Matters Effecting Title to Premises.	86
Section 37.17. No Joint Venture.	86
Section 37.18. Tax Benefits.....	86
Section 37.19. Waiver of Jury Trial.....	86
Section 37.20. Submission Not an Offer.	86
ARTICLE 38 TAX CREDIT SYNDICATION.....	86
Section 38.01. Agreement of Landlord to Cooperate with Syndication of Tax Credits.	86
Section 38.02. Severance Leases.	Error! Bookmark not defined.

List of Exhibits

Exhibit A – Legal Description of Land [to be attached once finalized by title company]

Exhibit B – Project Description [to be attached upon completion]

Exhibit C – List of Plans and Specifications [to be attached upon completion]

Exhibit D – Project Schedule [to be attached upon determination]

Exhibit E - Title Exceptions [to be attached upon determination]

Exhibit F – Form of Guaranty

Exhibit G – Approval Criteria for Residential Leases and Residential Tenants

Exhibit H – Cash Flow Definition

DEED OF LEASE

This DEED OF LEASE (this “Lease”) made as of the _____ day of _____, 202__ (“Commencement Date”) between FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY, a political subdivision of the Commonwealth of Virginia (“Landlord”) as the owner of certain land described below in Fairfax County, Virginia, and [_____, a [_____]], or its permitted assignee (“Tenant”).

RECITALS

A. Landlord is the legal owner of certain real property identified as Fairfax County Tax Map No. 56-1 ((15)), parcel 14B and located on Government Center Parkway, and as further identified on Exhibit A attached hereto (the “Land”) and intends to use the real property for the purpose provided for in this Lease, together with any and all Buildings (as defined below) and other Improvements (defined below) on the Land and with all necessary, appurtenant easements and any and all density and development rights related to the Land (together with the Land, the “Premises”).

B. Landlord and Tenant entered into a Contract to Ground Lease dated _____, 2023 (the “Contract to Lease”), in which Landlord and Tenant agreed that, upon satisfaction of certain conditions precedent, Landlord and Tenant will enter into this Lease.

C. Landlord desires to lease to Tenant and Tenant desires to Lease from Landlord the Premises, in accordance with the terms and conditions of this Lease.

THEREFORE, Landlord and Tenant hereby mutually covenant and agree, in consideration of the mutual covenants set forth below (including, without limitation the covenant to pay Base Rent hereunder), that this Lease is made upon the terms, covenants and conditions hereinafter set forth.

ARTICLE 1

DEFINITIONS

The terms defined in this Article 1 will, for all purposes of this Lease, have the following meanings.

“Additional Costs” consist of all other sums of money besides Base Rent, including without limitation, payments of Impositions (if and as applicable), as may become due from and be payable by Tenant to Landlord under this Lease and which must be paid on or before the respective due dates of such sums, all costs, expenses and charges of every kind and nature (including, all public and private utilities and services, and any easement or agreement maintained for the benefit of the Premises) relating to the Premises and as required under this Lease (and

irrespective of whether paid directly to third parties (e.g. utility companies, taxing authorities, a Depository, etc.).

“Affiliate” means a Person that Controls, is Controlled by, or is under common Control with another Person. In the case of an individual, an Affiliate means and includes any individual who is a member of the immediate family (whether by birth or marriage) of a Person, including without limitation a spouse; a sibling of such individual or his spouse; a lineal descendant or ancestor of any of the foregoing or a trust for the benefit of any of the foregoing.

“Applicable Laws” means all applicable present and future federal, state, and local laws, rules, orders, ordinances, regulations, statutes, requirements, proffers, permits, consents, certificates, approvals, codes, and executive orders of all Governmental Authorities now existing or hereafter created, and of any and all of their departments and bureaus affecting or relating to Tenant or the Premises.

“Applicable Laws” has the meaning provided in Section 14.01.

“Appraiser” has the meaning set forth in Section 9.04(a).

“Approved Property Manager” has the meaning set forth in Section 26.01.

“Architect” means a registered architect engaged by Tenant from time to time as the primary design professional in respect of the particular item of Construction Work or other action for which the services of an Architect is required under any applicable provision of this Lease. It is acknowledged that in certain types of Construction Work or valuation of improvements the primary design professional for the item in question may actually be a licensed professional engineer rather than a registered architect and in any such cases the references to “Architect” herein will be deemed to refer to such licensed professional engineer as is engaged by Tenant as the primary design professional for the matter in question. The initial Architect is [].

“Bankruptcy Code” means Title 11 of the United States Code.

“Bankruptcy Default” has the meaning provided in Section 24.07.

“Base Rent” has the meaning provided in Section 3.01.

“Building(s)” means any building(s) erected on the Premises which are a part of the Project.

“Business Days” means any day which is not a Saturday, Sunday or a day observed as a holiday by Fairfax County, the Commonwealth of Virginia, or the federal government.

“Capital Improvements” has the meaning provided in Section 11.09.

“Certificate of Occupancy” means a Residential Use Permit or a non-Residential Use Permit, as applicable, issued by the Fairfax County Department of Planning and Development (or such other appropriate Governmental Authority) pursuant to Part 7, Section 18 of the Zoning Ordinance of Fairfax County, Virginia or successor agency or successor statute.

“Commencement Date” means the execution date of this Lease, as set forth in the first paragraph of this Lease.

“Commencement of Construction” means the date that the Initial Construction Work commences, as set forth on the Project Schedule.

“Comprehensive Agreement” means that certain Comprehensive Agreement” between Landlord and LACM VA, LLC, a Virginia limited liability company, dated _____, 2023.

“Construction Agreements” mean agreements to which Tenant is a party for Construction Work, rehabilitation, alteration, repair, replacement or demolition performed pursuant to this Lease.

“Construction Work” means any construction, rehabilitation or renovation work performed by or on behalf of Tenant under this Lease, including, without limitation, (a) alterations, capital repairs or replacements, (c) a Restoration, or (d) Capital Improvements.

“Consumer Price Index” means the Consumer Price Index for all Urban Consumers Washington–Baltimore, DC–MD–VA–WV – all Items (1996=100), published by the United States Department of Labor, Bureau of Labor Statistics, or any successor index, appropriately adjusted; provided, that if there is no successor index, a substitute index or the appropriate adjustment of such successor index, as the case may be, will be determined by Landlord, in its reasonable discretion.

“Control/Controlled/Controlling” means, as applicable, (i) ownership of more than fifty percent (50%) of the outstanding voting stock of a corporation; (ii) other majority equity and control interest of an entity which is not a corporation, or (iii) the possession of power to direct or cause the direction of the management and policy of such corporation or other entity, whether through the ownership of voting securities, by statute, according to the provisions of a contract or according to the organizational documents of the relevant entities.

“Counteroffer” has the meaning provided in Section 10.03(b).

“Depository” means a savings bank, a savings and loan association or a commercial bank or trust company that would qualify as an Institutional Lender, designated by Tenant and approved by Landlord, which approval will not be unreasonably withheld, to serve as Depository pursuant to this Lease. If Tenant fails to designate a Depository within ten Business Days after request of Landlord, Landlord will have the right to designate such Depository. If a Mortgage exists on the Lease, any Institutional Lender designated by the approved Mortgagee (including, without

limitation, the Mortgagee) as a Depository will be deemed approved by Landlord and Tenant hereunder.

“Due Date” means, with respect to an Imposition, the last date on which such Imposition can be paid without any fine, penalty, interest or cost being added thereto or imposed by law for the non-payment (except with respect to interest that may be applied to a balance paid in installments when such installment payments are permitted by the applicable Governmental Authority).

“Environmental Activity” has the meaning provided in Section 14.03.

“Event of Default” has the meaning provided in Section 24.01.

“Expiration Date” means (i) the Fixed Expiration Date or (ii) such earlier date upon which the term of this Lease will cease or be terminated as described in this Lease.

“Final Completion” means all of the following have occurred: (i) Substantial Completion of the Initial Construction Work, (ii) all “punch-list” items prepared in connection with satisfying the conditions to Substantial Completion of the Initial Construction Work have been completed or satisfied, (iii) (A) there are no existing mechanics’, laborers’ or materialmens’ liens or similar encumbrances related to the Initial Construction Work or (B) any existing mechanics’, laborers’ or materialmens’ liens or similar encumbrances on the Project are being contested by Tenant in accordance with the provisions of Section 15.02 of the Lease, and (iv) the applicable statutory lien periods provided in Section 43-4 of the Code of Virginia have expired.

“Final Completion Date” means a date, as set forth in the Project Schedule, attached hereto as Exhibit C, as such date may be postponed due to Unavoidable Delays as provided in this Lease.

“Fixed Expiration Date” means the day immediately preceding the 99th anniversary of the Commencement Date.

“Fixtures” mean all fixtures incorporated in the Premises, including, without limitation, all machinery, dynamos, boilers, heating and lighting equipment, pumps, tanks, motors, air conditioning compressors, pipes, conduits, fittings, ventilating and communications apparatus, elevators, escalators, antennas, computers, and sensors.

“Governmental Authority (Authorities)” means any of the following: the United States of America, the Commonwealth of Virginia, Fairfax County and any agency, department, commission, board, bureau, instrumentality or political subdivision of any of the foregoing, now existing or hereafter created, having lawful jurisdiction over the Premises or any portion thereof. The term Governmental Authority will also mean Landlord when acting in its governmental capacity but not in its proprietary capacity.

“Gross Project Revenue” means, for a given calendar year (or such other lesser period of time as may be applicable, e.g., upon a termination or expiration of this Lease, or upon a Permitted

Transfer), any and all gross rentals, receipts, fees, proceeds and amounts of any kind (and anything else of value) actually received on a cash basis, by or for the account of Tenant, from or in connection with, or directly or indirectly arising out of the Premises or any part thereof, including without limitation, (i) all amounts received in respect of the Residential Leases, (ii) payments to Tenant for electricity, air conditioning and cleaning, payments for providing goods or services of any kind, to the extent that the Tenant receives payment for such goods, services and utilities which is in excess of the costs paid by Tenant for such goods, services and utilities, and (iii) payments received by Tenant for concessions, licenses or agreements granted to third parties or Affiliates in connection with the providing of any such goods or services; but excluding proceeds received from (A) any capital contributions from a Tax Equity Investor; (B) any Mortgage; (C) insurance policies in response to a casualty, to the extent such proceeds are to be used for a Restoration (i.e., not business interruption or rental interruption insurance, which will be a part of Gross Project Revenue); (D) a condemnation; (E) a Transfer; (F) tenant security or other deposits (unless forfeited, funds released from reserves or interest on reserves not available for distribution; and (G) any other transaction the proceeds of which are considered to be capital in nature.

“Hazardous Materials” has the meaning provided in Section 14.03.

“Impositions” has the meaning provided in Section 4.01.

“Impositions Account” has the meaning provided in Section 5.01(a).

“Improvement Approvals” has the meaning provided in Section 11.09(a).

“Improvements” means the Buildings, Fixtures, structures, additions, enlargements, extensions, modifications, repairs, replacements, and improvements now located, or constructed, re-constructed, erected, placed, installed, or located on the Premises in the future until the Expiration Date.

“Indemnitees” has the meaning provided in Section 19.01.

“Initial Base Rent” has the meaning provided in Section 3.01(a).

“Initial Construction Work” means the initial design, development, and construction (including both materials and services) of the Project, which is identified in, and to be provided or performed under, and governed by this Lease.

“Institutional Lender” means a savings bank, a savings and loan association; a commercial bank or trust company (whether acting individually or in a fiduciary capacity); an insurance company organized and existing under the laws of the United States or any state thereof; a real estate investment trust; a religious, educational, or eleemosynary institution; a governmental agency, body or entity; an employee, benefit, pension, or retirement plan or fund; a commercial credit corporation; a commercial bank or trust company acting as trustee or fiduciary of various pension funds or other tax-exempt funds; any other entity that, in its ordinary course of business, is involved in the issuance or holding of mortgage loans secured by commercial or multifamily

development; or a corporation or other entity which is owned wholly by an Institutional Lender; or any combination of the foregoing; provided, that any of the above entities will qualify as an Institutional Lender within the provisions of this Section only if such entity will have (as of the time of the closing of a loan or other financing secured in whole or in part by this Lease) individual or combined assets, as the case may be, of not less than Two Billion Dollars, subject to an annual adjustment by taking the product of \$2,000,000,000 and multiplying by a fraction, the numerator of which will be the Consumer Price Index for first month of any calendar year in which this calculation is to be determined and the denominator of which will be the Consumer Price Index for the month in which the Commencement Date occurs; *provided however*, that the foregoing minimum combined asset requirement will not apply to any governmental agency Institutional Lender.

“Involuntary Rate” means the Prime Rate plus six percent per annum but, in no event, more than the maximum permissible interest rate then in effect in the Commonwealth of Virginia.

“Land” has the meaning set forth in the Recitals.

“Landlord” has the meaning set forth in the Preamble.

“Landlord’s Termination Rights” has the meaning provided in Section 10.04(f).

“Lease” will mean this Lease and all amendments, modifications, and supplements.

“Management Agreement” has the meaning provided in Section 26.01.

“Managing Member” means [].

“Mortgage” means any deed of trust, indenture, mortgage, or similar instrument which constitutes a lien on Tenant’s interest in this Lease and the leasehold estate created hereby, provided such mortgage is held by a Mortgagee, as defined in this Lease. A deed of trust, indenture, mortgage, or similar interest which is not held by a Mortgagee is not a “Mortgage” as such term is used in this Lease.

“Mortgagee” means the holder of a Mortgage on Tenant’s interest in the Lease and the leasehold estate created thereby, *provided however* that such holder: (i) is an Institutional Lender; or (ii) has been approved by Landlord prior to the entering into of such Mortgage, which consent will be in Landlord’s reasonable discretion. No holder of any deed of trust, indenture, mortgage, or similar instrument that constitutes a lien on Tenant’s interest in this Lease and the leasehold estate created hereby, but which is not a “Mortgage” hereunder, will be a “Mortgagee” as such term is used in this Lease nor will have the rights of a Mortgagee hereunder.

“Net Cash Flow” means, for a given calendar year (or such other lesser period of time as may be applicable, e.g., upon a termination or expiration of this Lease, or upon a Permitted Transfer), Gross Project Revenue minus Project Operating Expenses.

“New Lease” is defined in Section 10.06.

“New Tenant” has the meaning provided in Section 10.06.

“Notice” has the meaning provided in Section 25.01.

“Offer” has the meaning provided in Section 10.03(a).

“Offer Period” has the meaning provided in Section 10.03(a).

“Offer Terms” has the meaning provided in Section 10.03(a).

“Operating Agreement” means that certain [] between [], dated as of [].

“Outside Final Completion Date” means the date that is 270 days after the Final Completion Date, subject to Unavoidable Delays.

“Permitted Transfer” has the meaning provided in Section 10.01(g).

“Person” means an individual, corporation, partnership, joint venture, estate, trust, unincorporated association, any federal, state, County or municipal government or any bureau, department, or agency thereof.

“Plans and Specifications” means the completed final drawings and plans and specifications for the Initial Construction Work, a list of which is attached as Exhibit B which are prepared by an Architect, as the same may be modified from time to time in accordance with the provisions of Article 11.

“Premises” has the meaning set forth in the Recitals.

“Prime Rate” means the prime or base rate as published in the “money rates table of The Wall Street Journal, or if the Wall Street Journal is not available, its nearest equivalent publication, as reasonably determined by Landlord. Any interest payable under this Lease with reference to the Prime Rate will be adjusted on a daily basis, based upon the Prime Rate in effect at the time in question, and will be calculated on the basis of a 360-day year with twelve months of 30 days each.

“Proffers” means that certain Proffer Statement dated [] made in connection with [].

“Project” means (i) a portion of a Building erected on the Premises for the operation, maintenance, and management by Tenant of a low income/affordable residences facility on the Premises, which will include approximately [] Residential Units and the Service Hall, and (ii) structured and surface parking and related public areas, all as more particularly described in this Lease.

“Project Operating Expenses” means for a given calendar year (or such other lesser period of time as may be applicable, e.g., upon a termination or expiration of this Lease, or upon a Permitted Transfer), all cash operating expenses and unpaid expenses that are properly accrued of Tenant for the use, operation and management of the Premises, including without limitation, (i) all public and private utilities and services and any easement or agreement maintained for the benefit of the Premises; (ii) Impositions (whether paid directly or into an Impositions Account in accordance with this Lease); (iii) insurance required to be maintained by Tenant pursuant to Article 7 of this Lease; (iv) all amounts due to Mortgagees under Mortgages (other than in connection with the Housing Blueprint Loan), to the extent such amounts are not in duplication of other items that are Project Operating Expenses herein (e.g. Impositions); (v) all repairs and replacements required under this Lease (unless funded from a source not included in Gross Project Revenues); (vi) Capital Improvements (unless funded from a source not included in Gross Project Revenues); (vii) the greater of the Maintenance Capital Reserves contributions and any contributions to any reserves required by the Mortgagee; (viii) reasonable reserves for the Premises set aside by Tenant; (ix) management fees payable by Tenant related to the Approved Property Manager; (x) any reasonable third-party out-of-pocket audit, accounting and legal costs and fees incurred by Tenant; and (xi) the following expenditures as identified in Section [] of Tenant’s Operating Agreement: (A) any priority payments to a Tax Equity Investor for unsecured partner loans, fees, or other amounts due and owing; (B) replenishment of any Tax Equity Investor-required reserves; (C) payments to cash flow contingent lenders; (D) payments for Managing Member loans made to fund operating deficits or operating deficits; (E) payments for the deferred developer fee; (F) any social services fees due if required to pay for social services benefiting the residents of the Project; (G) payment of the amount required by the Internal Revenue Service, in connection with the Tax Credits, to be paid to the Investor; and (H) any other item that may be approved by Landlord in writing.

“Proposed Transfer Premises” has the meaning provided in Section 10.03.

“Replacement Value” will be deemed to be an amount equal to the costs of replacing the Improvements on the Property with new Improvements that contain the same number of Residential Units of substantially equal quality and character. Within ten Business Days after Final Completion, Tenant will deliver an estimate of or statement with respect to the Replacement Value prepared by the insurer(s) of the Project or another disinterested insurance provider. 60 days prior to the tenth anniversary of the date of Final Completion and each subsequent tenth anniversary thereafter for the Term of this Lease, Tenant will provide an estimate of or statement with respect to the Replacement Value prepared by the insurer(s) of the Project or another disinterested insurance provider. Such estimate will determine the current cost (including all hard and soft costs) of rebuilding the entire Project, without regard to depreciation of the Project, which amount will then be deemed to be the Replacement Value. The amount of Replacement Value will be adjusted on each anniversary of the initial determination of Replacement Value and of each subsequent decennial redetermination of Replacement Value throughout the Term by a percentage equal to the percentage change in the appropriate index in the Dodge Momentum Index (or such other published index of construction costs which will be selected from time to time by Landlord,

provided that such index will be a widely recognized measure of construction costs in the insurance industry and appropriate to the type and location of the Project) in effect on such anniversary date as compared to the same index in effect on the date of Final Completion or prior redetermination, whichever is latest.

“Residential Lease(s)” has the meaning provided in Section 26.04.

“Residential Tenant(s)” has the meaning provided in Section 26.04.

“Residential Unit(s)” means individually or collectively (as the context requires), any or all residential apartment unit(s) in the Project.

“Respective Allocation(s)” has the meaning provided in Section 9.04.

“Restoration” has the meaning provided in Section 8.01.

“Restoration Funds” has the meaning provided in Section 8.04(a).

“Restoration Plans and Specifications” has the meaning provided in Section 8.02.

“Restore” has the meaning provided in Section 8.01.

“RHA Loan” means the loan in the original principal amount of \$[] from Landlord to Tenant, as evidenced by that certain [Promissory Note] dated [].

“Service Hall” means the approximately 15,000 square foot flexible space within the Project, to be used for tenant, social, and/or civic services, as further required by Proffer [].

“Substantial Completion” or “Substantially Complete(d)” means that the Initial Construction Work for the Project (or applicable component thereof) has been completed in substantial accordance with the terms of this Lease and a Certificate of Occupancy has been issued for each Building and each Residential Unit as applicable, in each instance subject only to (i) minor matters that do not materially adversely affect the use of the Project (or component thereof) for its intended purpose and which have been identified by Tenant, with input from the Architect, on a “punch-list,” and to (ii) items of exterior landscaping that cannot then be completed pending appropriate seasonal opportunity and which have been identified by Tenant on the “punch-list.” If the Project consists of multiple Buildings, Substantial Completion will be determined for each Building separately.

“Tax Credits” has the meaning provided in Article 38.

“Tax Credit Period” has the meaning provided in Section 38.01.

“Tax Equity Investor” has the meaning provided in Section 38.01.

“Tax Year” means each tax fiscal year of Fairfax County, Virginia.

“Taxes” means federal, state, and local real estate taxes, personal property taxes, or similar “ad valorem” taxes, occupancy or rent taxes or other assessments applicable to the Premises or Tenant’s ownership interests therein. The term “Taxes” does not include any federal, state, or local income taxes, sales or use taxes, gross receipts taxes, or other taxes or charges imposed upon Tenant as an entity or its partners or members, unless (and only to the extent that) any of the foregoing taxes in this sentence are secured or can be secured by a lien on the Premises when imposed.

“Tenant” has the meaning set forth in the Preamble.

“Term” means the term of this Lease as set forth in Section 2.06.

“Title Matters” mean those matters affecting title to the Premises that are disclosed in the public records (including the land records of Fairfax County, Virginia) or may be disclosed by an inspection or survey of the Premises as of the date hereof, and additional matters affecting title to the Premises that may be imposed from time to time in accordance with the provisions of Section 27.04, but excluding any monetary liens affecting the Premises created by Landlord.

“Transfer” has the meaning provided in Section 10.01(a).

“Unavoidable Delays” means (i) with respect to Tenant or its non-monetary obligations hereunder, delays incurred by Tenant due to strikes, lockouts, work stoppages due to labor jurisdictional disputes, acts of God, inability to obtain labor or materials due to governmental restrictions, enemy action, civil commotion, pandemics, government ordered shut downs or transportation restrictions, fire, unavoidable casualty, unseasonably adverse weather conditions, or other similar causes beyond the control of Tenant (but not including Tenant’s insolvency or financial condition or the availability or applicability of insurance proceeds or condemnation awards), and (ii) with respect to Landlord or its non-monetary obligations hereunder, delays incurred by Landlord due to strikes, lockouts, work stoppages due to labor jurisdictional disputes, acts of God, inability to obtain labor or materials due to governmental restrictions (other than any governmental restrictions imposed by Landlord, in its governmental or regulatory capacity), enemy action, civil commotion, pandemics, government ordered shut downs or transportation restrictions, fire, unavoidable casualty or other similar causes beyond the control of Landlord (but not including Landlord’s insolvency or financial condition); in each case provided (x) such party will have notified the other party reasonably promptly after such party knows of the occurrence of same and the effects of which a prudent Person in the position of the party asserting such delay could not have reasonably prevented and (y) such party takes reasonable steps to minimize the impact of such event upon the performance in question and keeps the other party reasonably informed, upon request, of the nature of the steps so taken and of the progress of the performance which is subject to Unavoidable Delay.

ARTICLE 2

PREMISES AND TERM OF LEASE

Section 2.01. Premises. Landlord does hereby demise and lease to Tenant, and Tenant does hereby hire and take from Landlord, the Premises, as defined herein and more particularly described on the attached Exhibit A, subject to the Title Matters, TOGETHER WITH:

- (a) all of the appurtenances, rights, privileges, and easements in any way now or hereafter pertaining thereto;
- (b) all right, title and interest of Landlord in and to the land lying in the streets, avenues, ways and roads in front of and adjoining said Premises; and
- (c) all existing Improvements on the Premises as of the Commencement Date, if any.

Section 2.02. Reserved. Section 2.03. Term. The term of this Lease (the “Term”) will commence on the Commencement Date and expire on the Fixed Expiration Date, subject to earlier termination in accordance with the terms set forth in this Lease.

Section 2.04. Use.

(a) During the Term, Tenant agrees that the Premises will be used solely for the development, construction, reconstruction, rehabilitation, management, and operation of the Project, including any Restoration thereof, and the leasing of Residential Units and uses ancillary to the operation of the Premises as affordable housing in accordance with this Lease (including Exhibit G), and for no other purpose.

(b) Regarding the Service Hall:

i. Tenant will, directly or through a nonprofit entity subject to the reasonable approval of the Landlord, use the Service Hall for only those uses permitted by the Proffers. Tenant will not pursue or obtain an amendment to the Proffers without the prior written consent of the Landlord, which Landlord may grant in its sole discretion.

ii. After Final Completion of the Initial Construction Work, Tenant must cause the Service Hall to remain continuously open and in use (subject to closures for times outside regular business hours, renovations, and Restorations).

Section 2.05. Ownership of the Improvements. During the Term, ownership and title to all Improvements and personal property located on the Premises (other than fee title to the land) will be vested in and held by Tenant. During the Term, Tenant is entitled to all depreciation, allowances, investment tax credits, or other such rights, tax benefits, and privileges provided by federal, state, or local law to the owners of real property. Immediately upon the expiration of the

Term, all right, title, and interest in the Improvements and personal property of Tenant located on the Premises (excluding any personal property of Residential Tenants) will vest in Landlord without further action of Landlord or Tenant being necessary or required.

Section 2.06. Landlord's Right to Terminate. Subject to the rights of a Mortgagee under Section 10.04 and Section 10.06, if Final Completion has not occurred on or before the Final Completion Date, Landlord will have the right to terminate this Lease by providing notice to Tenant at any time after the Final Completion Date notifying Tenant (with a copy to each Mortgagee) of Landlord's intent to terminate (a "2.06 Termination Notice") if the Final Completion of the Project does not occur by a date certain on or after the Outside Final Completion Date; provided, however, that expiration of the statutory lien period provided in Section 43-4 of the Code of Virginia will not be an element to determine whether Final Completion has occurred prior to the Outside Completion Date (or such later date for Final Completion, as provided in the 2.06 Termination Notice) if a 2.06 Termination Notice is sent. Such 2.06 Termination Notice must be provided not less than 90 days prior to the Outside Final Completion Date in order to allow Tenant to complete the Initial Construction Work by the Outside Final Completion Date, or in the event such 2.06 Termination Notice is sent on any date thereafter (*i.e.*, less than 90 days prior to the Outside Final Completion Date), Tenant will have 90 days from the date of such 2.06 Termination Notice to achieve Final Completion. Any further delay in Final Completion resulting from Unavoidable Delays that occur after the 2.06 Termination Notice is sent will not be counted against the 90 days to achieve Final Completion. Upon expiration of the notice period, if Final Completion has not yet occurred, Tenant will provide to Landlord copies of the Plans and Specifications and such other similar materials related to the Project required to be delivered under the Comprehensive Agreement and this Lease will terminate in accordance with Article 31 of this Lease.

ARTICLE 3

RENT

Section 3.01. Base Rent. Tenant shall pay to Landlord, in currency which, at the time of payment, is legal tender for public and private debts in the United States of America, without notice or demand, the following (collectively, the "Base Rent"):

(a) the sum of \$10.00, due and payable on the Commencement Date ("Initial Base Rent"); and

(b) with respect to each calendar year during the term of this Lease, commencing with the first calendar year after the earlier of (i) the year in which the RHA Loan is paid in full and (ii) [the 37th anniversary of the Commencement Date], an amount equal to 25% of Tenant's Net Cash Flow for such calendar year, due and payable on May 1 of each calendar year with respect to the preceding calendar year ("Cash Flow Rent").

Section 3.02. Proration of Base Rent, Impositions, and Additional Costs. Any Base Rent, Impositions, or other Additional Costs that are due for any partial month, year, or other applicable period in the calendar year in which the Commencement Date occurs or the Expiration Date occurs will be appropriately prorated.

Section 3.03. Net Lease; Audit Rights. It is the purpose and intention of Landlord and Tenant, and the parties hereto agree that Base Rent will be absolutely net to Landlord without any abatement, deduction, counterclaim, set-off or offset whatsoever. In addition, all Additional Costs, expenses, and other charges relating to the Premises of every kind and nature will be paid directly by Tenant, or if paid by Landlord or a Depository in accordance with this Lease, all such Additional Costs during the term of this Lease will be reimbursed to Landlord on demand, except as otherwise specifically provided in this Lease.

Section 3.04. Base Rent and Additional Costs. All of the amounts payable by Tenant to or for the benefit of Landlord pursuant to this Lease, including, without limitation, Base Rent and Additional Costs which are due from Tenant in any of the provisions of this Lease will constitute rent under this Lease for the purpose of Tenant's failure to pay any amounts due under this Lease after the expiration of any applicable notice and cure periods, and Landlord, in addition to the rights and remedies in this Lease, will have all of the rights and remedies at law or in equity in the case of non-payment of rent. All Base Rent and Additional Costs will be payable without offset or deduction (unless otherwise expressly provided in this Lease) to Landlord at Landlord's address set forth in this Lease or as Landlord may from time to time direct.

Section 3.05. Reimbursement of Expenses. Tenant will reimburse Landlord upon demand for all: (a) Additional Costs paid directly by Landlord in accordance with the terms of this Lease; and (b) expenses, including without limitation reasonable out of pocket, third party attorneys' fees and disbursements, paid or incurred by Landlord in connection with any Event of Default, or arising out of any indemnity or "hold harmless" agreement given or made by Tenant to Landlord in this Lease, or otherwise incurred by Landlord in connection with the successful enforcement of its rights and Tenant's obligations under this Lease. Upon Tenant's request, Landlord will provide reasonable documentation of any Additional Costs paid by Landlord. Tenant will have the right to contest the amount or validity, in whole or in part, of any Additional Costs by appropriate proceedings diligently conducted in good faith, in which event Article 34 will govern.

ARTICLE 4

IMPOSITIONS

Section 4.01. Impositions. Tenant will pay, as hereinafter provided, all of the following items (collectively, "Impositions") imposed by any Governmental Authority that are applicable to the Premises or the operation thereof: (a) Taxes, (b) water, water meter and sewer rents, rates and charges, (c) excises, (d) levies, (e) license and permit fees; (f) service charges with respect to police protection, fire protection, street and highway construction, maintenance and lighting, sanitation

and water supply, if any, (g) fines, penalties and other similar governmental charges applicable to the foregoing and any interest or costs with respect thereto, and (h) any and all other governmental levies, fees, rents, proffers, assessments or taxes and charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, and any interest or costs with respect thereto, which at any time during the Term are (1) assessed, levied, confirmed, imposed upon or would have become due and payable out of or in respect of, or would have been charged with respect to, the Premises or any document to which Tenant is a party creating or transferring an interest or estate in the Premises, or the use and occupancy thereof by Tenant and (2) encumbrances or liens on (i) the Premises, or (ii) any appurtenances of the Premises, or (iii) any personal property (except personal property which is not owned by or leased to Tenant), Fixtures or other facility used in the operation thereof, or (iv) any amounts due to Landlord under this Lease, including Base Rent and Additional Costs (or any portion of either) payable by Tenant hereunder, each such Imposition, or installment thereof, during the Term to be paid not later than the Due Date thereof. However, if, by law, any Imposition may at the option of the taxpayer be paid in installments (whether or not interest will accrue on the unpaid balance of such Imposition), Tenant may exercise the option to pay the same in such installments (subject to the limitation on Tenant's obligations set forth in Section 4.04 below) and will be responsible for the payment of such installments only, together with applicable interest, if any, relating to periods for which such installment is due.

Section 4.02. Receipts. Tenant, from time to time upon request of Landlord, will promptly furnish to Landlord official receipts of the appropriate imposing authority, or other evidence reasonably satisfactory to Landlord, evidencing the payment of Impositions.

Section 4.03. Landlord's Taxes. Nothing herein contained will require Tenant to pay municipal, state, or federal income, gross receipts, inheritance, estate, succession, profit, capital, or transfer gains taxes of Landlord (if any), or any corporate franchise tax imposed upon Landlord (if any) or any transfer or gains tax imposed on Landlord (if any).

Section 4.04. Impositions Beyond Term. Any Imposition relating to a period, a part of which is included within the Term and a part of which is included in a period before the Commencement Date or after the Expiration Date (whether or not such Imposition will be assessed, levied, confirmed, imposed upon or in respect of or become a lien upon the Premises, or will become payable, during the Term) will be apportioned between Landlord and Tenant as of the Commencement Date or the Expiration Date, as the case may be, so that Tenant will pay the portion of such Imposition attributable to the part of such fiscal period included in the period of time after the Commencement Date or before the Expiration Date and Landlord will pay the portion of such Imposition attributable to the part of such fiscal period not included in the period of time after the Commencement Date or before the Expiration Date. Notwithstanding the foregoing, no such apportionment of Impositions that are held in an Impositions Account as of the Expiration Date will be made if this Lease is terminated prior to the Fixed Expiration Date as the result of an Event of Default; provided, however, that such apportionment will be made at such time as there are no outstanding payment defaults.

Section 4.05. Tenant's Contest. Tenant will have the right to contest the amount or validity, in whole or in part, of any Imposition by appropriate proceedings diligently that are conducted in good faith, in which event, notwithstanding the provisions of Section 4.01 hereof, payment of such Imposition will be postponed if, and only as long as:

(a) Neither the Premises nor any part thereof, nor any interest of Landlord therein, nor any income of Landlord therefrom (except to the extent covered by security deposited in accordance with this Section 4.05) nor any other assets of or funds appropriated to Landlord would, by reason of such postponement or deferment, be, in the reasonable judgment of Landlord, in imminent danger of being forfeited or lost or subject to any new lien, encumbrance or charge, and Landlord by reason thereof be subject to any civil or criminal liability;

(b) Tenant will have deposited with Depository, cash or other security reasonably satisfactory to Landlord in the amount so contested and unpaid, together with all interest and penalties in connection therewith and all charges that may be assessed against or become a charge on the Premises or any part thereof in such proceedings; ***provided however***, if a Mortgagee requires Tenant to deposit cash or other security reasonably acceptable to a Mortgagee in connection with any such contest, then Mortgagee's requirements will take precedent over those provided in this Section 4.05(b) and will satisfy Tenant's obligations under this Section 4.05(b), provided further, Tenant will send notice to Landlord of such requirement with evidence reasonably satisfactory to Landlord of Tenant's compliance with such requirement.

(c) Upon the termination of such proceedings, it will be the obligation of Tenant to pay the amount of such Imposition or part thereof as finally determined in the proceedings, together with any costs, fees (including attorney's fees and disbursements), interest, penalties or other liabilities in connection therewith, and upon such payment, Depository will return, with interest, if any, any amount deposited with it, ***provided however***, that Depository, at Landlord's request, will disburse such monies on deposit with it directly to the Governmental Authority to whom such Imposition is payable and any remaining monies, with interest, if any, will be returned promptly to Tenant. If, at any time during the continuance of any proceedings, Landlord, in its reasonable opinion, deems the amount deposited with Depository insufficient, Tenant, within 15 Business Days after Landlord's demand, will make a deposit of additional sums or other security to Depository as Landlord requests, and if Tenant fails to make the additional deposit, Landlord may direct Depository to apply the amount already deposited with Depository to the payment, removal and discharge of any Imposition, plus interest and penalties on the Imposition and costs, fees (including attorney's fees and disbursements) or other liability accruing in any of the proceedings, and the balance of any deposit (plus interest earned thereon), if any, will be returned to Tenant. If the amount held by Depository is insufficient to pay the Imposition in full, Tenant will pay to Landlord (or directly to the Governmental Authority, as Landlord directs in writing) the amount of the deficiency within ten Business Days after demand.

Section 4.06. Contest Not Postpone Tenant's Obligation. Tenant will have the right to seek a reduction in the valuation of the Premises assessed for Taxes or other Impositions and to prosecute any action or proceeding in connection therewith, provided that no such action or

proceeding will postpone Tenant's obligation to pay any Imposition except in accordance with the provisions of Section 4.05 hereof.

Section 4.07. Landlord Cooperation in Proceedings. Landlord will not be required to join in any proceedings referred to in Sections 4.05 or 4.06 hereof unless the provisions of any law, rule or regulation at the time in effect will require that such proceedings be brought by or in the name of Landlord, in which event, Landlord will join and cooperate in such proceedings or permit the same to be brought in its name but will not be liable for the payment of any costs or expenses in connection with any such proceedings and Tenant will reimburse Landlord for any and all costs or expenses which Landlord may reasonably sustain or incur in connection with any such proceedings, including reasonable attorneys' fees and disbursements. If Tenant will institute a proceeding referred to in Sections 4.05 or 4.06 and no law, rule, or regulation in effect at the time requires that such proceeding be brought by or in the name of Landlord, Landlord, nevertheless, will, at Tenant's cost and subject to the reimbursement provisions hereinabove set forth, cooperate with Tenant in such proceeding. To the extent any such proceeding results in a refund, credit, or other recompense of Taxes or other Imposition paid by Tenant, Tenant will be entitled to the full benefit thereof and Landlord will assign any such refund, credit, or other recompense to Tenant or as Tenant may direct, except that Landlord will be entitled to any refund, credit, or other recompense in connection with amounts paid by Landlord for any Impositions or as reimbursement for any amounts paid by Landlord in connection with such proceedings, if any.

Section 4.08. Tax Bills. Any certificate, advice or bill of the appropriate official designated by law to make or issue the same or to receive payment of any Imposition asserting non-payment of such Imposition will be prima facie evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice, or bill, at the time or date stated therein.

ARTICLE 5

DEPOSITS FOR IMPOSITIONS

Section 5.01. Impositions Subject to Deposit. Landlord, by written notice, may at any time after the occurrence and during the continuance of an Event of Default hereunder:

(a) require Tenant to deposit each month into an account to be held with the Depository (the "Impositions Account") an amount sufficient to pay 1/12th of the annual Taxes and, subject to Section 5.01(b), any other Impositions required to be paid by Tenant hereunder at least thirty (30) days prior to the Due Date for such Impositions; and

(b) require that Tenant provide to Landlord evidence of payment of any Impositions that Landlord allows Tenant to pay directly during such Event of Default, that are payable on a monthly or more frequent basis within ten Business Days after the Due Date for such Impositions. Landlord may, at any time after the occurrence and during the continuance of an Event of Default,

require that any Impositions that Landlord has allowed Tenant to pay directly be subject to the monthly deposit requirements of Section 5.01(a) and the other provisions of this Article 5.

Section 5.02. Deposit of Impositions. After the occurrence and during the continuance of an Event of Default, Tenant, upon the demand of Landlord at any time, will deposit with Depository on the first day of each month during the Term, an amount equal to one-twelfth of the annual Impositions for Taxes and those other Impositions required to be escrowed pursuant to Section 5.01(a). Except as set forth in Section 5.05 below, Landlord agrees that the amounts so deposited with the Depository will be used to pay the Impositions for which such amounts were deposited. The Impositions Account may be held by Depository as a single bank account.

Section 5.03. Rights of Mortgagee. Notwithstanding anything in this Article 5 to the contrary, if a Mortgagee (provided such Mortgagee is an Institutional Lender) requires Tenant to deposit funds to ensure payment of such Impositions, any amount so deposited by Tenant with such Mortgagee will be credited against the amount, if any, which Tenant would otherwise be required to deposit under this Article 5.

Section 5.04. Changes to Deposits to Impositions Account.

(a) If at any time the monies so deposited by Tenant will be insufficient to pay the next installment of Impositions then due, Tenant will, after demand therefor by Landlord, deposit the amount of the insufficiency into the Impositions Account to enable Depository to pay the next installment of Impositions at least 30 days prior to the Due Date thereof.

(b) If at any time the amount of any Imposition is increased or Landlord receives information from the entity or entities imposing such Imposition that an Imposition will be increased and the monthly deposits then being made by Tenant under this Section 5.01 would be insufficient to pay such Imposition 30 days prior to the Due Date thereof, then upon notice from Landlord to Tenant of such fact, the monthly deposits will thereupon be increased and Tenant will deposit immediately with Depository sufficient monies for the payment of the increased Imposition. Thereafter, the monthly payments will be adjusted so that Depository will receive from Tenant sufficient monies to pay each Imposition at least 30 days prior to the Due Date of such Imposition.

(c) For the purpose of determining whether Depository has on hand sufficient monies to pay any particular Imposition at least 30 days prior to the Due Date thereof, deposits for each category of Imposition will be treated separately. Depository will not be obligated to use monies deposited for the payment of an Imposition not yet due and payable for the payment of an Imposition that is due and payable.

Section 5.05. Landlord's Rights During an Event of Default. At Landlord's option after the occurrence and during the continuance of an Event of Default by Tenant, Landlord may withdraw any monies deposited pursuant to Articles 4 or 5 for the cure of any monetary Event of Default. Landlord and Tenant will enter into a mutually acceptable depository agreement with the

Depository with respect to the Impositions Account. Tenant agrees that any such depository agreement will provide that Landlord will have a unilateral right to withdraw money from the Impositions Account after the occurrence and during the continuance of an Event of Default by Tenant to pay Impositions or to cure a monetary Event of Default under this Lease and Tenant will have no consent rights over any such withdrawal. If this Lease is terminated by reason of an Event of Default or if Tenant is dispossessed of the Premises pursuant to Article 24 of the Lease, all monies deposited in the Impositions Account then held by Depository will, at Landlord's direction, be paid and applied to Landlord in payment for such Event of Default and any and all other sums due under this Lease and Tenant will promptly pay any resulting deficiency (if any).

Section 5.06. Interest on Impositions Account. Any interest paid on monies deposited pursuant to this Article 5 will become a part of the Impositions Account and will be applied pursuant to the foregoing provisions.

ARTICLE 6

LATE CHARGES

If any payment of Base Rent, Additional Costs or Impositions (to the extent the amount of such Impositions is due to be paid to Landlord) become overdue beyond the due date thereof (or if no such date is set forth in this Lease, then such due date for purposes of this Article 6 will be deemed to be the date upon which demand therefor is made (or if with respect to Impositions, the Due Date for such Impositions)), a late charge on the sums so overdue equal to the Involuntary Rate, for the period from the due date to the date of actual payment, will become due and payable to Landlord as liquidated damages for the administrative costs and expenses incurred by Landlord by reason of Tenant's failure to make prompt payment. The late charges will be considered Additional Costs and will be paid by Tenant within ten Business Days after demand. No failure by Landlord to insist upon the strict performance by Tenant of its obligations to pay late charges will constitute a waiver by Landlord of its right to enforce the provisions of this Article 6 in any instance thereafter occurring. The provisions of this Article 6 will not be construed in any way to extend the grace periods or notice periods provided for in Article 24, provided however, this Article 6 is subject to Tenant's right to contest certain Additional Costs or Impositions, and no such late charge will be incurred while Tenant is contesting any such matters in good faith and in accordance with the terms of this Lease.

ARTICLE 7

INSURANCE

Section 7.01. Required Insurance During the Term of the Lease. Tenant will maintain, or cause to be maintained, at its sole cost and expense the following required insurance:

(a) At all times during the Term after Substantial Completion of any Improvements on the Premises, Tenant will maintain or cause to be maintained insurance for the Premises, and for any and all Improvements, equipment, motors and machinery owned or leased by Tenant and located, installed in or used in connection with the Premises, including all alterations, renovations, replacements, substitutions, changes and additions thereto, such insurance will insure against loss or damage by fire, vandalism, malicious mischief, sprinkler leakage (if sprinklered) and such other hazards, casualties, risks and contingencies now covered by or that may hereafter be considered as included within a standard "broad form" policy and against loss or damage by other risks and hazards covered by a standard extended coverage insurance policy (including without limitation, fire, lightning, hail, hurricane, windstorm, tidal wave, explosion, acts of terrorism, riot and civil commotion, vandalism, malicious mischief, strike, water damage, sprinkler leakage, burglary, theft, mold and microbial matter (to the extent available at commercially reasonable rates) in an amount equal to the Replacement Value, subject to commercially reasonable sub-limits. Tenant will name Landlord and any Mortgagees as additional insureds on such policy or policies.

(b) At all times during the Term, Tenant will maintain and keep in force commercial general liability insurance in standard form, protecting Tenant, and naming Landlord and any Mortgagees as additional insureds, against personal injury, including without limitation, bodily injury, death or property damage and elevator and contractual liability on an occurrence basis if available and if not, then on a claims made basis, in either case in an amount not less than Ten Million Dollars per occurrence, subject to adjustment every year after the end of the first Lease Year to reflect the increase, if any, in the Consumer Price Index from the end of the first Lease Year; provided however, that all such increases shall be deferred each year until the sum of the total increase in the Consumer Price Index equals at least One Million Dollars (\$1,000,000) in the aggregate, at which time Landlord shall provide written notice to Tenant setting forth such calculation and requiring that the applicable amount of commercial general liability insurance hereunder be correspondingly increased by One Million Dollars (\$1,000,000); provided further, however, this One Million Dollars (\$1,000,000) threshold will again be deferred each year until the One Million Dollars (\$1,000,000) threshold is reached again in the manner set forth hereinabove. All such policies will cover the entire Premises.

(c) At all times during the Term, Tenant will maintain and keep in force flood insurance in an amount at least equal to the maximum limit of coverage available with respect to the Premises and the Project under the "Flood Disaster Protection Act of 1973," and which otherwise complies with the national flood insurance program as set forth in said Act as well as subsequent amendments or successors thereto, provided that such insurance will be required only if and so long as the Premises are or become included in a United States Department of Housing and Urban Development (or successor agency) designated flood prone area. If Tenant is required to maintain such flood insurance policy, then Landlord and any Mortgagees will be listed as additional insureds on such policy.

(d) At all times during the Term, at its own cost and expense, Tenant will provide and keep in force or cause to be provided and kept in force a policy covering business automobile

liability which will have minimum limits of One Million Dollars per occurrence combined single limit for bodily injury liability and property damage liability, subject to adjustment every year after the end of the first Lease Year to reflect any increases that are consistent with and customary for other comparable properties of comparable age and quality in the Northern Virginia area. This will be an “any-auto” type of policy including owned, hired, non-owned and employee non-ownership coverage, if applicable. Landlord and Mortgagees will be listed as additional insureds on such policy.

(e) Beginning when Tenant first commences to rent any portion of the Premises (e.g., Residential Leases) and at all times thereafter during the Term, Tenant will maintain business or rental interruption insurance (including rental value) in form and substance reasonably acceptable to Landlord and any Mortgagee and in an annual aggregate amount equal to the estimated gross revenues from the Residential Leases (including, without limitation, the loss of all rental payable by all of the Residential Tenants under Residential Leases (whether or not such leases are terminable in the event of a fire or casualty)), such insurance to cover losses for a period from the time of loss until all repairs are fully completed with reasonable diligence and dispatch with an extended period of indemnity of 180 days.

(f) Landlord may, on a commercially reasonable basis, from time to time by written notice to Tenant require Tenant to maintain, or cause to be maintained, at its sole cost and expense, such other insurance covering insurable hazards that are commonly insured against in the case of premises located in Fairfax County, Virginia, that are similarly situated and have similar uses to that of the Premises, provided such other insurance is available on a commercially reasonable basis, provided however, that if Tenant disputes the reasonableness of any new Landlord requirement hereunder, Landlord and Tenant will resolve such dispute in accordance with Article 34 below.

Section 7.02 Required Insurance During Construction Work. In addition to the insurance required to be carried in Section 7.01 or otherwise in this Lease, during any time that Tenant is performing or is causing the performance of Construction Work on the Premises, Tenant will maintain (or cause to be maintained) the following insurance on the Premises:

(a) a complete value “all risk” builders risk insurance on the Premises and any and all Improvements for which Construction Work is being done in an amount equal to the Replacement Value thereof. Landlord and Mortgagees will be listed as additional insureds on such policy;

(b) worker’s compensation insurance in an amount not less than as required by the laws of the Commonwealth of Virginia and applicable federal laws;

(c) employer’s liability insurance in an amount not less than the amount maintained by prudent owners of properties in Northern Virginia comparable to the Premises; and

(d) errors and omissions insurance policies for the architects, engineers and other

professionals engaged by or on behalf of Tenant in connection with the Construction Work in an amount not less than Two Million Dollars per occurrence, subject to adjustment every year after the end of the first Lease Year to reflect any increases that are consistent with and customary for other comparable properties of comparable age and quality in the Northern Virginia area, but subject to being available commercially reasonable rates for the Project.

Section 7.03. Additional Insurance Requirements.

(a) All insurance policies required by this Article 7 will be issued by responsible companies authorized to issue insurance in the Commonwealth of Virginia and have an AM Best rating of not less than A:VI (or other similar rating in the event an AM Best rating is no longer available).

(b) Landlord and Tenant will cooperate in connection with the adjustment and collection of any insurance recoveries that may be due in the event of loss, and Tenant will execute and deliver to Landlord such proofs of loss and other instruments which may reasonably be required for the purpose of obtaining the recovery of any such insurance moneys.

(c) Tenant will not carry separate liability or property insurance concurrent in form or contributing to the event of loss with that required by this Lease to be furnished by Tenant, unless Landlord and any other parties designated by Landlord with a bona fide insurable interest are included therein as additional insureds with respect to liability and loss payees with respect to property, as their interests may appear, with loss payable as provided in this Lease. Tenant will immediately notify Landlord of the carrying of any such separate insurance and will cause copies of the declaration page(s) of the same to be delivered as in this Lease hereinafter required.

(d) Tenant will provide written notice to Landlord promptly after Tenant is aware that any insurance claim or insurance proceeding has been filed against Tenant.

(e) Tenant will procure policies for all such insurance required by any provision of this Lease for periods of not less than one year (if such policy term is customary and available) and will procure renewals or replacements thereof from time to time and deliver evidence of the same to Landlord at least 30 days before the expiration thereof. If Tenant will fail to procure any such policies or renewals thereof in accordance herewith, Landlord may procure the same, and Tenant will be obligated to reimburse Landlord as Additional Costs hereunder for all costs incurred by Landlord in connection therewith.

Section 7.04. Deposit of Insurance Premiums. Landlord, by written notice, may at any time after the occurrence and during the continuance of an Event of Default, require Tenant to deposit on the first (1st) day of each calendar month with the Depository an amount sufficient to pay the annual premiums for insurance required to be carried by Tenant hereunder when the same will become due and payable, ***provided however***, if an Event of Default exists due to Tenant's failure to pay insurance premiums when due and as to which failure Landlord may (a) require payment to be made on demand or (b) pay the same, Landlord may at any time after such Event

of Default has occurred and is continuing, pay such insurance premiums, whereupon Tenant will be obligated to reimburse Landlord therefor as Additional Costs. Notwithstanding anything in this Article 7 to the contrary, if a Mortgagee (provided such Mortgagee is an Institutional Lender) requires Tenant to deposit funds to ensure payment of insurance premiums, any amount so deposited by Tenant with such Mortgagee will be credited against the amount, if any, which Tenant would otherwise be required to deposit under this Section 7.03.

Section 7.05. Delivery of Certificates and Declaration Pages. Upon the execution and delivery of this Lease and thereafter not less than 30 days prior to the expiration dates of the expiring policies theretofore furnished pursuant to this Article, certified copies of each of the policies required by this Article 7, bearing notations evidencing the payment of premiums or accompanied by other evidence reasonably satisfactory to Landlord of such payment, will be delivered by Tenant to Landlord. Landlord will not be deemed to have responsibility for or knowledge of the accuracy, adequateness, or compliance of such policies with the requirements set forth in this Article 7. Tenant will, upon the written request of Landlord, obtain and deliver to Landlord, within 15 Business Days after the date of any such request, a certificate from Tenant's insurer or independent insurance agent certifying to Landlord, as certificate holder, in reasonable detail the insurance policies then being maintained by Tenant in accordance with the requirements of this Article 7, and providing for the non-cancellation of such policies except upon 30 days prior written notice to Landlord (or ten Business Days in the case of non-payment of premium).

Section 7.06. Landlord's Right to Procure Insurance. If Tenant fails to obtain and maintain insurance as in this Lease provided, Landlord may, but will not be obligated to, effect and maintain any such insurance coverage and pay premiums therefor. All premiums so paid by Landlord will constitute Additional Costs. Such Additional Costs will be payable by Tenant within 10 Business Days after written notice from Landlord that Landlord has made payment of such premiums and reimbursement is being demanded therefor. The payment by Landlord of premiums for any such insurance policy will not be, or be deemed to be, a waiver or release of the Event of Default by Tenant with respect thereto or the right of Landlord to pursue any other remedy under this Lease or by law in relation to such Event of Default.

Section 7.07 Waiver of Subrogation. Tenant hereby waives any and every claim which arises or may arise in its favor and against Landlord during the Term, for any and all loss of, or damage to, any of its property located within or upon, or constituting a part of, the Premises or any portion thereof or any claims for loss for which Landlord may be liable under this Lease, which loss or damage is covered by valid and collectible insurance policies, to the extent that such loss or damage is recoverable under such policies. This waiver will be in addition to, and not in limitation or derogation of, any other waiver or release contained in this Lease with respect to any loss or damage to the Premises or any of Tenant's (or its Residential Tenants, subtenants, or licensees) property located within or upon, or constituting a part of, the Premises. Inasmuch as the said waiver will preclude the assignment of any claim by way of subrogation (or otherwise) to an insurance company (or any other person), Tenant agrees immediately to give each insurance company which has issued to it policies of insurance, written notice of the terms of this waiver,

and to have the insurance policies properly endorsed, if necessary, to prevent the invalidation of coverage by reason of the waiver.

ARTICLE 8

USE OF INSURANCE PROCEEDS

Section 8.01. Tenant's Obligation to Restore. To the extent that Restoration is possible at the time of a casualty:

(a) If all or any part of any of the Project is destroyed or damaged in whole or in part by fire or other casualty (including any casualty for which insurance was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, Tenant will give to Landlord immediate notice, except that no notice or related approvals from Landlord will be required if the cost of repairs, alterations, restorations, replacements and rebuilding (collectively, "Restoration"), as reasonably estimated by Tenant, will be less than Twenty-Five Thousand Dollars as such amount is adjusted on the fifth anniversary of the Commencement Date and on each fifth anniversary of the Commencement Date thereafter occurring during the Term, by the percent increase, if any, in the Consumer Price Index for the month in which the applicable anniversary date occurs over the Consumer Price Index for the month in which the Commencement Date occurs). Whether or not the foregoing notice requirement applies, Tenant will, whether or not such damage or destruction will have been insured, and whether or not insurance proceeds, if any, will be sufficient for the purpose of such Restoration, with reasonable diligence (subject to Unavoidable Delays and, as applicable, subject to Section 8.01(b) below) repair, alter, restore, replace and rebuild (collectively, "Restore") the same, at least to the extent of the value it would have had absent the casualty and as nearly as possible to the condition, quality and class of the Project existing immediately prior to such occurrence, with such changes or alterations as Tenant, with the consent of Landlord, will elect to make, provided that, after the Restoration, the Project will be in substantial conformity with the original Plans and Specifications; with any changes as mutually agreed to by Tenant and Landlord, acting in their reasonable discretion. If Tenant fails or neglects to Restore with reasonable diligence (subject to Unavoidable Delays and, as applicable, subject to Section 8.01(b) below) the Project or the portion thereof so damaged or destroyed, or having so commenced such Restoration, will fail to complete the same with reasonable diligence (subject to Unavoidable Delays) in accordance with the terms of this Lease, or if prior to the completion of any such Restoration by Tenant, this Lease will expire or be terminated for any reason, Landlord may after written notice to Tenant and expiration of the cure periods applicable to such failure, but will not be required to, complete such Restoration at Tenant's expense. Each such Restoration will be done in accordance with the provisions of this Lease. In any case where this Lease will expire or be terminated prior to the completion of Restoration, Tenant will account to Landlord for all amounts spent in connection with any Restoration which was undertaken and will pay over to Landlord, within ten Business Days after demand, the remainder, if any, of the Restoration Funds previously received by it.

Tenant's obligations for any Restoration which commenced (or which Tenant was obligated to commence) under this Section 8.01 will survive the expiration or termination of this Lease.

(b) Tenant will commence Restoration no later than six (6) months after the casualty event and will continue thereafter diligently and without interruption as provided herein. Tenant will diligently prosecute such Restoration to completion, and in any event, such Restoration will be completed, subject to Unavoidable Delays, within eighteen (18) months after the commencement of the Restoration, or such longer period as may be reasonably required as agreed to by Landlord and Tenant, in each party's reasonable judgement. If Tenant does not timely commence Restoration, or if Tenant does not thereafter diligently prosecute such Restoration to completion and timely complete such Restoration, then it will be an Event of Default.

(c) In no event will Landlord be obligated to Restore the Project or any portion thereof or to pay any of the costs or expenses thereof.

Section 8.02. Restoration Approvals. Prior to commencing any Restoration, Tenant will submit completed final drawings and plans and specifications (which may be in the form of field marked copies of the original plans and specifications) for the Restoration prepared by an Architect which comply with the all Applicable Laws and, to the extent possible given the amount of damage and destruction to the Project, materially conform to the original Plans and Specifications approved by Landlord for the Initial Construction Work (together with any revisions necessary to address then-applicable requirements of Governmental Authorities) or with any changes as mutually agreed to by Tenant and Landlord, acting in their reasonable discretion (the "Restoration Plans and Specifications"). Landlord will review the proposed Restoration Plans and Specifications to determine whether they materially comply. If Landlord determines that they do comply, Landlord will notify Tenant in writing. If Landlord reasonably determines that the Restoration Plans and Specifications, as revised, do not materially comply with the first sentence of this Section 8.02 (and any changes agreed to by the parties), Landlord will notify Tenant, specifying in writing in what respects they do not so comply. In such latter event, Tenant and Landlord will reasonably cooperate with one another in addressing the comments of Landlord. Tenant will revise the proposed Restoration Plans and Specifications to reflect the agreed upon changes and will then resubmit the Restoration Plans and Specifications to Landlord for review. The initial review by Landlord will be carried out within 20 Business Days of the date of submission of the Restoration Plans and Specifications; Landlord's review of revisions to the Restoration Plans and Specifications will be completed 20 Business Days after the date of submission of the revised Restoration Plans and Specifications. If Landlord has not notified Tenant of its determination within the applicable period, Landlord will be deemed to have approved the Restoration Plans and Specifications and determined that they materially comply with this Section 8.02, with any changes mutually agreed to by Tenant and Landlord.

Section 8.03. Control of Proceeds. So long as a Mortgagee holds a Mortgage on the Premises, the proceeds of any fire or casualty insurance with respect thereto may be made payable to such Mortgagee or, if provided in the Mortgage, an insurance trustee, for application in accordance with the terms of the Mortgage, and such proceeds will be held and disbursed by the

Mortgagee to apply to the costs of Restoration pursuant to such provisions as the Mortgage may provide therefor. If there is not a Mortgagee with respect the Premises at the time of such casualty (or any existing Mortgage is fully discharged by application of a portion of the insurance proceeds), or if the proceeds of fire or casualty insurance are not required to be paid to a Mortgagee or insurance trustee to Restore the Project under the terms of the applicable Mortgage but are nevertheless available to Tenant for such purposes, then the insurance proceeds (or remaining proceeds after the first use of insurance proceeds to discharge Mortgages) will be deposited with the Depository (other than proceeds for rent insurance) and will be subject to monthly disbursement procedures as more fully described in Section 8.04. If the insurance proceeds available for such purpose are not sufficient to Restore the Project to its prior condition or to a condition in compliance with this Lease, Tenant will nonetheless, at its own cost and expense, provide the funds necessary, or obtain new financing as necessary, to Restore the Project to such condition. Provided no Event of Default has occurred and is continuing, any excess insurance proceeds remaining after the Restoration of the Project will be paid over to Tenant or as Tenant may direct. If Depository is to disburse the insurance proceeds, the provisions of Section 8.04 will apply.

Section 8.04. Conditions Precedent to Disbursements. The following will be conditions precedent to each payment made to Tenant by Depository if required in Section 8.03 above:

(a) Subject to the provisions of Section 8.04, Section 8.05 and, if applicable, Section 8.06, Depository will pay over to Tenant from time to time, upon the following terms, any monies which may be received by Depository from insurance provided by Tenant (other than rent insurance) or cash or the proceeds of any security deposited with Depository pursuant to Section 8.06 (collectively, the “Restoration Funds”); ***provided however***, that Depository, before paying such monies over to Tenant, will be entitled to reimburse itself and Landlord therefrom to the extent, if any, of the necessary, reasonable and proper expenses (including reasonable attorneys’ fees) paid or incurred by Depository and Landlord in the collection of such monies. Depository will pay to Tenant, as hereinafter provided, the Restoration Funds, for the purpose of the Restoration.

(b) Prior to commencing any Restoration, Tenant will furnish Landlord with an estimate of the cost of such Restoration, prepared by an Architect. Landlord, at Landlord’s expense, may engage a licensed professional engineer or registered architect to prepare its own estimate of the cost of such Restoration. If there is any dispute as to the estimated cost of the Restoration, such dispute will be resolved by dispute resolution in accordance with the provisions of Article 34, and any time required to resolve such dispute will constitute an Unavoidable Delay in the Restoration process.

(c) Subject to the provisions of Section 8.04, Section 8.05 and, if applicable, Section 8.06, the Restoration Funds will be paid to Tenant in installments as the Restoration progresses, upon application to be submitted by Tenant to Depository and Landlord showing the cost of labor and materials purchased and delivered to the Premises for incorporation in the Restoration, or incorporated therein since the last previous application, and due and payable or paid by Tenant. If

any vendor's, mechanic's, laborer's, or materialman's lien is filed against the Premises or any part thereof, or if any public improvement lien relating to the Restoration of the Premises is created or permitted to be created by Tenant and is filed against Landlord, or any assets of, or funds appropriated to, Landlord, Tenant will not be entitled to receive any further installment until such lien is satisfied or discharged (by bonding or otherwise). Notwithstanding the foregoing, subject to the provisions of Section 8.04(d), the existence of any such lien will not preclude Tenant from receiving any installment of Restoration Funds, provided such lien will be discharged with funds from such installment.

(d) The amount of any installment to be paid to Tenant will be (i) the product of (x) the total Restoration Funds and (y) a fraction, the numerator of which is the cost of labor and materials theretofore incorporated (or delivered to the Premises to be incorporated) by Tenant in the Restoration and the denominator of which is the total estimated cost of the Restoration, such estimated cost determined in accordance with Section 8.04(b), less (ii) all payments theretofore made to Tenant out of the Restoration Funds.

(e) Notwithstanding the foregoing, if Landlord makes the Restoration at Tenant's expense, as provided in Section 8.01(a), then Depository will pay over the Restoration Funds to Landlord, upon request, to the extent not previously paid to Tenant pursuant to this Section 8.04, and Tenant will pay to Landlord, within ten Business Days after demand, any sums in excess of the portion of the Restoration Funds received by Landlord necessary to complete the Restoration. Upon completion of the Restoration, Landlord will deliver to Tenant a certificate, in reasonable detail, setting forth the expenditures made by Landlord for such Restoration.

(f) There will be submitted to Depository and Landlord the certificate of Architect in industry standard form to the effect that (i) the sum then requested to be withdrawn either has been paid by Tenant or is due and payable to contractors, subcontractors, materialmen, engineers, architects or other Persons (whose names and addresses will be stated) who have rendered or furnished services or materials for the work and giving a brief description of such services and materials and the principal subdivisions or categories thereof and the several amounts so paid or due to each of said Persons in respect thereof, and stating in reasonable detail the progress of the work up to the date of said certificate, (ii) no part of such expenditures has been or is being made the basis, in any previous or then pending requisition, for the withdrawal of the Restoration Funds or has been made out of the Restoration Funds previously received by Tenant, (iii) the sum then requested does not exceed the value of the services and materials described in the certificate, and (iv) the balance of the Restoration Funds held by Depository will be sufficient upon completion of the Restoration to pay for the same in full, and stating in reasonable detail an estimate of the cost of such completion;

(g) There will be furnished to Landlord an official search, or a certificate of a title insurance company reasonably satisfactory to Landlord, or other evidence reasonably satisfactory to Landlord, showing that there has not been filed any vendor's, mechanic's, laborer's or materialman's statutory or other similar lien affecting the Premises or any part thereof, or any public improvement lien with respect to the Premises or the Restoration created or permitted to be

created by Tenant affecting Landlord, or the assets of, or funds appropriated to, Landlord, which had not been satisfied or discharged (by bonding or otherwise) except such as will be discharged upon payment of the requisite amount out of the sum then requested to be withdrawn;

(h) At the time of making such payment, there is no existing and unremedied Event of Default on the part of Tenant; and

Section 8.05. Major Casualty.

(a) If any loss, damage or destruction occurs, the cost of Restoration of which equals or exceeds Two Million Dollars in the aggregate, determined as provided in Section 8.04(b) (as such amount is adjusted on the fifth anniversary of the Commencement Date and on each fifth anniversary of the Commencement Date thereafter occurring during the Term, by the percent increase, if any, in the Consumer Price Index for the month in which the applicable anniversary date occurs over the Consumer Price Index for the month in which the Commencement Date occurs), in addition to the requirements set forth in this Article 8 with respect to Restoration, Tenant will comply with the terms of Section 11.02, Section 11.04, Section 11.05, Section 11.06, Section 11.07, Section 11.08, Section 11.11, Section 11.12 and Section 11.15 with respect to such Restoration.

(b) Notwithstanding that the cost of Restoration is less than Two Million Dollars (as such amount is increased as provided in Section 8.05(a)), such cost to be determined as provided in Section 8.04(b), to the extent that any portion of the Restoration involves, (i) a material changes to the exterior of the Project, or (ii) a change in the height, bulk or setback of the Project from the height, bulk or setback existing immediately prior to the damage or destruction, then Tenant will furnish to Landlord at least 30 days prior to commencement of the Restoration a complete set of Restoration Plans and Specifications for the Restoration, involving such work or such change, prepared by an Architect, subject to Landlord's review and approval as provided in this Article 8.

(c) If Tenant desires to modify the Restoration Plans and Specifications that Landlord theretofore has approved pursuant to Sections 8.02 or Article 11, Tenant will submit the proposed modifications to Landlord. Landlord will review the proposed changes to determine whether or not they (i) conform to the requirements of Section 8.01 and (ii) provide for design, equipment, engineering, and materials which are comparable in quality to those provided for in the approved plans and specifications, and will approve such proposed changes if they do conform and provide. If Landlord determines that the proposed changes are not satisfactory in light of the above criteria, it will advise Tenant, specifying in what respect the plans and specifications, as modified, do not conform to requirements above. Tenant will revise the plans and specifications to meet Landlord's objections and will deliver same to Landlord for review. Each review by Landlord will be carried out within 20 Business Days of the date of delivery of the plans and specifications, as revised (or one or more portions thereof), by Tenant, and if Landlord will not have notified Tenant of its determination within such 20 Business Day period, it will be deemed to have determined that the proposed changes are satisfactory.

Section 8.06. Deposit of Proceeds. If the cost of any Restoration, determined as provided in Section 8.04(b), exceeds both (i) Two Million Dollars (as such amount will be increased as provided in Section 8.05(a)) and (ii) the Restoration Funds, after all required payments to Mortgagees are made, then, prior to the commencement of such Restoration, Tenant will deposit with Depository, as security for completion of the Restoration, a bond, cash or other security reasonably satisfactory to Landlord in the amount of such excess, to be held and applied by Depository in accordance with the provisions of Section 8.04; ***provided however***, that if Tenant has made arrangements for additional financing from a Mortgagee for portions of the cost of the Restoration then such portion of the Restoration costs expected to be advanced by the Mortgagee for such purpose need not be deposited with the Depository, and the new Mortgagee may act as the Depository with respect to disbursement of the insurance proceeds then available.

Section 8.07. No Abatement. This Lease will not terminate or be forfeited or be affected in any manner, and there will be no reduction or abatement of Base Rent, Additional Costs or Impositions payable hereunder, by reason of damage to or total, substantial or partial destruction of any of the Project or any part thereof or by reason of the untenability of the same or any part thereof, for or due to any reason or cause whatsoever, and Tenant waives any and all rights available at law or in equity to quit or surrender the Premises or any part thereof. Tenant expressly agrees that its obligations hereunder, including, without limitation, the payment of all Base Rent, Additional Costs and Impositions required by this Lease will continue as though the Project had not been damaged or destroyed and without abatement, suspension, diminution, or reduction of any kind.

Section 8.08. As-Built Plans. If for any completed Restoration the cost of which exceeds Two Million Dollars (as such amount will be increased as provided in Section 8.05(a)), Tenant has not delivered same to Landlord, Tenant will deliver to Landlord, within 90 days of the completion the Restoration, a complete set of “as built” plans (which may be in the form of field marked copies of the original plans and specifications) together with a statement in writing from Tenant or its Architect that such plans are complete and correct in all material respects.

Section 8.09. Casualty at End of Term. In the event of substantial damage by a casualty at any time within the last five (5) years of the Term, and so long as no Tenant Event of Default exists hereunder, Tenant, in lieu of Restoring the Project, subject to the rights of any Mortgagee, will have the right to terminate this Lease upon 30 days’ notice to Landlord, in which event all insurance proceeds in respect of such casualty (or a sum equivalent to such amount) will be payable as follows: first, to satisfy Tenant’s obligations to any and all Mortgagees; second, to the demolition, clearing and grading work occasioned by such casualty described below; third, to pay any Base Rent, Additional Costs or other amounts owed by Tenant to Landlord under this Lease; and fourth, to be divided between Tenant and Landlord in relation to the loss sustained by each, taking into consideration the remaining Term and the discounted value of Landlord’s remainder interest in the Improvements destroyed by such destruction, Tenant’s interest in the remainder of the Term and the Improvements and such other matters as will be appropriate to determining the amount of such loss after any taxes or other charges have been paid. If the parties are unable to

agree on such division at the end of the immediately preceding sentence, then the division will be made pursuant to dispute resolution in the manner provided in Article 34. Tenant, at its sole expense, will deliver to Landlord any plans or other technical materials related to the design and construction of the Improvements and, at the request of Landlord, will remove any damaged Improvements and restore that portion of the Premises on which the demolished Improvements were located to a cleared and safe condition and at a grade approximately level with the abutting land and otherwise in accordance with all Applicable Laws relating to the removal of Improvements on the Property. Upon the completion of any such demolition, clearing and grading work to the reasonable satisfaction of Landlord and the payment of such portion of any such insurance proceeds due to Landlord pursuant to the terms of this Section 8.09, and provided that no Tenant Event of Default exists, this Lease will be terminated without liability or further recourse to the parties hereto, provided that any Base Rent and Additional Costs owed by Tenant to Landlord as of the date of said termination will be paid or otherwise carried out in full.

ARTICLE 9

CONDEMNATION

Section 9.01. Taking of All or Substantially All of Premises.

(a) If the whole or substantially all of the Premises will be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain or by agreement among Landlord, Tenant and those authorized to exercise such right, this Lease and the Term will terminate and expire on the date of such taking.

(b) The term “substantially all of the Premises” will mean such portion of the Premises as when so taken would leave remaining a balance of the Premises which, due either to the area so taken or the location of the part so taken in relation to the part not so taken, would not under economic conditions, applicable zoning laws or building regulations then existing or prevailing permit the economic operations of the Project for their permitted uses hereunder.

(c) Each of the parties will execute any and all documents that may be reasonably required in order to facilitate collection by them of such awards.

Section 9.02. Date of Taking. For purposes of this Article 9, the date that the Premises will be deemed to be “taken” will be on the earlier of (i) the date on which actual possession of the whole or substantially all of the Premises, or a part thereof, as the case may be, is acquired by any lawful power or authority pursuant to the provisions of the applicable federal or Virginia law or (ii) the date in which title to the Premises or the portion thereof will have vested in any lawful power or authority pursuant to the provisions of the applicable federal or Virginia law.

Section 9.03. Partial Taking: Tenant’s Obligation to Restore. If less than substantially all of the Premises are taken, this Lease and the Term will continue as to the portion of the Premises remaining without abatement of Base Rent or Additional Costs or diminution of any of Tenant’s

obligations hereunder. Tenant, whether or not the award or awards, if any, will be sufficient for the purpose will (subject to Unavoidable Delays) proceed diligently to Restore any remaining part of the Project not so taken so that the latter will be complete, operable and in good condition and repair in conformity with the requirements of Section 8.01. In the event of a partial taking pursuant to this Section, the entire award attributable to such taking will be deposited with the Depository for application to the cost of Restoration of the part of the Project not so taken. Subject to the provisions and limitations in this Article 9, Depository will make available to Tenant as much of that portion of the award actually received and held by Depository, if any, less all necessary and proper expenses paid or incurred by Depository, the Mortgagee most senior in lien and Landlord in the condemnation proceedings, as may be necessary to pay the cost of Restoration of the part of the Project remaining. Such Restoration will be done in accordance with and subject to the provisions of Article 8. Payments to Tenant will be disbursed in the manner and subject to the conditions set forth in Article 8. Any balance of the award held by Depository and any cash and the proceeds of any security deposited with Depository pursuant to Section 9.04 remaining after completion of the Restoration and Landlord receiving its Respective Allocation pursuant to Section 9.04 below, will be paid to Tenant or its Mortgagee, if any. Each of the parties will execute any and all documents that may be reasonably required in order to facilitate collection by them of such awards.

Section 9.04. Condemnation Award.

(a) In any condemnation proceedings, Landlord and Tenant each agree to cooperate in obtaining the highest award possible and agree to request that separate awards be made for Landlord's and Tenant's interests in the Premises and the Improvements. If separate awards are not made for Landlord's and Tenant's interests in the Premises and the Improvements, any compensation which may be awarded on account of the taking of all of the Premises, and improvements by eminent domain will be fairly allocated between the ownership of the fee and the remainder of the leasehold estate in accordance with the loss and damage suffered by each, taking into consideration all the relevant facts and circumstances, including, but not limited to, the then present value of the Premises and all of the improvements and the present value of Landlord's remainder interest in such Improvements as well as the value of Landlord's interest in the fee and Tenant's interest in the Lease for the remainder of the Term (i.e. from the date the Premises is taken until the Fixed Expiration Date). If the parties are unable to agree on the allocation of the condemnation award between Landlord and Tenant (the "Respective Allocations") within 30 days after the condemnation proceedings have terminated, the allocation will be determined by appraisal, using the method as follows.

(i) If, during such negotiation period, the parties do not agree in writing, Landlord and Tenant will each designate in writing, within five Business Days after the expiration of the aforementioned 30-day period, an MAI or similarly accredited appraiser (an "Appraiser") having at least ten years' experience in the appraisal of commercial real estate in the Northern Virginia area of metropolitan Washington, DC for purposes of determining the Respective Allocations. The Appraiser may not be affiliated in any respect with either Landlord or Tenant or their respective

affiliates. Within 15 Business Days after the designation of the Appraisers, the two Appraisers so designated will designate a third Appraiser of the same qualifications. The Appraisers so designated will, within 60 days after the date of the third Appraiser is designated, determine the Respective Allocations.

(ii) If the three Appraisers are unable to agree upon the Respective Allocations, then the Respective Allocations will be the average of the two closest appraisals. Landlord and Tenant will each cooperate with the Appraisers and provide all information reasonably requested by the Appraisers to all three Appraisers at the same time. Any information provided by Landlord or Tenant to the Appraisers will also simultaneously be delivered to the other party hereto. Each Appraisers will give written notice to the parties stating his/her determination and will furnish to each party a copy of such determination signed by him/her.

(b) The determination of such Appraisers will be final and binding upon the parties and a final judgment thereon may be entered in a court of competent jurisdiction on the petition of either party. If either party, or the two Appraisers designated by the parties, fail to timely designate an Appraiser (or a replacement Appraiser pursuant to the next sentence), then either party may apply to a court of competent jurisdiction to make such designation. In the event of the failure, refusal, or inability of any Appraiser to act, a new Appraiser with the qualifications described above will be appointed promptly in his stead. The party who designated the Appraiser so failing, refusing or unable to act will designate the replacement Appraiser, or, if the Appraiser failing, refusing or unable to act was the Appraiser designated jointly by the parties' Appraisers, the parties' Appraisers will jointly designate the replacement Appraiser.

(c) Landlord and Tenant will each bear the cost of its Appraiser and Landlord and Tenant will share equally the cost of the third Appraiser. If the Appraisers fail to make the determination herein provided, then either party will have the right to institute such action or proceeding in such court as will be appropriate in the circumstances and Tenant and Landlord will share equally the cost of such action.

Section 9.05. Temporary Taking. If the temporary use of the whole or any part of the Premises will be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain or by agreement between Tenant and those authorized to exercise such right, Tenant will give prompt notice thereof to Landlord and the Term will not be reduced or affected in any way and Tenant will continue to pay all Base Rent and Additional Costs and Impositions payable by Tenant hereunder without reduction or abatement and perform all of Tenant's other obligations under this Lease, and Tenant will be entitled to receive for itself any award or payments made in connection with such temporary taking, ***provided however***, if the taking is for a period extending beyond the Term, such award or payment will be apportioned between Landlord and Tenant as of the Expiration Date; and further ***provided however***, that the amount of any award or payment allowed or retained for the Restoration of the Project and not previously applied for such purpose will remain the property of Landlord, if this Lease will expire prior to such Restoration.

Section 9.06. Sale in Lieu of Condemnation. In the event of a negotiated sale of all or a portion of the Premises in lieu of condemnation, the proceeds will be distributed as provided in cases of condemnation as provided in Section 9.04 above.

Section 9.07. Participation in Proceedings. Landlord, Tenant, and any Mortgagee will be entitled to file a claim and otherwise participate in any condemnation or similar proceeding and all hearings, trials and appeals in respect thereof.

Section 9.08. Claims for Personal Property. Notwithstanding anything to the contrary contained in this Article 9, in the event of any permanent or temporary taking of all or any part of the Premises, Tenant (and, if applicable, its Residential Tenants) will have the exclusive right to assert claims for any trade fixtures and personal property so taken which were the property of Tenant or its Residential Tenants (but not including any Fixtures) and for relocation expenses of Tenant or its Residential Tenants, and all awards and damages in respect thereof will belong to Tenant or its Residential Tenants, as applicable, and Landlord hereby waives any and all claims to any part thereof; ***provided however***, that if there will be no separate award or allocation for such trade fixtures or personal property, then such claims of Tenant and its Residential Tenants, or awards and damages, will be addressed as provided in Section 9.04.

ARTICLE 10

ASSIGNMENT, SUBLETTING, MORTGAGES, ETC.

Section 10.01. Assignment; Subletting; Transfers.

(a) Tenant acknowledges that Landlord has examined and relied on (i) the creditworthiness and experience of Tenant, and (ii) Tenant's or its Affiliates' (if applicable) management and operation of properties such as the Project, in agreeing to lease the Premises to Tenant pursuant to the terms and conditions of this Lease. Except as otherwise specifically provided in this Section 10.01:

(i) neither this Lease nor any interest of Tenant in this Lease, will be sold, assigned, or otherwise transferred, whether by operation of law or otherwise;

(ii) Tenant will not sublet all or any portion of the Premises (except in connection with a Residential Lease or other subleases typically entered into in connection with ancillary or incidental uses typically found in affordable multifamily projects);

(iii) nor will any of the: (A) general or limited partnership interests of Tenant (if Tenant is a partnership), or (B) membership interests of Tenant (if Tenant is a limited liability company), or (C) issued or outstanding capital stock of Tenant (if Tenant is a corporation); be (voluntarily or involuntarily) sold, assigned, transferred, pledged or encumbered, whether by operation of law or otherwise, nor will any voting trust or similar agreement be entered into with respect to such stock, nor any reclassification or modification of the terms of such stock take place,

nor will there be any merger or consolidation of such corporation into or with another corporation nor will additional stock (or any warrants, options or debt securities convertible, directly or indirectly, into such stock) in any such corporation be issued if the issuance of such additional stock (or such other securities, when exercised or converted into stock), will result in a change of the controlling stock ownership of such corporation as held by the shareholders thereof as of the Commencement Date, ***provided however***, Tenant may transfer such partnership interests, membership interests or capital stock (as applicable), so long as Control of Tenant does not change (i.e. the possession of power to direct or cause the direction of the management and policy of Tenant remains the same as prior to such transfer of interests or capital stock) and such transfer made in accordance with this proviso will not constitute a Transfer.

Each of the foregoing transactions referenced in (i) through (iii) above are hereinafter referred to as a “Transfer”.

(b) Tenant may not make any Transfer prior to or within the first five years after Final Completion. After the five year anniversary of the Final Completion, Tenant may not make a Transfer, except upon the prior written approval of Landlord, which Landlord may grant or withhold in its sole and absolute discretion (subject to Section 10.01(e) below), ***provided however***, that Landlord’s consent will not be unreasonably withheld, conditioned or delayed so long as (i) no Event of Default will have occurred and then be continuing hereunder (or such Event of Default is cured simultaneously with such Transfer), and (ii) Tenant will have otherwise complied with the provisions of this Article 10.

(c) Tenant may not make a Transfer to any Person, in which, an ownership interest, in the aggregate, of five percent or greater is then held, directly or indirectly (other than as a result of ownership of publicly traded securities), by any individual (i) who has ever been convicted of a felony, (ii) against whom any action or proceeding is pending to enforce rights of the Commonwealth of Virginia, the County of Fairfax, Virginia or any agency, department, political subdivision (including without limitation, the Fairfax County Redevelopment and Housing Authority), public authority or public benefit corporation of either, or (iii) with respect to whom any notice of substantial monetary default which remains uncured has been given by the Commonwealth of Virginia, the County of Fairfax, Virginia or any agency, department, public authority or any public benefit corporation of either.

(d) In each instance when Tenant desires to effect a Transfer, and as a condition to the effectiveness thereof, Tenant will, prior to the effective date of such transaction, notify Landlord of the proposed transaction and submit to Landlord the following documents and information (which documents may be unexecuted but will, in all other respects, be in substantially final form) and such other information and documents Landlord may reasonably require:

(i) a copy of the proposed instrument(s) of assignment or sublease of the Premises or assignment of ownership interests in Tenant containing, ***inter alia***, the name, address, and telephone number of the assignee;

(ii) a copy of the proposed instrument(s) of assumption of Tenant's obligations under this Lease by said assignee (which need not be in a separate document from the instrument of assignment);

(iii) a certificate of the assignee or subtenant (or an authorized officer, general partner or managing member thereof), setting forth (x) in the case of a partnership or limited liability company, the names and addresses of all partners (general and limited (if applicable)) or members thereof of the assignee having a five percent or greater ownership interest in the assignee, (y) in the case of a corporation, the names and addresses of all persons having five percent or greater record ownership of stock in the assignee, and all directors and officers of the assignee; ***provided however***, that in the case of an entity whose equity interests are publicly traded the names of the holders of publicly traded securities need not be disclosed; and

(iv) any such other documents and information as Landlord may reasonably request to permit Landlord to evaluate whether the proposed transferee or sublessee meets the criteria set forth in Section 10.01(e).

Landlord will within 20 Business Days after receipt of the foregoing, notify Tenant whether it grants its consent to such Transfer. If Landlord denies its consent to such transaction or determines that the information provided in the applicable certificate is insufficient to determine whether or not Landlord's consent may not be unreasonably withheld, conditioned, or delayed, then Landlord will notify Tenant in writing specifying the reasons for such denial or determination. If Landlord does not notify Tenant of such denial or determination within such period, it will be deemed to have consented to the proposed transaction and to have determined that the documents and the information submitted establish compliance with the applicable provisions of this Section 10.01. Tenant agrees to bear and will pay or reimburse Landlord on demand for all out-of-pocket costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by Landlord in connection with the review, approval, and documentation of any Transfer under this Article 10. If Landlord has consented (or be deemed to have consented) to the proposed Transfer or has determined that the documents and information establish compliance with the applicable provisions of this Section 10.01, such consent or determination will still be conditioned upon the delivery to Landlord of the applicable executed documents of transfer, assignment, or conveyance and receipt of payment or reimbursement by Landlord as set forth in the preceding sentence. Any attempted or purported Transfer, if made in contravention of this Article 10, will be null and void and of no force and effect and will constitute an immediate Event of Default under this Lease.

(e) Notwithstanding any of the foregoing in this Article 10 to the contrary, Landlord will not unreasonably withhold its consent to any proposed Transfer provided no Event of Default is then existing hereunder (or such Event of Default is cured simultaneously with such Transfer) and that the proposed transferee satisfies the following conditions:

(i) the proposed transferee will have (or will be Controlled by an entity that has) or will have arranged for management services through an asset management or property management company approved by Landlord (which approval will not be unreasonably withheld,

conditioned, or delayed) that has at least ten years of experience in operating and maintaining apartment projects similar or larger in size to the Project;

(ii) the proposed transferee will have or will be Controlled by an entity that has a Net Worth at least equal to the Net Worth Requirement;

(iii) the proposed transferee will use the Premises for the uses permitted under this Lease;

(iv) the proposed transferee is not a person or entity prohibited from owning the interests of Tenant hereunder pursuant to Section 10.01(c) above; and

(v) Tenant pay all of Landlord's reasonable out-of-pocket costs and expenses related to its review and approval of the Transfer.

(f) Subject to compliance by a Mortgagee with the provisions of Sections 10.04 hereof, the requirements in this Section 10.01 of consent by Landlord will not apply to a Transfer of the Premises pursuant to a foreclosure of a Mortgage or through a deed or instrument of transfer delivered in lieu of such foreclosure, so long as such transferee, as applicable, will, in the instrument transferring the interest of Tenant hereunder, assume and agree to perform all of the terms, covenants and conditions of this Lease thereafter to be observed or performed by Tenant; ***provided however***, the criteria set forth in Section 10.01(e)(i)-(v) will apply to any such transferee except Mortgagee. Each reference in this Section 10.01 to "Mortgagee" will be deemed to include a wholly owned subsidiary (direct or indirect) of such Mortgagee or its direct parent, provided such Mortgagee has delivered to Landlord a written notice advising that such a subsidiary should be so deemed and certifying (i) that such subsidiary is wholly owned (directly or indirectly) by such Mortgagee or its direct parent and (ii) that such subsidiary is authorized to act in the place and stead of such Mortgagee.

(g) Any Transfer approved by Landlord in accordance with, or otherwise allowed (with or without Landlord's approval) pursuant to the terms of this Article 10 will be a "Permitted Transfer". Upon a Permitted Transfer resulting in a new entity as the Tenant under this Lease, the previous "Tenant" will be relieved from all subsequent obligations and liabilities arising under this Lease.

(h) No assignment of this Lease, subletting of the Premises as an entirety or substantially as an entirety or other Transfer will have any validity except upon compliance with the provisions of this Article 10.

(i) Any assignment of this Lease will not be effective for purposes of this Lease unless and until the assignee, in the case of an assignment, executes, acknowledges and delivers to Landlord an agreement that provides that the assignee (A) assumes the obligations and performance of this Lease and agree to be bound by all of the covenants, agreements, terms, provisions and conditions hereof on the part of Tenant to be performed or observed on and after

the effective date of any such assignment, and (B) agrees that the provisions of this Article 10 will continue to be binding upon assignee in the future. Tenant covenants that, if Tenant engages in an assignment or transfer in violation of the provisions of this Lease, Tenant will remain fully and primarily and jointly and severally liable for the payment of all Base Rent, Additional Costs and Impositions due and to become due under this Lease and for the performance and observance of all of the covenants, agreements, terms, provisions and conditions of this Lease on the part of Tenant to be performed or observed until a Permitted Transfer occurs.

Section 10.02. Consent Limited to Transaction. Any consent by Landlord under Section 10.01 above will apply only to the specific transaction thereby authorized and will not relieve Tenant from any requirement hereunder of obtaining the consent of Landlord to any further Transfer of this Lease or the interests of Tenant.

Section 10.03. Landlord's Right of First Offer. If Tenant would like to make a Permitted Transfer with respect to all or any portion of the Premises (the "Proposed Transfer Premises") pursuant to the terms and conditions of this Article 10, Tenant will promptly give Landlord notice of such election and will first offer to transfer the Proposed Transfer Premises to Landlord or an Affiliate of Landlord pursuant to the terms of this Section 10.03. Such offer may be made by Tenant to Landlord prior to the time Tenant has made an offer to or received an offer from any third party.

(a) Tenant will offer (the "Offer") to transfer to Landlord the Proposed Transfer Premises pursuant to terms determined in Tenant's sole and absolute discretion (the "Offer Terms"). The Offer will be irrevocable for a period ending at 5:00 P.M. east coast time, on the sixtieth day (or the next Business Day if the sixtieth day is not a Business Day) following the day on which the Offer was made (the "Offer Period").

(b) If that the Offer is accepted by the Landlord during the Offer Period, Landlord will close on the Proposed Transfer Premises within 60 days after the Offer is accepted (or such longer time as is agreed to by the parties in writing) in accordance with the Offer Terms; ***provided however***, that if such closing does not occur within such period as a result of a default by Landlord after acceptance, then Tenant will be entitled to Transfer the Proposed Transfer Premises to any third party in accordance with this Section 10.03(c). Landlord and Tenant will execute such documents and instruments as may be necessary or appropriate to effect the transfer of the Proposed Transfer Premises pursuant to the terms of the Offer and this Section 10.03. If Landlord does not elect to accept the Offer, Landlord may, at its election, make a counteroffer ("Counteroffer") setting forth the price and other material terms on which Landlord would be willing to purchase the Proposed Transfer Premises, but Tenant has no obligation to accept or otherwise address any such Counteroffer. If Tenant elects to accept the Counteroffer, the parties will close on the Proposed Transfer Premises in accordance with this Section 10.03(c).

(c) If the Offer is not accepted by Landlord (or a proposed Counteroffer is not accepted by Tenant) in the manner hereinabove provided, Tenant may transfer the Proposed Transfer Premises at any time within nine months after the last day of the Offer Period, provided that the

terms of any such Transfer of the Proposed Transfer Premises to such third party are substantially the same as the Offer Terms (which, in the case of price, means that the sale price is not less than: (i) 95% of the sale price set forth in the Offer Terms if Landlord did not make a Counteroffer, or (2) 100% of the amount of the Counteroffer price if a Counteroffer was made. If the Proposed Transfer Premises are not transferred to an unrelated third party within such nine- month period, such Transfer will again be subject to all of the terms of this Section 10.03. If Tenant is required to re-offer the Proposed Transfer Premises to Landlord during such nine-month period, the procedures in subsections 10.03(a) and (b) will apply.

(d) The Landlord's right of first offer set out in this Section 10.03 is intended to apply only to the sale of the Proposed Transfer Premises by Tenant and is not intended to apply to a Mortgagee or another purchaser of the Premises pursuant to a foreclosure of a Mortgage or through a deed or instrument of transfer delivered in lieu of such foreclosure, which is not subject to this Section 10.03, ***provided however***, if such Mortgagee or other purchaser of the Premises pursuant to a foreclosure of a Mortgage acquires this Lease and becomes a "Tenant" hereunder, this Section 10.03 will apply to any future attempted Transfer of this Lease or Proposed Transfer Premises.

Section 10.04. Leasehold Mortgages.

(a) Tenant will have the right to mortgage or pledge its interest in this Lease to one or more Mortgagees which at any time and from time to time during the Term, provided however, that (x) until Final Completion has occurred, all proceeds from any loan secured by Tenant's interest in this Lease will be used only in connection with the costs of pre-development, development, construction, carry, and operations of the Project and (y) no holder of any Mortgage, nor anyone claiming by, through or under any such Mortgage, will by virtue thereof, acquire any greater rights hereunder than Tenant has, except the right to cure or remedy Tenant's defaults or become entitled to a New Lease as more fully set forth in this Section 10.04 and Section 10.06 and such other rights as are expressly granted to Mortgagees in this Lease. No Mortgage will be effective, unless:

(i) at the time of making such Mortgage there is no existing and unremedied Event of Default on the part of Tenant under any of the agreements, terms, covenants and conditions of this Lease on the part of Tenant to be performed; ***provided however***, that if such Event of Default exists, but this Lease has not been terminated and such Event of Default will be cured simultaneously with the granting of such Mortgage or with the proceeds from such Mortgage, Tenant may nevertheless enter into such Mortgage for Tenant's interest in this Lease;

(ii) such Mortgage will be subject to all the agreements, terms, covenants, and conditions of this Lease;

(iii) such Mortgage will contain in substance the following provisions:

"This instrument is executed upon condition that (unless this condition be released or waived by Landlord under said Lease or its successors in interest by an instrument in

writing) no purchaser or transferee of said Lease at any foreclosure sale hereunder, or other transfer authorized by law by reason of a default hereunder where no foreclosure sale is required, will, as a result of such sale or transfer, acquire any right, title or interest in or to said Lease or the leasehold estate hereby mortgaged or pledged, unless and until (i) Landlord has been given written notice of such sale or transfer of said Lease and the effective date thereof, and (ii) such purchaser or transferee has delivered to Landlord a duplicate original or certified copy of the instrument of sale or transfer to Landlord.

“The purchaser or transferee of said Lease will, effective from and after the effective date of the foreclosure or transfer in lieu of foreclosure, assume and agree to perform all of the terms, covenants and conditions of the Lease to be observed or performed on the part of Tenant and, that no further or additional mortgage or assignment of the Lease hereby mortgaged may be made except in accordance with the provisions contained in Article 10 of the Lease.

“This mortgage is not a security interest in or lien on the fee interest in the premises covered by the Lease hereby mortgaged.

“The mortgagee hereunder waives all right and option to retain and apply the proceeds of any insurance or the proceeds of any condemnation award toward the payment of the sum secured by this mortgage but only to the extent such proceeds are required for and applied to the demolition, repair or restoration of the mortgaged premises in accordance with the provisions of the Lease.

“In the event of foreclosure, the mortgagee will not name, in such foreclosure action or otherwise, and in any event will not disturb the possession or right to possession (except for default) of, any subtenants of Tenant under the Lease who are not Affiliates of Tenant.

“This mortgage and all rights of the mortgagee hereunder are, without the necessity for the execution of any further documents, subject to the terms of said Lease and the rights of the landlord thereunder, as said Lease may have been previously modified, amended or renewed with the consent of the mortgagor or its predecessors in interest, or may hereafter be modified, amended or renewed with the consent of the mortgagee. Nevertheless, the holder of this mortgage agrees from time to time upon request and without charge to execute, acknowledge, and deliver any instruments reasonably requested by Landlord to evidence the foregoing.”

(b) Tenant or the Mortgagee will give to Landlord written notice of the making of any Mortgage (which notice will contain the name and office address of the Mortgagee) promptly after the execution and delivery of such Mortgage and a duplicate original or certified copy thereof.

(c) Landlord will give to each Mortgagee identified to Landlord pursuant to Section 10.04(b) above, at the address of such Mortgagee set forth in the notice from such Mortgagee or from Tenant, and otherwise in the manner provided by Article 25, a copy of each notice given by Landlord to Tenant hereunder (including any notices of Event(s) of Default under the Lease) at the

same time as and whenever any such notice will thereafter be given by Landlord to Tenant, and no such notice by Landlord will be deemed to have been duly given to Tenant (and no grace or cure period will be deemed to have commenced) unless and until a copy thereof will have been given to each such Mortgagee. Upon receipt of such notice, the Mortgagee specified in Section 10.04(j) below will have the right (but not the obligation) to remedy such Event of Default or cause the same to be remedied, within the following additional time periods (in each instance after the applicable period afforded Tenant for remedying the Event of Default or causing the same to be remedied has expired): (i) a period of ten Business Days more in the case of a monetary Event of Default, and (ii) a period of 15 Business Days more in the case of a non-monetary Event of Default, or in the case of a non-monetary Event of Default which will require more than the additional 15 Business Days to cure using due diligence, then such longer period of time as will be necessary, so long as such Mortgagee will have commenced to cure (or caused to be commenced such cure) within such additional 15 Business Day period and continuously prosecutes or causes to be prosecuted the same to completion with reasonable diligence and continuity. Landlord will accept performance by or on behalf of such Mortgagee of any covenant, condition, or agreement on Tenant's part to be performed hereunder with the same force and effect as though performed by Tenant, so long as such performance is made in accordance with the terms and provisions of this Lease. Landlord will not object to any temporary entry onto the Premises by or on behalf of Mortgagee to the extent necessary to effect such Mortgagee's cure rights, provided such entry is in compliance with all Applicable Laws. If possession of the Premises or any part thereof is required in order to cure such Event of Default, Mortgagee will notify Landlord within the applicable period afforded to Mortgagee hereunder.

(d) During any period in which Mortgagee, in good faith and acting with reasonable diligence and continuity, is attempting or in the process of curing (or caused to be commenced such cure) a non-monetary Event of Default within the time periods provided in Section 10.04(c), Landlord will not exercise any remedies to terminate this Lease or dispossess Tenant of possession thereof. At any time prior to the expiration of the additional cure period afforded Mortgagee under Section 10.04(c) to cure (or caused to be cured) the Event of Default, Mortgagee may send Landlord notice of its intention to institute foreclosure proceedings, and thereafter, provided Mortgagee commences such foreclosure proceedings, prosecutes such proceedings with all reasonable diligence and continuity (subject to Unavoidable Delays) and, upon obtaining such possession, commences promptly to cure the Event of Default and prosecutes the same to completion with all reasonable diligence and continuity (subject to Unavoidable Delays), Landlord will not exercise any remedies to terminate this Lease or dispossess Tenant of possession thereof; ***provided however***, that: (i) Mortgagee will have first delivered to Landlord, in writing, its agreement to cure (or caused to be cured), and (ii) during the period in which Mortgagee is curing (or causing such cure of) such Event of Default (and any foreclosure proceedings are pending), all of the other obligations of Tenant under this Lease are being duly performed (including, without limitation, payment of all Base Rent, Additional Costs and Impositions due hereunder (including further, without limitation, the payment of any Impositions or payments of installments for Impositions are being made to a Depository in accordance with Article 5 above)) within any applicable grace periods. However, at any time after the delivery of the aforementioned agreement,

the Mortgagee may notify Landlord, in writing, that it has relinquished possession of the Premises or that it will not institute foreclosure proceedings or, if such proceedings have been commenced, that it has discontinued them, and, in such event, the Mortgagee will have no further liability under such agreement from and after the date it delivers such notice to Landlord (except for any obligations assumed by the Mortgagee and accruing prior to the date it delivers such notice), and, thereupon, Landlord will have the unrestricted right to terminate this Lease, dispossess Tenant of the Premises and to take any other action Landlord deems appropriate by reason of any uncured Event of Default by Tenant.

(e) Notwithstanding anything in this Section 10.04 to the contrary, a Mortgagee will not be required to cure any non-monetary Events of Default of Tenant that are not capable of being cured by such Mortgagee, and if any Mortgagee, assignee or transferee will acquire the Premises pursuant to a foreclosure or transfer in lieu of foreclosure, then any such non-monetary Event of Default by Tenant that is not capable of being cured will no longer be deemed an Event of Default of the acquiring Mortgagee, assignee or transferee of this Lease after such foreclosure or transfer in lieu of foreclosure (*provided however*, that Landlord may continue to pursue any and all remedies at law or in equity against the defaulting Tenant unless Tenant was released of such obligations, *provided further*, that any such remedies may not involve the disturbance of quiet possession of any Mortgagee, assignee or transferee of the Premises under this Lease or a New Lease).

(f) With respect to any non-monetary Event of Default, so long as a Mortgagee will be diligently exercising its cure rights under this Section 10.04 with respect thereto within the applicable cure periods set forth above and so long as, if possession of the Premises is required to cure the same, Mortgagee will be taking the actions required by clause (d) of this Section 10.04, Landlord will not (i) re-enter the Premises, (ii) serve a termination notice, or (iii) bring a proceeding on account of such default to (A) dispossess Tenant or other occupants of the Premises, (B) re-enter the Premises, or (C) terminate this Lease or the leasehold estate (such rights described in clauses (i), (ii) and (iii) being herein "Landlord's Termination Rights").

(g) In addition, with respect to any monetary Event of Default, Landlord will not exercise any of Landlord's Termination Rights so long as a Mortgagee will be diligently exercising its cure rights under this Section 10.04 within the time periods set forth above. Upon any Mortgagee ceasing to diligently exercise such rights and undertaking such activities, Landlord may exercise any of Landlord's Termination Rights hereunder. Nothing in the protections to Mortgagees provided in this Lease will, however, be construed to either (i) extend the Term beyond the stated Fixed Expiration Date provided for in this Lease that would have applied if no Event of Default had occurred or (ii) require such Mortgagee to cure any non-monetary Event of Default by Tenant that is not capable of being cured and as a condition to preserving this Lease or, in the case of a Mortgagee only, to obtaining a New Lease as provided in Section 10.06.

(h) The exercise of any rights or remedies of a Mortgagee under a Mortgage, including the consummation of any foreclosure or transfer in lieu of foreclosure, will not constitute an Event of Default; *provided however*, that any assignment of this Lease resulting from any such

foreclosure or transfer in lieu of foreclosure to an entity other than a Mortgagee or an Affiliate of such Mortgagee will be an Event of Default under this Lease unless such assignment meets the requirements of Section 10.01(f).

(i) Except as provided in clause (d) of this Section 10.04, no Mortgagee will become liable under the provisions of this Lease unless and until such time as it becomes, and then only for so long as it remains, the owner of the leasehold estate created hereby and no performance by or on behalf of such Mortgagee of Tenant's obligations hereunder will cause such Mortgagee to be deemed to be a "mortgagee in possession" unless and until such Mortgagee will take control or possession of the Premises.

(j) If there is more than one Mortgagee, the rights and obligations afforded by this Section 10.04 to a Mortgagee will be exercisable only by the party whose collateral interest in the Premises is senior in lien (or which has obtained the consent of any Mortgagees that are senior to such Mortgagee).

(k) In addition to the other rights, notices and cure periods afforded to the holders of any Mortgage, Landlord further agrees that:

(i) without the prior written consent of each holder of a Mortgage, Landlord will neither agree to any modification or amendment of this Lease, nor accept a surrender or cancellation of this Lease;

(ii) Landlord will consider in good faith any modification to the Lease requested by a Mortgagee or prospective Mortgagee (including the Mortgage language set forth in Section 10.04(a)(iii)) as a condition or term of granting financing to Tenant, provided that the same does not materially increase Landlord's obligations or diminish Landlord's rights and immunities hereunder;

(iii) the holder of the Mortgage most senior in lien priority on this Lease will have the right to participate in any dispute resolution proceedings under Article 34 hereof;

(iv) the holder of the Mortgage most senior in lien priority on this Lease will have the right to participate in the adjustments of any insurance claims of the nature set forth in Article 7 and Article 8 hereof and condemnation awards of the nature set forth in Article 9 hereof and to serve as the Depository (subject to any terms, conditions and covenants applicable to Mortgagee(s), as set forth in such Articles); and

(v) at the request of Tenant from time to time, Landlord will execute and deliver an instrument addressed to the holder of any Mortgage confirming that such holder is a Mortgagee and entitled to the benefit of all provisions contained in the Lease which are expressly stated to be for the benefit of Mortgagees.

Section 10.05. Additional Mortgagee Requirement. Landlord and Tenant acknowledge that a potential Mortgagee may request certain modifications or amendments to this Lease.

Landlord will consider in good faith any such modification or amendment requested by a Mortgagee as a condition or term of granting financing to Tenant, so long as the same does not materially increase Landlord's obligations or diminish Landlord's rights under this Lease. Landlord will not be required to subordinate this Lease to the rights of any Mortgagee, nor will Landlord be required in any manner to modify or reduce the affordability requirements in this Lease in recognition that the principal reason for Landlord entering into this Lease is to increase the number of affordable housing units in Fairfax County.

Section 10.06. New Lease. If this Lease terminates due to an Event of Default, and if at the date of such termination Tenant's interest in this Lease is subject to a Mortgage, then the Mortgagee will have the option to obtain a new lease (a "New Lease") in accordance with the terms of this Section 10.06, which New Lease will become effective upon the termination of this Lease.

(a) Mortgagee may send written notice to Landlord in accordance with Article 25 of its exercise of the option to obtain a New Lease at any time within thirty (30) days of Mortgagee's receipt from Landlord of notice of termination of this Lease. Upon such exercise and subject to the terms of this Section 10.06, Landlord will promptly enter into a New Lease of the Premises with the Mortgagee or any designee of the Mortgagee meeting the criteria set forth in Sections 10.01(c) and 10.01(e) (such Mortgagee or such designee, the "New Tenant").

(b) The New Lease will be effective commencing from the date of termination of this Lease and continuing for the remainder of the Term and upon all of the same agreements, terms, covenants, and conditions of this Lease. Upon the execution of a New Lease, the New Tenant will pay any and all sums which would at the time of the execution of the New Lease be due under this Lease but for its termination and New Tenant will commence to remedy any non-monetary Events of Default from this Lease (that remains uncured in the New Lease) and that are of a nature or type that are capable of being cured by a party other than Tenant and New Tenant (or Mortgagee, on New Tenant's behalf) will pay all costs and expenses, including, without limitation, reasonable counsel fees, court costs and disbursements incurred by Landlord in connection with the Events of Default and termination of this Lease, the recovery of possession of said Premises and the preparation, execution and delivery of such New Lease. In the event of a dispute between the parties as to the reasonableness of New Tenant's diligence in remedying non-monetary Events of Default as provided in the preceding sentence, such dispute will be determined by dispute resolution as provided in Article 34. Landlord will have no obligation to deliver physical possession of the Premises in connection with the giving of any such New Lease to the extent that Landlord has not previously have recovered possession of same. As between Landlord and such New Tenant, any such New Lease and the leasehold estate thereby created, subject to the same conditions contained in this Lease, will continue to maintain the same priority as this Lease with regard to any Mortgage or any other lien, charge, or encumbrance whether or not the same will then be in existence.

(c) If there is more than one Mortgagee, Landlord will enter into a New Lease with the Mortgagee whose Mortgage is senior in lien (or which has obtained the consent of any Mortgagees

that are senior to such Mortgagee) as the Mortgagee entitled to the rights afforded by this Section 10.06.

(d) Any rejection of this Lease by any trustee of Tenant in any bankruptcy, reorganization, arrangement, or similar proceeding which would otherwise cause this Lease to terminate, will, without any action or consent by Landlord, Tenant, or any Mortgagee, effect the transfer of Tenant's interest hereunder to the senior Mortgagee or its nominee or designee. Such Mortgagee may reject the transfer of this Lease upon such transfer upon giving notice thereof to Landlord no later than 60 days after notice from Landlord of such transfer. Such Mortgagee will thereupon have no further obligations hereunder. Alternatively, the senior Mortgagee may request a New Lease in accordance with the provisions of this Section 10.06.

(e) Except as expressly provided in Section 10.04(e) regarding Mortgagee not having to cure any non-monetary Event of Default by Tenant that is not capable of being cured, nothing in this Section 10.06 releases Tenant from any of its obligations under this Lease which have not been discharged or fully performed by Tenant or Mortgagee.

ARTICLE 11

INITIAL CONSTRUCTION OF THE PROJECT; RESTORATION; CAPITAL IMPROVEMENTS

Section 11.01. Initial Construction Work. Tenant will cause the Project to be developed as described in the Plans and Specifications listed on Exhibit B. Tenant will cause Final Completion of the Project on or before the Final Completion Date; provided, however, that an Event of Default will not be deemed to have occurred with respect to Tenant's failure to cause Final Completion in a timely manner, until the Outside Final Completion Date has occurred. Until Final Completion of the Project, Tenant will always prosecute construction of the Project (and, for purposes of this clause, "prosecute construction of the Project" will include actions necessary to obtain construction financing) with reasonable diligence and continuity (subject to Unavoidable Delays) in accordance with the then applicable Project Schedule. Tenant will provide Landlord with a copy of Tenant's Project Schedule, but Tenant is entitled to modify such Project Schedule from time to time as Tenant deems appropriate (except that Tenant may not modify the Project Schedule in a manner that would reflect Final Completion of the Project occurring after the Final Completion Date). Tenant will promptly provide a copy of any revised Project Schedule to Landlord.

Section 11.02. Restoration – Construction Work in Excess of Ten Percent of the Replacement Value or That Would Affect the Exterior of any Building. If: (a) the estimated cost (determined as provided in Section 8.04(b) hereof) of any Restoration of the Initial Construction Work to be performed in accordance with the provisions of this Lease, other than any interior alteration is greater than, (i) Two Million Dollars (subject to adjustment as provided in Section 8.05(a)), or (ii) ten percent of the Replacement Value, either individually or in the aggregate with

other Construction Work which is in any calendar year, or (b) the Construction Work involves work that would materially change the exterior of any Building (but not including painting of the exterior of a Building) or (c) the Construction Work would materially change the height, bulk or setback of any Building from the height, bulk or setback of the Building existing immediately before the commencement of the Construction Work; then in any such case, Tenant will obtain the consent of Landlord for such Construction Work, which consent will not be unreasonably withheld, which request will be accompanied by sufficient information to permit Landlord to fairly evaluate the request. Following any request by Tenant to Landlord to approve any proposed modifications to the Construction Work as set forth herein, Landlord will, subject to the terms set forth hereinabove in this Section, review the information submitted to Landlord and notify Tenant in writing of Landlord's approval or disapproval of such submission within 20 Business Days after its receipt of the same from Tenant. If Landlord disapproves any such modifications, Landlord's notice to Tenant will set forth in reasonable detail the reasons for such disapproval. Landlord will bear the costs for the reasonable fees and expenses of any registered architect or licensed professional engineer selected by Landlord to review the information provided by Tenant to Landlord in connection with such Construction Work and to inspect the Construction Work on behalf of Landlord or may request to rely on the inspecting architects or engineers selected by the Mortgagee for such purposes.

Section 11.03. Standards of Construction and Maintenance during Lease Term. Throughout the term of this Lease, Tenant will be obligated to construct and maintain the Project and make all appropriate capital replacement (including without limitation, all Capital Improvements) in a good and workmanlike manner that is consistent with the construction and maintenance standards for the Initial Construction Work of the Project.

Section 11.04. Modification of Approved Plans and Specifications. Prior to the Commencement Date, Tenant has submitted and Landlord has approved the Plans and Specifications for the Project. If Tenant desires to modify the Plans and Specifications after they have been approved by Landlord in any way which will materially affect any aspect of the exterior of any Building or result in a change in the height, bulk or setback of any Building, Tenant will submit the proposed modifications to Landlord. Landlord will review the proposed changes to determine whether they materially conform to the Plans and Specifications originally approved by Landlord. A modification will be "material" or will "materially affect" the exterior of the Building if the costs associated with such modification exceed: (a) \$300,000.00 on an occurrence basis; or (b) \$600,000.00 in the aggregate in any 12-month period, and in such event, Landlord will have the review and approval rights set forth herein for each modification over the \$600,000.00 aggregate that costs more than \$100,000.00 in any instance. The initial review by Landlord will be carried out within 20 Business Days of the date of submission of the proposed modifications to the Plans and Specifications. If Landlord determines that they do so conform, Landlord will so notify Tenant. If Landlord reasonably determines that the Plans and Specifications, as so revised, do not materially conform to the Plans and Specifications originally approved by Landlord, Landlord will so notify Tenant, specifying in what respects they do not so conform. Tenant will either (i) withdraw the proposed modifications, in which case construction of the Project will

proceed on the basis of the Plans and Specifications previously approved by Landlord, or (ii) revise the proposed modifications to so conform and resubmit them to Landlord for review. Each review by Landlord after the initial review will be carried out within ten Business Days of the date of submission of the proposed modifications to the Plans and Specifications. If Landlord has not notified Tenant of its determination within the time period for Landlord's review as outlined above, Landlord will be deemed to have determined that they materially conform to the Plans and Specifications previously approved by Landlord. Landlord and Tenant agree that the ten Business Day review period outlined above will only apply to modifications previously reviewed and commented on by Landlord. To the extent Tenant submits new or additional modifications outside the scope of Tenant's original submission to Landlord or in addition to any changes requested by Landlord as a result of its initial review, Landlord will have 20 Business Days to review and comment on such new or additional modifications thereto. It is understood and agreed that any consent or approval by Landlord to a modification under this Section 11.04 is a consent or approval by Landlord, and no such approval hereunder will in any manner be deemed to affect, limit or obligate the Board of Supervisors of Fairfax County or the Fairfax County Redevelopment and Housing Authority in their governmental or regulatory capacities or the County of Fairfax, Virginia, or its agencies, departments or divisions (including without limitation the Department of Planning and Development) thereof with respect to any actions the foregoing may require or be requested to undertake that pertain in any manner to, any approval requests, inspections or other matters involving Governmental Authorities.

Section 11.05. Payment for Construction Work; Contested Matters. Tenant will make full and timely payment or will cause full and timely payment to be made to all contractors, subcontractors, materialmen, engineers, architects, or other Persons who have rendered or furnished services or materials for any Construction Work (including the Initial Construction Work) or contest or discharge such matters in accordance with Section 15.02 below, to the extent such matters result in a lien or encumbrance against the Project.

Section 11.06. Landlord's Right to Use Field Personnel. Landlord reserves the right to maintain, at its sole cost and expense, its field personnel at the Premises to observe Tenant's construction methods and techniques and Landlord will be entitled to have appropriate members of its field personnel or other designees attend Tenant's job and safety meetings. Such field personnel will conduct themselves in such a manner so as not to interfere with Tenant's activities at the Premises and will comply with any and all job site rules and regulations imposed by Tenant and its contractors on personnel on the job site. No such observation or attendance by Landlord's personnel or designees will impose upon Landlord responsibility for any failure by Tenant to observe appropriate safety practices in connection with such construction or constitute an acceptance of any work which does not comply in all respects with the provisions of this Lease.

Section 11.07. Commencement and Completion of all Construction Work. All Construction Work, once commenced, will be completed within the time periods required in this Lease (subject to Unavoidable Delays), in a good and workmanlike manner and, with respect to

Construction Work for which this Lease requires Tenant to prepare plans and specifications, in substantial accordance with such plans and specifications, and all Applicable Laws.

Section 11.08. Supervision of Architect. All: (a) Initial Construction Work; and (b) Construction Work, the estimated cost of which (determined as provided in Section 8.04(b) hereof) is ten percent of the Replacement Value or more either individually or in the aggregate in any calendar year or (c) that involves work that would materially change the exterior of any Building or the height, bulk or setback of any Building will be carried out under the supervision of an Architect if the work in question is of a type that is typically carried out under such supervision.

Section 11.09. Capital Improvements. From and after Final Completion, Tenant will not replace or materially alter the Project, or any part thereof (except as provided to the contrary with respect to Fixtures in Article 13), or make any addition thereto, whether voluntarily or in connection with repairs required by this Lease (collectively, "Capital Improvements"), unless Tenant will comply with the following requirements and, if applicable, with the additional requirements set forth in Section 11.10:

(a) No Capital Improvements will be undertaken, as applicable, until Tenant will have procured from all Governmental Authorities and paid for all permits, consents, certificates, and approvals for the proposed Capital Improvements which are required to be obtained prior to the commencement of the proposed Capital Improvements (collectively, "Improvement Approvals"). Landlord will not unreasonably refuse to join or otherwise cooperate in the application for any such Improvement Approvals, provided such application is made without cost, expense or liability (contingent or otherwise) to Landlord. True copies of all such Improvement Approvals will be delivered by Tenant to Landlord prior to commencement of the proposed Capital Improvements.

(b) The Premises after completion of such Capital Improvements, will have a value at least equal to the value of the Premises immediately before construction of such Capital Improvements. In addition, the Project will at all times remain in substantial conformity with the original Plans and Specifications therefor (except to the extent specifically consented to by Landlord, in its sole but reasonable discretion).

(c) All Capital Improvements will be made with reasonable diligence and continuity (subject to Unavoidable Delays) and in a good and workmanlike manner and in compliance with (i) all Improvement Approvals, (ii) if required pursuant to Section 11.10, in substantial accordance with the plans and specifications for such Capital Improvements as approved by Landlord, (iii) all Applicable Laws.

(d) No construction of any Capital Improvement will be commenced until Tenant will have delivered to Landlord certificate of insurance and copies of the declaration page(s) for the insurance required by Section 7.05. Such insurance policies will comply with the terms of Section 7.03 above.

Section 11.10. Submissions to Landlord for Capital Improvements. If the estimated cost of any proposed Capital Improvements exceeds One Million Dollars (as such amount will be increased as provided in Section 8.05(a)), either individually or in the aggregate with other Capital Improvements which are a related portion of a program or project of Capital Improvements constructed in any 12-month period during the Term, Tenant will comply with the following requirements:

Tenant will furnish to Landlord at least 30 days prior to commencement of the proposed Capital Improvements, complete plans and specifications for the Capital Improvements, prepared by an Architect (if the services of an Architect are necessary), for Landlord's approval, which approval will not be unreasonably withheld provided such Capital Improvements will be in substantial conformity with the original Plans and Specifications (except to the extent specifically consented to by Landlord in its sole, but reasonable discretion or as otherwise expressly provided in Article 8 above), and the Project will be in substantial conformity with applicable requirements of this Lease; and

If the Capital Improvements are of a type for which "as-built" plans are typically prepared, then within 90 days after completion of any Capital Improvements, Tenant will furnish to Landlord a complete set of "as-built" plans (which may be field marked copies of the construction plans) for such Capital Improvements, together with a permanent Certificate of Occupancy therefor issued by County of Fairfax, Virginia, to the extent a modification thereof was required.

The provisions of this Section 11.10 apply to Restoration or construction of additional Capital Improvements only and are not applicable for the Initial Construction Work.

Section 11.11. Completion of Construction Work. Upon Final Completion of the Project, Tenant will furnish Landlord with (a) a certification of the Architect (certified to Landlord) that it has examined the applicable plans and specifications (that will include the Plans and Specifications in the case of Initial Construction Work or a Restoration of the Project) and that, in its best professional judgment, after diligent inquiry, to its best knowledge and belief, the Construction Work has been completed in accordance with the plans and specifications applicable thereto and, as constructed, the Project complies with all Applicable Laws, (b) if required, a copy or copies of the temporary or permanent certificate(s) of occupancy for the Project issued by the Fairfax County Department of Planning and Development (or such other appropriate Governmental Authority), and (c) with respect to the Initial Construction Work (or a Restoration for which "as built" plans will be issued) of the Project, within 90 days after Substantial Completion, a complete set of "as built" plans and a survey showing the Project. Landlord will have an unrestricted non-exclusive license to use such "as built" plans and survey in connection with any Restoration of the Project without paying any additional cost or compensation therefor, which license will be subject to the rights of the parties preparing such plans and survey under copyright and other applicable laws.

Section 11.12. Construction Agreements. Throughout the Term, all Construction Agreements will include the following provisions:

["Contractor"]/["Subcontractor"]/["Materialman"] hereby agrees that Landlord will not be liable in any manner for payment or otherwise to ["contractor"]/["subcontractor"]/["materialman"] in connection with the purchase of any building materials for the Project and Landlord will have no obligation to pay any compensation to ["contractor"]/["subcontractor"]/["materialman"] by reason of such materials becoming incorporated into the Project.

(b) ["Contractor"]/["Subcontractor"]/["Materialman"] hereby agrees that regardless of the fact that ["contractor"]/["subcontractor"]/["materialman"] performed work at the Premises (as such term is defined in the Lease) or any part thereof; Landlord is not liable in any manner for payment or otherwise to ["contractor"]/["subcontractor"]/["materialman"] in connection with the work performed at the Premises.

(c) Landlord will be a third -party beneficiary of all guarantees and warranties of ["contractor"]/["subcontractor"]/["materialman"] hereunder and such guarantees and warranties will be enforceable against ["contractor"]/["subcontractor"]/["Materialman"] by said Landlord.

(d) Landlord is not a party to this ["agreement"] ["contract"] nor will Landlord in any way be responsible to any party for any and or all claims of any nature whatsoever arising or which may arise from such ["contract"] ["agreement"]."

Section 11.13. Demolition of the Project. Except as hereinafter provided, Tenant will not demolish the Project during the Term. If the Project is substantially destroyed as a result of a fire or other casualty and it is necessary in connection with a Restoration to demolish the remainder of the Project, Tenant will have the right, subject to compliance with the terms of Article 8 and Article 11, to demolish the remainder of the Project.

Section 11.14. Materials Incorporated in Project. The materials to be incorporated in the Project at any time during the Term will, upon purchase of same and at all times thereafter during the Term, constitute the property of Tenant, and upon construction of the Project or the incorporation of such materials therein, title thereto will vest in Tenant. Nothing in this Section will limit the Landlord's vesting of all right, title, and interest in such materials located on the Premises at the expiration or earlier termination of the Term.

Section 11.15. Landlord Approval of Financing of Construction Work. Prior to Commencement of Construction (or commencement of a Restoration that is subject to Section 8.05(a)), Tenant will provide Landlord with a detailed financing plan for the Construction Work to be completed and any and all other costs and expenses which may be necessary to achieve Final Completion (the "Financing Plan"). The Financing Plan will be subject to the prior written approval of Landlord (including, without limitation, Tenant's proposed Mortgagee and any member or investor of Tenant providing equity funding as part of Tenant's Financing Plan), which approval will not be unreasonably withheld, conditioned or delayed so long as the Financing Plan is consistent with the Construction Work set forth in the Plans and Specifications (or Restoration Plans and Specifications, if applicable) approved by Landlord in accordance with the terms of this

Lease. To the extent that Tenant determines that any modifications to the Financing Plan for the Project are necessary after such Financing Plan has been approved by Landlord, Tenant will make such modifications to such Financing Plan and submit the revised Financing Plan to Landlord for informational purposes, provided however, that if Section 11.04 allows for Landlord's right to approve changes to the Plans and Specifications as provided herein, prior to commencement of Construction, Landlord will also have the right to approve modifications to the Financing Plan under this Section 11.15. Landlord will review and approve the Financing Plan in writing, or disapprove such Financing Plan, provided Landlord sends with any notice of disapproval sufficient details and explanation for the reason of such disapproval and any requested changes to the modifications of such Financing Plan necessary to obtain Landlord's approval, within ten Business Days after receipt of the proposed Financing Plan. If Landlord fails to notify Tenant in writing of either its approval or disapproval of the proposed modifications to such Financing Plan within ten Business Days after its receipt of the same from Tenant, then such proposed modifications to such Financing Plan will be deemed approved by Landlord. As used in the preceding two sentences, "Financing Plan," means the initial Financing Plan or any modifications of the Financing Plan which require Landlord's approval or submission for informational purposes hereunder.

ARTICLE 12

REPAIRS AND MAINTENANCE; CAPITAL RESERVE; PARKING

Section 12.01. Repairs. Tenant will take good care of the Premises, including, without limitation, the Project, roofs, foundations and appurtenances thereto, water, sewer and gas connections, pipes and mains which are located on or service the Premises and all Fixtures, and will put, keep and maintain the Project in good and safe order and condition in a first-class manner that is consistent with the maintenance of other comparable market rate apartment projects in Fairfax County, Virginia, to the extent that such improvements have not yet been accepted by the applicable governmental authority and the bonds therefor have not yet been released, and make all repairs therein and thereon, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, necessary or appropriate to keep the same in good and safe order and condition in a good and workmanlike manner that is consistent with the construction and maintenance standards for the Initial Construction Work of the Project, to the extent that such improvements have not yet been accepted by the applicable governmental authority and the bonds therefor have not yet been released, and whether or not necessitated by wear, tear, obsolescence or defects, latent or otherwise, ***provided however*** that Tenant's obligations with respect to Restoration resulting from a casualty or condemnation will be as provided in Article 8 and Article 9 hereof. Tenant will not commit or suffer, and will use all reasonable precaution to prevent, waste, damage or injury to the Premises or the Project. When used in this Section 12.01, the term "repairs" will include all necessary replacements, alterations, and additions. All repairs made by Tenant will be at least equal in quality and class to the original work and will be made in compliance with all Applicable Laws.

Section 12.02 Capital Reserve. Commencing upon Substantial Completion of the Project, Tenant will, on the first day of each month during the Term, make monthly deposits to a capital reserve fund (the “Maintenance Capital Reserve”) in an amount equal to \$300.00/Residential Unit per annum, escalating each year by the increase in the Consumer Price Index for the year in question.

(a) Tenant will utilize the funds in the Maintenance Capital Reserve to cover the costs of repair and maintenance of the Project, including, without limitation, Capital Improvements.

(b) Depository will hold the monies deposited into the Maintenance Capital Reserve in an interest-bearing account for the purpose of paying (or reimbursing Tenant for) the maintenance and repair charges of the Project pursuant to a depository agreement reasonably satisfactory to Landlord and Tenant.

(c) Any interest paid on monies deposited with the Depository pursuant to this Section 12.02 will be added to the Maintenance Capital Reserve.

(d) After the occurrence and during the continuance of an Event of Default and subject to any rights of a Mortgagee, Landlord, at Landlord’s option, may withdraw any monies from the Maintenance Capital Reserve for the purpose of performing maintenance, repairs, or capital improvements for the Project, as Landlord may reasonably determine. Notwithstanding the foregoing, this Section 12.02(d) will not apply to the extent that Landlord’s rights hereunder would violate or conflict with a Mortgagee’s rights to any Maintenance Capital Reserve for the Project.

(e) Landlord will not be liable for any delay in investing or reinvesting monies deposited with the Depository pursuant to Section 12.02 or for any loss incurred by reason of any such investments, except for any willful misconduct or negligence of Landlord.

Section 12.03. Maintenance Capital Reserve in the Event of a Transfer. In the event of a sale or transfer by either party of its interest in the Premises, such party will transfer to the person who owns or acquires such interest in the Premises or is the transferee of such party’s interest under this Lease, all of such party’s rights with respect to the Maintenance Capital Reserve if it is then held by the Depository, if applicable, subject to the provisions thereof. Upon such transfer, the transferor will be deemed to be released and relieved from all liability with respect to such deposited monies and the non-transferring party will look solely to the transferee with respect thereto, and the provisions hereof will apply to each successive transfer of such party’s rights with respect to such deposits.

Section 12.04. Mortgagee and Reserves. Notwithstanding anything in Section 12.02 and Section 12.03 to the contrary, if a Mortgagee (provided such Mortgagee be an Institutional Lender) will require Tenant to deposit funds for maintaining and replacing Capital Improvements, any amount so deposited by Tenant with such Mortgagee will be credited against the amount, if any,

which Tenant would otherwise be required to deposit in the Maintenance Capital Reserve, provided that Tenant will send notice to Landlord of such requirement with evidence reasonably satisfactory to Landlord of Tenant's compliance with such requirement.

Section 12.05 Parking. Tenant hereby covenants and agrees that during the Term it will provide parking for the Premises in accordance with all Applicable Laws.

Section 12.06. No Obligation on Landlord. Landlord will not be required to furnish any services, utilities, or facilities whatsoever to the Premises, nor will Landlord have any duty or obligation to make any alteration, change, improvement, replacement, Restoration, or repair to, nor to demolish, any Project. Tenant assumes the full and sole responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance, and management of the Premises.

ARTICLE 13

FIXTURES

Section 13.01. Property of Tenant. All Fixtures will be and will remain the property of Tenant throughout the Term. Nothing in this Section will limit the Landlord's vesting of all right, title, and interest in such Fixtures at the expiration or earlier termination of the Term.

Section 13.02. Maintenance, Repair and Replacement. Tenant will keep all Fixtures in good order and will maintain, repair and replace the same when necessary with items at least equal in utility to the Fixtures being replaced, *provided however*, that Tenant will not be required to maintain, repair and replace any Fixtures which performed a function which has become obsolete or otherwise is no longer necessary or desirable in connection with the use or operation of the Premises, unless such failure to replace would reduce the value of the Premises or would result in a reduced level of maintenance of the Premises, in which case Tenant will be required to install such Fixtures as may be necessary to prevent such reduction in the value of the Premises or in the level of maintenance.

ARTICLE 14

REQUIREMENTS OF PUBLIC AUTHORITIES AND OF INSURANCE UNDERWRITERS AND POLICIES

Section 14.01. Compliance with Applicable Laws. Tenant promptly will comply with all applicable present and future laws, rules, orders, ordinances, regulations, statutes, requirements, permits, consents, certificates, approvals, codes and executive orders without regard to the nature or cost of the work required to be done, extraordinary, as well as ordinary, of all Governmental Authorities now existing or hereafter created, and of any and all of their departments and bureaus

affecting or relating to Tenant or the Premises (collectively, “Applicable Laws,” including without limitation, requiring the removal of any encroachment, or affecting the construction, maintenance, use, operation, management or occupancy of the Premises, whether or not the same involve or require any structural changes or additions in or to the Premises, without regard to the nature or cost of the work required to be done, extraordinary, as well as ordinary, or whether or not such changes or additions are required on account of any particular use to which the Premises, or any part thereof, may be put, and without regard to the fact that Tenant is not the fee owner of the Premises. Tenant also will comply with any and all provisions and requirements of any casualty, liability or other insurance policy required to be carried by Tenant under the provisions of this Lease.

Section 14.02 Right to Contest. Tenant, at its expense, after notice to Landlord, may contest, by appropriate proceedings prosecuted diligently and in good faith, the validity or applicability of any Applicable Laws, provided that: (a) Landlord will not be subject to civil or criminal penalty or to prosecution for a crime, nor will the Premises or any part thereof be subject to being condemned or vacated, by reason of non-compliance or otherwise by reason of such contest; (b) if an adverse decision in such proceeding or the failure to pay any judgment resulting from such adverse decision could result in the imposition of any lien against the Premises, then before the commencement of such contest, Tenant will furnish to Landlord the bond of a surety company reasonably satisfactory to Landlord, or other deposit or security in each case in form, substance and amount reasonably satisfactory to Landlord, and will indemnify Landlord against the cost of such compliance and liability resulting from or incurred in connection with such contest or non-compliance (including the costs and expenses in connection with such contest; (c) Tenant will keep Landlord regularly advised as to the status of such proceedings; (d) such contest will be prosecuted with diligence and in good faith to final adjudication, settlement, compliance or other disposition of the Applicable Laws so contested; (e) such contest, and any disposition thereof (including, without limitation, the cost of complying therewith and paying all interest, penalties, fines, liabilities, fees and expenses in connection therewith), will be at the sole cost of and will be paid by Tenant; (f) promptly after disposition of the contest, Tenant will comply with such Applicable Laws to the extent determined by such contest; and (g) Tenant will comply with any Applicable Laws in accordance with the applicable provisions of this Lease if the Premises, or part thereof, will be in danger of being forfeited or if Landlord is in danger of being subject to criminal liability or penalty, or civil liability, in connection with such contest. Landlord will be deemed subject to prosecution for a crime if Landlord or any of its respective officers, directors, partners, shareholders, agents, or employees is charged with a crime of any kind whatever unless such charge is withdrawn ten Business Days before such party is required to plead or answer thereto.

Section 14.03. Environmental Requirements. Tenant will not undertake, or, to the extent within its reasonable control, permit or suffer any Environmental Activity other than (i) in compliance with all Applicable Laws and all of the terms and conditions of all insurance policies covering, related to or applicable to the Premises, and (ii) in such a manner as will keep the Premises free from any lien imposed in respect of or as a consequence of such Environmental Activity. Tenant will act in a commercially reasonable manner to ensure that any Environmental

Activity undertaken or permitted at the Premises by Tenant, its agents, or representatives, is undertaken in a manner as to provide prudent safeguards against potential risks to human health or the environment or to the Premises. Tenant will notify Landlord within 24 hours (or the next Business Day if such 24-hour period includes a day that is not a Business Day) of any known material release of Hazardous Materials from or at the Premises. Landlord will have the right, upon reasonable advanced notice and in cooperation with the Tenant, from time to time and at Landlord's expense to conduct an environmental audit of the Premises during regular business hours, and Tenant will reasonably cooperate in the conduct of such environmental audit. Landlord will provide a copy of any such audit to Tenant. Landlord will use its reasonable efforts to minimize interference with Tenant's and any subtenant's use and occupancy of the Premises in performing such environmental audit and will repair any damage to the Premises caused by the same, except that Landlord will have no such repair obligation to the extent the damage was due to any Environmental Activity. If Tenant will breach the covenants provided in this Section, then in addition to any other rights and remedies which may be available to Landlord under this Lease or otherwise at law or in equity, Landlord may require Tenant to take all actions, or to reimburse Landlord for the costs of any and all actions taken by Landlord, as are necessary or reasonably appropriate to cure such breach. Landlord will not be responsible for and will have no liability in connection with any Environmental Activity regarding the Premises or the Land. For purposes of this Section, "Environmental Activity" means any storage, installation, existence, release, threatened release, discharge, generation, abatement, removal, disposal, handling or transportation from, under, into or on the Premises of (A) any substance, product, waste or other material of any nature whatsoever that is listed, regulated or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. § 5101, *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*, the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, the Clean Water Act, 33 U.S.C. § 1251, *et seq.*, the Emergency Planning and Community Right of Know Act of 1986, 42 U.S.C. § 11001, *et seq.*, and the Virginia State Water Control Law, Va. Code Ann. § 62.1-44.2, *et seq.*; (B) any substance, product, waste or other material of any nature whatsoever that may give rise to liability under any of the above statutes or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court; (C) petroleum or crude oil or products thereof, other than petroleum and petroleum products that are contained within regularly-operated motor vehicles or products used in connection with the construction, operation, and maintenance of the Project; and (D) asbestos (the materials described in clauses (A) through (D) above are collectively referred to herein as "Hazardous Materials").

ARTICLE 15

DISCHARGE OF LIENS; BONDS

Section 15.01. Creation of Liens. Subject to the provisions of Section 15.02 hereof, except as otherwise expressly provided herein, Tenant will not create or permit to be created any mechanic's, laborer's or materialman's lien upon the Premises or any part thereof, a lien upon the

income therefrom or any assets of, or funds appropriated to, Landlord, and Tenant will not suffer any other encumbrance, matter, or thing whereby the estate, right and interest of Landlord in the Premises or any part thereof might be impaired.

Section 15.02. Discharge of Liens. If any mechanic's, laborer's or materialman's lien (other than a lien arising out of any work performed by Landlord) at any time is filed in violation of the obligations of Tenant pursuant to Section 15.01 against the Premises or any part thereof or the Project or any part thereof, or, if any public improvement lien created or permitted to be created by Tenant will be filed against any assets of, or funds appropriated to, Landlord, Tenant, within 45 days after notice of the filing thereof will cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Tenant will fail to cause such lien to be discharged of record within the 45-day period, and if such lien continues for an additional ten Business Days after notice by Landlord to Tenant, then, in addition to any other right or remedy, Landlord may, but is not obligated to, discharge the lien either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and in any such event, Landlord will be entitled, if Landlord so elects, to compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowances. Any amount so paid by Landlord, including all reasonable costs and expenses incurred by Landlord in connection therewith, together with interest thereon at the Involuntary Rate, from the respective dates of Landlord's making of the payment or incurring of the costs and expenses, will constitute Additional Costs and will be paid by Tenant to Landlord within ten Business Days after demand. Notwithstanding the foregoing provisions of this Section 15.02, Tenant will not be required to discharge (and Landlord will not pay or discharge) any such lien if Tenant is in good faith contesting the same and has furnished a cash deposit or a security bond or other such security reasonably satisfactory to Landlord in an amount sufficient to pay such lien with interest and penalties.

Section 15.03. No Authority to Contract in Name of Landlord. Nothing in this Lease will be deemed or construed in any way as constituting the consent or request of Landlord, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to or repair of the Premises or any part thereof, nor as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of materials that would give rise to the filing of any lien against Landlord's interest in the Premises or any part thereof, or any assets of, or funds appropriated to, Landlord. Notice is hereby given that Landlord will not be liable for any work performed or to be performed at the Premises for Tenant or any Residential Tenant or other subtenant (or any sub-subtenants of either), for any materials furnished or to be furnished at the Premises for any of the foregoing, and that no mechanic's or other lien for such work or materials will attach to or affect the estate or interest of Landlord in and to the Premises or any part thereof or any assets of, or funds appropriated to, Landlord. Tenant will have no power to do any act or make any contract which may create or be the foundation for any lien,

mortgage or other encumbrance upon the estate or assets of, or funds appropriated to, Landlord or of any interest of Landlord in the Premises.

ARTICLE 16

DELIVERY OF POSSESSION

Landlord will deliver possession of the Premises on the Commencement Date “AS IS, WHERE IS, WITH ALL FAULTS”, subject to the Title Matters.

ARTICLE 17

REPRESENTATIONS; POSSESSION

Section 17.01. As-Is Condition; No Representations. Tenant acknowledges that Tenant is fully familiar with the Land, the Premises, the physical condition thereof, the Title Matters and the zoning status thereof. Tenant accepts the Premises in its existing legal and physical condition and state of repair, and, except as otherwise expressly set forth in this Lease, no representations, statements, or warranties, express or implied, have been made by or on behalf of Landlord in respect of the Land, the Premises, the status of title thereof, the physical condition thereof, including, without limitation, the zoning or other laws, regulations, rules and orders applicable thereto, Taxes, or the use that may be made of the Premises, that Tenant has relied on no such representations, statements or warranties, and that Landlord will in no event whatsoever be liable for any latent or patent defects in the Premises. Tenant agrees that Landlord has conducted no studies on the Premises.

Section 17.02. Reserved.

Section 17.03. Tenant’s Representations. Tenant represents that:

(a) Tenant is duly organized under the laws of the Commonwealth of Virginia, and is validly existing and in good standing under the laws of the Commonwealth of Virginia;

(b) Tenant has not dealt with any broker in connection with this Lease or the transactions contemplated hereby, and it agrees to indemnify and hold Landlord harmless from and against any claim for commission or other compensation in connection herewith that is asserted by any broker, finder or other agent which claims to have dealt with Tenant, together with the cost of defending any such claim; and

(c) the execution and delivery of this Lease, and all documents and instruments collateral to this Lease, by the officer(s) of Tenant executing and delivering the same, have been duly authorized by all requisite company action on the part of Tenant, and, upon such execution and delivery, this Lease and such other documents and instruments will constitute valid and binding obligations of Tenant.

ARTICLE 18

LANDLORD NOT LIABLE FOR INJURY OR DAMAGE, ETC.

Section 18.01. No Liability for Injury. Landlord will not in any event whatsoever be liable for any injury or damage to Tenant or to any other Person happening on, in or about the Premises and its appurtenances, nor for any injury or damage to the Premises or to any property belonging to Tenant or to any other Person which may be caused by any fire or breakage, or by the use, misuse or abuse of any of the Project (including, but not limited to, any of the common areas within the Project, Fixtures, elevators, hatches, openings, installations, stairways, hallways, or other common facilities), or the streets or sidewalk area within the Premises or which may arise from any other cause whatsoever except to the extent any of the foregoing will have resulted from the gross negligence, or intentional misconduct of Landlord, its officers, agents, employees or licensees.

Section 18.02. No Liability for Utility Failure. Landlord will not be liable to Tenant or to any other Person for any failure of water supply, gas or electric current, nor for any injury or damage to any property of Tenant or of any other Person or to the Premises caused by or resulting from gasoline, oil, steam, gas, electricity, or hurricane, tornado, flood, wind or similar storms or disturbances, or water, rain or snow which may leak or flow from the street, sewer, gas mains or subsurface area or from any part of the Premises, or leakage of gasoline or oil from pipes, appliances, sewer or plumbing works therein, or from any other place, nor for interference with light or other incorporeal hereditaments by anybody, or caused by any public or quasi-public work, except to the extent any of the foregoing will have resulted from the gross negligence or intentional misconduct of Landlord, its officers, agents, employees or licensees.

Section 18.03. No Liability for Soil Conditions. In addition to the provisions of Sections 18.01 and 18.02, Landlord will not be liable to Tenant or to any other Person for any injury or damage to any property of Tenant or of any other Person or to the Premises, arising out of any sinking, shifting, movement, subsidence, failure in load-bearing capacity of, or other matter or difficulty related to, the soil, or other surface or subsurface materials, on the Premises, it being agreed that Tenant will assume and bear all risk of loss with respect thereto.

ARTICLE 19

INDEMNIFICATION OF LANDLORD AND OTHERS

Section 19.01. Indemnification. Tenant will not do, or knowingly permit any Residential Tenants or other subtenants (or sub-subtenants of either), or any employee, agent or contractor of Tenant to do any act or thing upon the Premises or elsewhere which could subject Landlord to any liability or responsibility for injury or damage to persons or property, or to any liability by reason of any violation of law or any other Applicable Laws, and will use its reasonable efforts to exercise such control over the Premises so as to fully protect Landlord against any such liability. Tenant,

to the fullest extent permitted by law, will indemnify and save Landlord and its respective agents, directors, officers and employees (collectively, the “Indemnitees”), harmless from and against any and all loss, cost, liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses (including without limitation engineers’, architects’ and reasonable attorneys’ fees and charges), which may be suffered by, imposed upon or incurred by or asserted against any of the Indemnitees, by reason of any of the following occurring prior to the Expiration Date, except to the extent that the same will have been caused in whole or in part by the gross negligence or intentional misconduct of any of the Indemnitees:

(a) construction of the Project or any other work or thing done in or on the Premises or any part thereof;

(b) any use, non-use, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Premises or any part thereof;

(c) any negligent or tortious act or failure to act within the Premises on the part of Tenant or any agent, contractor, servant, or employee of Tenant;

(d) any accident, injury (including death at any time resulting therefrom) or damage to any Person or property occurring in or on the Premises or any part thereof;

(e) any failure on the part of Tenant to perform or comply with any of the covenants, agreements, terms, or conditions contained in this Lease on its part to be performed or complied with;

(f) any lien or claim which may have arisen out of any act of Tenant or any agent, contractor, servant or employee of Tenant against or on the Premises, or any lien or claim created or permitted to be created by Tenant in respect of the Premises against any assets of, or funds appropriated to any of the Indemnitees under the laws of the Commonwealth of Virginia or of any other Governmental Authority or any liability which may be asserted against any of the Indemnitees with respect thereto;

(g) any failure on the part of Tenant to keep, observe and perform any of the terms, covenants, agreements, provisions, conditions, or limitations contained in Construction Agreements, Residential Leases or other contracts and agreements affecting the Premises, on Tenant’s part to be kept, observed or performed;

(h) any failure on the part of Tenant to comply with any and all Applicable Laws related to the Residential Units, Exhibit G and Article 26 hereof;

(i) any tax attributable to the execution, delivery or recording of this Lease other than any real property transfer gains tax or other transfer tax which may be imposed on Landlord; or

(j) any contest by Tenant permitted pursuant to the provisions of this Lease, including, without limitation, Articles 4 and 14 hereof.

Section 19.02. Not Affected by Insurance. The obligations of Tenant under this Article 19 will not be affected in any way by the absence in any case of covering insurance or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Premises; ***provided however***, Tenant will be relieved of its indemnity obligation to the extent of the amount actually recovered from one or more of the insurance carriers of either Tenant or Indemnitee, and (a) paid to Indemnitee, or (b) paid for Indemnitee's benefit in reduction of any such liability, penalties, damage, expense, or charges imposed upon Indemnitee.

Section 19.03. Notice and Defense Process. If any claim, action or proceeding is made or brought against any of the Indemnitees by reason of any event for which Tenant has agreed to indemnify the Indemnitees in Section 19.01, then, upon demand by Landlord, Tenant will resist or defend such claim, action or proceeding (in such Indemnitee's name, if necessary) by the attorneys for Tenant's insurance carrier (if such claim, action or proceeding is covered by insurance maintained by Tenant) or (in all other instances) by such attorneys as Tenant will select and Landlord will approve, which approval will not be unreasonably withheld. Additionally, except with respect to personal injury or other liability claims within the coverage limits afforded by Tenant's liability insurance and being defended by attorneys for, or approved by, Tenant's insurance carrier, Landlord may, following consultation with Tenant, if reasonable under the circumstances, engage its own attorneys to defend or to assist in its defense of such claim, action or proceeding and Tenant will pay the reasonable fees and disbursements of such attorneys. Tenant will control the settlement of any such claim, action, or proceeding. Landlord's consent to any such settlement will not be required if such settlement provides solely for the payment of money and does not impose any other liability on Landlord; otherwise, Landlord's consent to a proposed settlement will be required, provided such consent will not be unreasonably withheld.

Section 19.04. Survival. The provisions of this Article 19 will survive the Expiration Date with respect to actions or the failure to take any actions or any other matter arising prior to the Expiration Date.

ARTICLE 20

LANDLORD'S RIGHT OF INSPECTION; RIGHT TO PERFORM TENANT'S COVENANTS.

Section 20.01. Landlord Right of Inspection. Tenant will permit Landlord and its agents or representatives to enter the Premises at all reasonable times and upon reasonable notice, subject to the rights of Residential Tenants and other permitted subtenants under this Lease, if any (and except in cases of emergency) for the purpose of (a) inspecting the same, (b) determining whether or not Tenant is in compliance with its obligations hereunder, and (c) making any necessary repairs to the premises and performing any work therein that may be necessary by reason of Tenant's failure to make any such repairs or perform any such work, provided that, except in any emergency, Landlord will have given Tenant notice specifying such repairs or work and Tenant will have failed to make such repairs or to do such work within 30 days after the giving of such notice (subject to

Unavoidable Delays), or if such repairs or such work cannot reasonably be completed during such thirty 30-day period, to have commenced and be diligently pursuing the same.

Section 20.02. Landlord Right to Cure. If Tenant at any time will be in an Event of Default, after notice thereof and after applicable grace periods, if any, provided under this Lease for Tenant or a Mortgagee, respectively, to cure or commence to cure same, Landlord, without waiving or releasing Tenant from any obligation of Tenant contained in this Lease, may (but will be under no obligation to) perform such obligation on Tenant's behalf. If Tenant disputes a claim by Landlord that Tenant is failing to comply with the terms of this Lease regarding the maintenance and repair of the Premises the parties will resolve such dispute resolution pursuant to Article 34 below before Tenant is obligated to perform the disputed obligations.

Section 20.03. Reimbursement of Landlord. All reasonable sums paid by Landlord and all reasonable costs and expenses incurred by Landlord in connection with its performance of any obligation pursuant to Section 20.02, together with interest thereon at the Involuntary Rate from the respective dates of Landlord's making of each such payment or incurring of each such sum, cost, expense, charge, payment or deposit until the date of actual repayment to Landlord, will be paid by Tenant to Landlord within ten Business Days after Landlord will have submitted to Tenant a statement, in reasonable detail, substantiating the amount demanded by Landlord. Any payment or performance by Landlord pursuant to Section 20.02 will not be nor be deemed to be a waiver or release of breach or Event of Default of Tenant with respect thereto or of the right of Landlord to terminate this Lease, institute summary proceedings or take such other action as may be permissible hereunder if an Event of Default by Tenant will have occurred. Landlord will not be limited in the proof of any damages which Landlord may claim against Tenant arising out of or by reason of Tenant's failure to provide and keep insurance in force as required by this Lease to the amount of the insurance premium or premiums not paid, but Landlord also will be entitled to recover, as damages for such breach, the uninsured amount of any loss and damage and the reasonable costs and expenses of suit, including, without limitation, reasonable attorneys' fees and disbursements, suffered or incurred by reason of an uninsured damage to or destruction of the Premises. If as a result of such dispute resolution it is determined that Tenant was complying with the terms of this Lease regarding the maintenance and repair of the Premises, then Landlord will not be entitled to reimbursement for any work they may have performed.

Section 20.04. No Duty on Landlord. Nothing in this Article 20 or elsewhere in this Lease will imply any duty upon the part of Landlord to do any work required to be performed by Tenant hereunder and performance of any such work by Landlord will not constitute a waiver of Tenant's default in failing to perform the same. Landlord, during the progress of any such work, may keep and store at the Premises all necessary materials, tools, supplies and equipment so long as such storage does not materially interfere with the operation of the Premises or the use of any Residential Units. To the extent that Landlord undertakes such work or repairs, such work or repairs will be commenced and completed in a good and workmanlike manner, and with reasonable diligence, subject to Unavoidable Delays.

ARTICLE 21

[RESERVED]

ARTICLE 22

NO ABATEMENT OF BASE RENT OR ADDITIONAL COSTS

Except as may be otherwise expressly provided herein, there will be no abatement, off-set, diminution or reduction of Base Rent or Additional Costs payable by Tenant hereunder or of the other obligations of Tenant hereunder under any circumstances.

ARTICLE 23

NO UNLAWFUL OCCUPANCY

Section 23.01. No Unlawful Use. Tenant will not use or occupy, nor, to the extent within its reasonable control, permit or suffer the Premises or any part thereof to be used or occupied for any unlawful, illegal or extra hazardous business, use or purpose, or in such manner as to constitute a nuisance of any kind (public or private) or that is offensive by reason of odors, fumes, dust, smoke, noise or other pollution, or for any purpose or in any way in violation of the Certificate of Occupancy for the Premises or the Applicable Laws or which may make void or voidable any insurance then in force on the Premises. Tenant will take, promptly upon the discovery of any such unpermitted, unlawful, illegal, or extra hazardous use, such actions as Tenant deems necessary to address such unpermitted, unlawful, illegal, or extra hazardous use. If for any reason Tenant will fail to take such actions, and such failure will continue for 30 days after notice from Landlord to Tenant specifying such failure, Landlord is hereby irrevocably authorized to take all such actions in Tenant's name and on Tenant's behalf, Tenant hereby appointing Landlord as Tenant's attorney-in-fact coupled with an interest for all such purposes. If Tenant disputes Landlord's claim as to the existence of such unpermitted, unlawful, illegal, or extra hazardous use or Tenant's actions with respect thereto, then the parties will resolve such dispute pursuant to the provisions of Article 34 and the procedures set forth in Section 20.02, Section 20.03 and Section 20.04 following such dispute regarding Landlord's right to cure and right to reimbursement will apply hereunder.

Section 23.02. No Adverse Possession. Tenant will not knowingly suffer or permit the Premises or any portion thereof to be used by the public in such manner as might reasonably tend to impair title to the Premises or any portion thereof, or in such manner as might reasonably make possible a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Premises or any portion thereof.

ARTICLE 24

EVENTS OF DEFAULT; CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.01. Events of Default. Each of the following events will be an “Event of Default” hereunder:

(a) if Tenant will fail to pay any item of Base Rent, Additional Costs or Impositions or any part thereof, when the same will become due and payable and such failure will continue for five (5) Business Days after notice from Landlord to Tenant;

(b) if Tenant will fail to observe or perform one or more of the other terms, conditions, covenants or agreements contained in this Lease, and such failure will continue for a period of 30 days after notice thereof by Landlord to Tenant specifying such failure (unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature or because of Unavoidable Delays reasonably be performed, done or removed, as the case may be, within such 30-day period, in which case no Event of Default will be deemed to exist as long as Tenant will have commenced curing the same within such 30-day period and will diligently and continuously prosecute the same to completion);

(c) if Tenant will abandon the Premises;

(d) if Tenant is a corporation, limited partnership, or limited liability company, if Tenant at any time fails to maintain its proper entity existence in good standing, or to pay any franchise tax when and as the same will become due and payable and such failure will continue for 30 days after notice thereof from any governmental agency to Tenant;

(e) if this Lease or the estate of Tenant hereunder is assigned or subleased, transferred, mortgaged, or encumbered, or there is a Transfer, without Landlord’s approval to the extent required hereunder or without compliance with the provisions of this Lease applicable thereto and such transaction will not be made to comply or voided ab initio within 30 days after notice thereof from Landlord to Tenant;

(f) if a levy under execution or attachment (other than a Mortgage) is made against the Premises and such execution or attachment will not be vacated or removed by court order, bonding, insured over, or otherwise within a period of 30 days;

(g) if, after notice and opportunity to cure as provided in the Guaranty, Guarantor defaults in the performance or observance of any term of the Guaranty;

(h) if at any time it is determined that five percent or more of the Residential Leases or the Residential Tenants (or a combination thereof) fail to comply with the criteria set forth in Exhibit G for Residential Leases and Residential Tenants (each being a “Residential Criteria Default” and collectively, “Residential Criteria Defaults”), and Tenant does not commence to cure

such Residential Criteria Defaults within 30 days after notice thereof by Landlord to Tenant specifying such failure or cure such Residential Criteria Defaults within 13 months after such notice (either such failure being, a “Leasing Default”); and

(i) if any of the following occur (each of the following individually and collectively referred to as a “Bankruptcy Default”)

(i) if Tenant admits in writing, that it is unable to pay its debts as such become due;

(ii) if Tenant makes an assignment for the benefit of creditors;

(iii) if Tenant files a voluntary petition under the Bankruptcy Code or if such petition is filed against it, and an order for relief is entered, or if Tenant files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, other present or future applicable federal, state or other statute or law, or will seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Tenant, or of all or any substantial part of its properties or of the Premises or any interest therein of Tenant, or if Tenant takes any corporate action in furtherance of any action described in Sections 24.01(i)(ii), (iii) or (iv) hereof;

(iv) if within 90 days after the commencement of any proceeding against Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other statute or law, such proceeding has not been dismissed, or if, within 90 days after the appointment, without the consent or acquiescence of Tenant, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Tenant or of all or any substantial part of its properties or of the Premises or any interest therein of Tenant or such appointment has not been vacated or stayed on appeal or otherwise, or if, within 30 days after the expiration of any such stay, such appointment has not been vacated.

Section 24.02. Expiration and Termination of Lease.

(a) If any Event of Default (other than a Bankruptcy Default or Leasing Default) will occur, Landlord (subject to Section 24.14 below) may, at any time thereafter, at its option, give notice to Tenant stating that this Lease and the Term will expire and terminate on the date specified in such notice, which date will not be less than 15 Business Days after the giving of such notice, and if, on the date specified in such notice, Tenant will have failed to cure the breach which was the basis for the Event of Default, then this Lease and the Term and all rights of Tenant under this Lease will expire and terminate as of the date specified in the notice and such date will be the Expiration Date and Tenant immediately will quit and surrender the Premises.

(b) If an Event of Default described in Sections 24.01(a) – (i) occurs, or this Lease is terminated as provided in Section 24.02(a), Landlord, without notice, may re-enter and repossess

the Premises using such force for that purpose as may be necessary without being liable to indictment, prosecution, or damages therefor and may dispossess Tenant by summary proceedings or other lawful process.

Section 24.03. Effect of Termination. If this Lease is terminated as provided in Section 24.02(a), or Tenant is dispossessed by summary proceedings or otherwise as provided in Section 24.02(b), hereof:

(a) Tenant will pay to Landlord all Base Rent, Additional Costs and Impositions payable by Tenant under this Lease to the Expiration Date or to the date of re-entry upon the Premises by Landlord, as the case may be;

(b) Landlord may, (i) complete all construction required to be performed by Tenant hereunder and may repair and alter the Premises in such manner as Landlord may deem necessary or advisable (and may apply to the foregoing all funds, if any, then held by Depository pursuant to Articles 8, 9, 11 or 12) without relieving Tenant of any liability under this Lease or otherwise affecting any such liability, (ii) let or relet the Premises for the whole or any part of the remainder of the Term or for a longer period, in Landlord's name or as agent of Tenant, or (iii) any combination of (i) and (ii), as Landlord determines; and out of any Base Rent, Additional Costs, Impositions and other sums collected or received as a result of such reletting Landlord will: (1) first, pay to itself the reasonable cost and expense of terminating this Lease, re-entering, retaking, repossessing, completing construction and repairing or altering the Premises, or any part thereof, and the cost and expense of removing all persons and property therefrom, including in such costs brokerage commissions, legal expenses and reasonable attorneys' fees and disbursements, (2) second, pay to itself the reasonable cost and expense sustained in securing a new tenant and other occupant, including in such costs brokerage commissions, legal expenses and reasonable attorneys' fees and disbursements and other expenses of preparing the Premises for reletting, and, if Landlord will maintain and operate the Premises, the reasonable cost and expense of operating and maintaining the Premises, and (3) third, pay to itself any balance remaining on account of the liability of Tenant to Landlord; Landlord in no way will be responsible or liable for any failure to relet the Premises or any part thereof, or for any failure to collect any rent due on any such reletting, and no such failure to relet or to collect rent will operate to relieve Tenant of any liability under this Lease or to otherwise affect any such liability.

Section 24.04. Survival of Obligations. No termination of this Lease pursuant to Section 24.02(a) or taking possession of the Premises pursuant to Section 24.02(b) or reletting the Premises pursuant to Section, or any part thereof, pursuant to Sections 24.03(b), will relieve Tenant of its liabilities and obligations under this Lease to: (a) achieve Final Completion of the Initial Construction Work (or Restoration if a casualty or condemnation occurred before the Expiration Date) hereunder, and (b) otherwise pay all of its obligations under Section 24.03; all of which will survive such expiration, termination, repossession or reletting.

Section 24.05. Tenant's Waiver. To the extent not prohibited by law, Tenant hereby waives and releases all rights now or hereafter conferred by statute or otherwise which would have

the effect of limiting or modifying any of the provisions of this Article 24. Tenant will execute, acknowledge, and deliver any instruments which Landlord may request, whether before or after the occurrence of an Event of Default, evidencing such waiver or release.

Section 24.06. Leasing Default.

(a) If any Leasing Default will occur, Landlord may (subject to Section 24.14 below), at its option, give notice to Tenant stating that Landlord is terminating any Management Agreement then in effect for the Project and removing the Approved Property Manager from the Premises. Thereafter, Landlord, without further notice, may re-enter and repossess the Premises using such force for that purpose as may be necessary without being liable to indictment, prosecution or damages therefor, and undertake any leasing and property management duties, responsibilities or obligations that Landlord deems necessary or desirable for the Project, provided such actions are commercially reasonable and consistent with the management of comparable market rate apartment projects in Fairfax County, Virginia. During any period that Landlord undertakes leasing or property management duties as the result of a Leasing Default, Landlord will use good faith efforts to cure the Residential Criteria Defaults that resulted in the Leasing Default. Landlord will not be liable to indictment, prosecution or damages for any actions or failure to act by Landlord in its leasing or property management capacity, except to the extent such action or failure to act was not commercially reasonable. Any sums expended by Landlord in connection with Landlord's duties set forth in this Section 24.06(a) will be Additional Costs and will be paid by Tenant in accordance with the terms of this Lease. Failure to pay Additional Costs in accordance with the terms hereof will (after the applicable notice and cure period) constitute an Event of Default by Tenant under Section 24.01(a) above.

(b) In addition to the remedies set forth in this Section 24.06, Landlord may avail itself to any other remedies set forth in this Article 24, except those remedies set forth in Section 24.02 and Section 24.03 above (but subject to Section 24.06(d) below) if Tenant commits a Leasing Default.

(c) Landlord may continue to operate and manage the Project for so long as any of the Residential Criteria Defaults that caused the Leasing Default that resulted in Landlord undertaking any leasing or property management responsibilities for the Project remain uncured. Once all such Residential Criteria Defaults have been cured and Tenant is no longer in a Leasing Default, Tenant will retain all leasing and property management duties (and may retain an Approved Property Manager for such purposes) in accordance with the terms of this Lease.

(d) If Tenant commits a Leasing Default within 36 months after the date on which a prior Leasing Default was cured, in addition to Landlord's rights under this Section 24.06, Landlord may avail itself to any other remedies set forth in this Lease, including the termination of this Lease pursuant to Section 24.02 and Section 24.03 above. Any Residential Criteria Defaults that occurred during any period in which Landlord was responsible for the leasing and

management of the Property will not be considered in determining whether Tenant has committed a Leasing Default.

Section 24.07. Bankruptcy Defaults and Remedies.

(a) If any Bankruptcy Default occurs, Landlord may (subject to Section 24.14 below), at its option, will give notice to Tenant stating that Landlord is terminating any Management Agreement then in effect for the Project and removing the Approved Property Manager from the Premises. Thereafter, Landlord, without further notice, may re-enter and repossess the Premises using such force for that purpose as may be necessary without being liable to indictment, prosecution or damages therefor, and undertake any leasing and property management duties, responsibilities or obligations that Landlord deems necessary or desirable for the Project, provided such actions are commercially reasonable and consistent with the management of comparable market rate apartment projects in Fairfax County, Virginia. not be liable to indictment, prosecution or damages for any actions or failure to act by Landlord in its leasing or property management capacity, except to the extent such action or failure to act was due to the gross negligence or willful misconduct of Landlord. Any sums expended by Landlord in connection with Landlord's duties set forth in this Section 24.07(a) will be Additional Costs and will be paid by Tenant in accordance with the terms of this Lease. Failure to pay such Additional Costs in accordance with the terms hereof will (after the applicable notice and cure period) constitute an Event of Default by Tenant under Section 24.01(a) above.

(b) If an order for relief is entered or if a stay of proceeding or other acts becomes effective in favor of Tenant or Tenant's interest in this Lease in any proceeding which is commenced by or against Tenant under the present or any future Bankruptcy Code or any other present or future applicable federal, state or other statute or law, Landlord will be entitled to invoke any and all rights and remedies available to it under such bankruptcy code, statute, law or this Lease, including, without limitation, such rights and remedies as may be necessary to adequately assure the complete and continuous future performance of all of Tenant's obligations under this Lease (including without limitation, the obligations set forth in Articles 3, 4, 7, 8, 9, 10, 11, 12, 13, 15, 19, 20, 24, 26 and 37 of this Lease).

(c) Notwithstanding anything in this Article 24 (other than Section 24.14) to the contrary, Landlord and Tenant agree that, in the event a Bankruptcy Default hereunder results in a liquidation of Tenant's assets under Chapter 7 of the Bankruptcy Code, Landlord, to the extent permitted by law or by leave of the court having jurisdiction over such proceeding, will have the right, at its election, to terminate this Lease on ten Business Days' notice to Tenant, Tenant as debtor-in-possession or said trustee and upon the expiration of said ten day period this Lease will cease and expire and Tenant, Tenant as debtor-in-possession or trustee will immediately quit and surrender the Premises.

(d) Nothing contained in this Article 24 will limit or prejudice the right of Landlord to prove and obtain as liquidated damages in any bankruptcy, insolvency, receivership,

reorganization or dissolution proceeding an amount equal to the maximum allowed by statute or rule of law governing such proceeding and in effect at the time when such damages are to be proved, whether or not such amount will be greater than, equal to or less than the amount of the damages referred to in any of the preceding Sections of this Article 24.

Section 24.08. No Reinstatement. No receipt of moneys by Landlord from Tenant after the termination of this Lease, or after the giving of any notice of the termination of this Lease (unless such receipt cures the Event of Default which was the basis for the notice), will reinstate, continue or extend the Term or affect any notice theretofore given to Tenant, or operate as a waiver of the right of Landlord to enforce the payment of Base Rent, Additional Costs or Impositions payable by Tenant hereunder or thereafter falling due, or operate as a waiver of the right of Landlord to recover possession of the Premises by proper remedy, except as herein otherwise expressly provided, it being agreed that after the service of notice to terminate this Lease or the commencement of any suit or summary proceedings, or after a final order or judgment for the possession of the Premises, Landlord may demand, receive and collect any moneys due or thereafter falling due without in any manner affecting such notice, proceeding, order, suit or judgment, all such moneys collected being deemed payments on account of the use and operation of the Premises or, at the election of Landlord, on account of Tenant's liability hereunder.

Section 24.09. Waiver of Notice of Re-Entry; Waiver of Jury Trial. Except as otherwise expressly provided herein or as prohibited by applicable law, (a) Tenant hereby expressly waives the service of any notice of intention to re-enter provided for in any statute, or of the institution of legal proceedings to that end; (b) Tenant, for and on behalf of itself and all persons claiming through or under Tenant, also waives any and all rights of redemption provided by any law or statute now in force or hereafter enacted or otherwise, and of re-entry, repossession, and restoration the operation of this Lease in case Tenant shall be dispossessed by a judgment or by warrant of any court or judge or in case of re-entry or repossession by Landlord or in case of any expiration or termination of this Lease; and (c) Landlord and Tenant waive and will waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or any claim of injury or damage. The terms "enter", "re-enter", "entry" or "re-entry", as used in this Lease are not restricted to their technical legal meaning.

Section 24.10. No Waiver by Landlord. No failure by Landlord or any prior Landlord to insist upon the strict performance of any covenant, agreement, term, or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial amounts due to Landlord from Tenant under this Lease during the continuance of any such breach, will constitute a waiver of any such breach or of such covenant, agreement, term, or condition. No covenant, agreement, term, or condition of this Lease to be performed or complied with by Tenant, and no breach thereof, will be waived, altered, or modified except by a written instrument executed by Landlord. No waiver of any breach will affect or alter this Lease, but each

and every covenant, agreement, term, and condition of this Lease still continue in full force and effect with respect to any other than existing or subsequent breach thereof.

Section 24.11. Injunction. In the event of any actual or threatened Event of Default by Tenant with respect to any of the covenants, agreements, terms, or conditions contained in this Lease, Landlord will be entitled to enjoin such breach or threatened breach and will have the right to invoke any rights and remedies allowed at law or in equity or by statute or otherwise as though re-entry, summary proceedings, and other remedies were not provided for in this Lease.

Section 24.12. Rights Cumulative. Each right and remedy of Landlord provided for in this Lease will be cumulative and will be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

Section 24.13. Enforcement Costs. If Landlord is the prevailing party, Tenant will pay to Landlord all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Landlord in any action or proceeding to which Landlord is a party by reason of any act or omission of Tenant. If Landlord is the prevailing party, Tenant also will pay to Landlord all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Landlord in enforcing any of the covenants and provisions of this Lease and incurred in any action brought by Landlord against Tenant on account of the provisions hereof, and all such costs, expenses, and reasonable attorneys' fees and disbursements may be included in and form a part of any judgment entered in any proceeding brought by Landlord against Tenant on or under this Lease. All of the sums paid or obligations incurred by Landlord hereunder, with interest at the Involuntary Rate, will be paid by Tenant to Landlord within 15 Business Days after demand by Landlord.

Section 24.14. Mortgagee Protections. Nothing contained in this Article 24 will be deemed to modify the provisions of Section 10.04 or Section 10.05 of this Lease.

ARTICLE 25

NOTICES

Section 25.01. Notice Addresses. Whenever it is provided in this Lease that a notice, demand, request, consent, approval or other communication (each of which is herein referred to as "Notice") will or may be given to or served upon either of the parties by the other, and whenever either of the parties desire to give or serve upon the other any Notice with respect this Lease or the Premises, each Notice will be in writing. No Notice will be effective for any purpose unless the Notice is given or served as follows: (a) by personal delivery (with receipt acknowledged), or (b)

delivered by reputable, national overnight delivery service (with its confirmatory receipt therefor), next Business Day delivery specified, in each case to the parties as follows:

If to Tenant, to:

[]

with a copy to:

[]

and a copy to:

[]

And a copy to:

Tax Credit Investor and Counsel
[Address will be added]

If to Landlord:

Fairfax County Redevelopment and Housing Authority
Attention: Director, HCD
3700 Pender Drive
Fairfax, Virginia 22030-6039

and

Fairfax County Redevelopment and Housing Authority
Attention: Deputy Director, Development
3700 Pender Drive
Fairfax, Virginia 22030-6039

With a copy to:

Office of the County Attorney
Attention: County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035-0064

Either party may change the address(es) to which any such Notice is to be delivered by furnishing ten Business Days written notice of such change(s) to the other party in accordance with the provisions of this Section 25.01.

Section 25.02. When Notices Deemed Given. Every Notice will be deemed to have been given or served (a) if given by hand or overnight mail, upon delivery thereof, (b) if given by reputable, national overnight delivery service, upon delivery thereof; in each case with failure to accept delivery to constitute delivery for such purpose. Any Notice delivered after 5:00 P.M. local time of place of receipt, or on a day other than a Business Day, will be deemed received on the next succeeding Business Day.

Section 25.03. Notices to Mortgagees. If requested in writing by any Mortgagee (which request will be made in the manner provided in Section 25.01 and will specify an address to which Notices will be given), any Notice of Default to a party will also be given contemporaneously to such holder in the manner herein specified.

ARTICLE 26

OPERATION AND MANAGEMENT OF THE PROJECT; RESIDENTIAL UNITS; BOOKS AND RECORDS

Section 26.01. Property Manager. Provided that no Event of Default exists, Tenant may select and enter into an agreement for the management and operation of the Premises with any party without the consent of Landlord if such party is an Affiliate of Tenant or such parties satisfies the following requirements: (a) such proposed property manager, or the officer or manager having supervisory responsibility for the Project has at least ten years' experience operating low income/affordable multifamily projects similar in size to or larger than the Project, (b) such proposed property manager is not one against whom any action or proceeding is pending to enforce rights of the Commonwealth of Virginia or any agency, department, public authority or public benefit corporation thereof arising out of a mortgage obligation to the Commonwealth of Virginia or to any such agency, department, public authority or public benefit corporation, and (c) such proposed property manager is not one with respect to whom any notice of default which remains uncured has been given by the Commonwealth of Virginia or any agency, department, public authority or any public benefit corporation thereof arising out of a contractual obligation to the Commonwealth of Virginia or to any such agency, department, public authority or public benefit corporation. Tenant will, prior to the effective date of any such management agreement, notify Landlord of the proposed management agreement and submit to Landlord all information and documents Landlord may reasonably require for its review with respect to the criteria set forth above. If Landlord determines that the third-party manager does not comply with the foregoing criteria, Landlord will so advise Tenant in writing within 20 Business Days, specifying in what respect the proposed third-party manager does not conform to the requirements above. In such event, Tenant will submit a different third-party manager for Landlord's review in accordance with the terms of this Section or provide evidence reasonably satisfactory to Landlord that such third-party property manager has satisfied the criteria set forth above. Each review by Landlord will be carried out within 20 Business Days of the date of delivery of the information requested hereunder, and if Landlord does not notify Tenant of its determination within such 20 Business Day period, Landlord will be deemed to have determined that the third-party property manager is satisfactory. Each property manager that satisfies the requirements of this Section 26.01 will be an "Approved Property Manager" and any management agreement between Tenant and an Approved Property Manager with respect to the Project will be a "Management Agreement". Notwithstanding the foregoing, [] is an Approved Property Manager under this Lease. Tenant will not enter into a management agreement with a new third-party property manager or consent to the

assignment by an Approved Property Manager of its interest under its Management Agreement, without first complying with the notification and verification requirements set forth in this Section 26.01.

Section 26.02. Compliance with the Housing Criteria. Tenant covenants and agrees at all times to comply with Exhibit G (as now in effect or as may be amended from time to time during the Term) with respect to any and all Residential Units in the Project.

Section 26.03. Termination of Approved Property Manager. Landlord shall have the right to require the replacement of an Approved Property Manager with a Person chosen by Landlord upon the earliest to occur of any one or more of the following events: (a) the occurrence and continuance of a Leasing Default or Bankruptcy Default, (b) thirty (30) days after notice from Landlord to Tenant that such Approved Property Manager has engaged in fraud, gross negligence, malfeasance or willful misconduct arising from or in connection with its performance at the Project, or (c) Tenant has entered into a new management agreement, or approved the assignment of an existing Management Agreement from an Approved Property Manager without first complying with the terms of Section 26.01 above.

Section 26.04. Residential Leases.

(a) Notwithstanding anything else herein to the contrary, Tenant may, without Landlord's consent, enter into residential tenant leases which meet the lease criteria set forth on Exhibit G hereto (all residential leases meeting such criteria being herein referred to, collectively, as "Residential Leases"), provided no Event of Default shall have occurred and then be continuing hereunder, unless such Event of Default is cured simultaneously with such subletting, and Tenant shall have complied with the provisions of this Section 26.04. Residential Leases shall mean tenant leases by Tenant of residential units to certain residential tenants meeting the financial and reporting requirements set forth on Exhibit G (all residential tenants meeting such criteria being herein referred to, collectively, as "Residential Tenants").

(b) Each Residential Lease shall obligate the Residential Tenant pursuant thereto to occupy and use the premises included therein for purposes consistent with the Applicable Laws, the financial and reporting conditions set forth on Exhibit G and the provisions of this Lease. Except as otherwise provided below, with respect to each and every Residential Lease under the provisions of this Lease, it is further agreed that:

- i. No Residential Lease will be for a term of more than 1 year;
- ii. Each Residential Lease shall specifically state that subject to the rights of any Mortgagee, if there is a termination of this Lease, or if Landlord shall exercise its rights to dispossess Tenant or to re-enter the Premises, any Residential Tenant which is not an Affiliate of Tenant will at Landlord's election, attorn to Landlord and Landlord will have all rights of a landlord under such Residential Lease, including without limitation, the right to enforce those rights by court proceeding or otherwise;

iii. The receipt by Landlord of any amounts from any Residential Tenant or other occupant of any part of the Premises shall not be deemed or construed as releasing Tenant from Tenant's obligations hereunder; and

iv. The Residential Tenant will not pay rent or other sums under the Residential Lease more than one (1) month in advance (excluding security and other deposits required under such Residential Lease).

(c) Tenant will enforce its rights as the landlord under all Residential Leases.

Section 26.05. Residential Lease Not a Transfer. Notwithstanding anything contained in this Lease to the contrary, a Residential Lease will not require Landlord's prior consent and will not be deemed a Transfer hereunder.

Section 26.06. Acts of Residential Tenants. The fact that a violation or breach of any of the terms, provisions, or conditions of this Lease results from or is caused by an act or omission by any Residential Tenant, or subtenant of a Residential Tenant, will not relieve Tenant of Tenant's obligation to cure the same. Tenant will take any and all reasonable steps necessary to prevent any such violation or breach.

Section 26.07. Collection of Rental Payments from Residential Tenants. Landlord, after an Event of Default by Tenant, may, subject to the rights of any Mortgagee under this Lease, collect rent and all other sums due under the Residential Leases, and apply the net amount collected to any amounts due to Landlord under this Lease (including without limitation, Base Rent, Additional Costs and Impositions), but no such collection will be, or be deemed to be, a waiver of any agreement, term, covenant or condition of this Lease or the acceptance by Landlord of any Residential Tenant as tenant hereunder, or a release of Tenant from performance by Tenant of its obligations under this Lease.

Section 26.08. Record Keeping. At all times during the Term, Tenant will maintain at its principal place of business or such other place as agreed to by Landlord and Tenant, a complete and accurate set of files, books, and records in connection with the Project and with respect to the operation and maintenance of the Project, including without limitation, compliance with any and all requirements of Exhibit G of this Lease. At all times during the Term, Landlord may, at such reasonable times during normal business hours and upon reasonable advanced notice, inspect Tenant's files, books, records, and related material pertaining to compliance with requirements of Exhibit G of this Lease and pertaining to maintenance of the Project. Tenant agrees that Landlord, or any of its duly authorized representatives, will, until the expiration of 3 years after the expiration or earlier termination of this Lease, have access to the records related to compliance with requirements of Exhibit G of this Lease and maintenance of the Project. Tenant will: (i) keep and maintain accurate, true, and complete books and records (A) with respect to all requirements of Exhibit G of this Lease, and (B) which will fully reflect the physical condition and maintenance status of the Project, together with all business licenses and permits required to be kept and maintained pursuant to the provisions of any Applicable Laws, and (ii) upon Landlord's request

therefor, certify such files, books and records to Landlord as true, complete, and accurate in all material respects.

Section 26.09. Rent Roll. Upon Landlord's request (which will be limited to no more than two (2) times in any calendar year and at any time when Tenant is in an Event of Default under this Lease), Tenant will provide (a) a copy of a rent roll for the Project showing the name of each Residential Tenant, the Residential Unit occupied, the Residential Unit Lease expiration date, the rent payable for the current month, and the date through which rent has been paid, and (b) a monthly property management report for the Project, showing the number of inquiries made and rental applications received from prospective Residential Tenants and deposits received from Residential Tenants, and materials relating to marketing and leasing efforts for the Project.

ARTICLE 27

SUBORDINATION; LANDLORD MORTGAGES

Section 27.01. Lease Not Subordinate. Landlord's interest in this Lease and in the Premises will not be subject or subordinate to (a) any Mortgage now or hereafter placed upon Tenant's interest in this Lease or (b) any other liens, security interests or encumbrances now or hereafter affecting Tenant's interest in this Lease.

Section 27.02. Landlord Mortgage. Tenant's leasehold interest in the Premises will be prior to any mortgage, lien, or other encumbrance on Landlord's interest in the Premises, subject to the Title Matters. As of the date hereof, Landlord represents to Tenant that there is no mortgage encumbering Landlord's interest in the Premises.

Section 27.03. No Impairment of Title. Nothing contained in this Lease or any action or inaction by Landlord will be deemed or construed to mean that Landlord has granted to Tenant any right, power, or permission to do any act or make any agreement which may create, give rise to, or be the foundation for, any right, title, interest, lien, charge, or other encumbrance other than this Lease upon the estate of Landlord in the Premises. In amplification and not in limitation of the foregoing, Tenant will not permit any portion of the Premises to be used by any person or persons or by the public, as such, at any time or times during the term of this Lease, in such manner as might impair Landlord's title to or interest in the Premises or any portion thereof, or in such manner as might reasonably make possible a claim or claims of adverse use, adverse possession, prescription, dedication, or other similar claims of, in, to or with respect to the Premises or any part thereof.

Section 27.04. Easements. Notwithstanding the provisions of Section 27.03 to the contrary, Tenant will have the right to create customary and ordinary utility and other operationally related easements which are reasonably required in connection with any Construction Work or operation of the Premises for the Permitted Uses; provided that Tenant provides each such easement to Landlord for its prior written approval, which approval will not be unreasonably

withheld or delayed. Landlord will review any proposed easement (or modification thereof) within 15 Business Days of its receipt of such easement from Tenant. Landlord agrees that if required by the applicable utility provider or other easement grantee, Landlord will join in the execution of such easements as approved by Landlord in accordance with the provisions of this Section 27.04.

ARTICLE 28

GUARANTY

Concurrently with the execution of this Lease, Tenant will cause Guarantor or another creditworthy entity satisfactory to Landlord in its sole discretion to enter into the Guaranty in the form annexed hereto as Exhibit E, pursuant to which Guarantor guaranties to Landlord: (i) the complete performance of all of Tenant's obligations in this Lease necessary to achieve Final Completion; and (ii) the timely payment and performance of all of Tenant's other obligations under this Lease from the Commencement Date through Final Completion. If that Guarantor fails to meet the Guarantor Net Worth Requirement at any time prior to Final Completion, Tenant will promptly replace such Guarantor with another creditworthy entity meeting the Guarantor Net Worth Requirement and cause such entity to enter into the Guaranty in the form annexed hereto as Exhibit E.

ARTICLE 29

CERTIFICATES BY LANDLORD AND TENANT

Section 29.01. Tenant Estoppels. At any time and from time to time upon not less than ten Business Days' notice by Landlord, Tenant will execute, acknowledge and deliver to Landlord or any other party specified by Landlord a statement certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same as modified, is in full force and effect and stating the modifications) and the date to which each obligation constituting Base Rent and Additional Costs have been paid, stating whether or not to the knowledge of Tenant, Landlord is in default in performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which Tenant may have knowledge, and certifying as to any other matter with respect to this Lease as Landlord or such other addressee may reasonably request.

Section 29.02. Landlord Estoppels. At any time and from time to time upon not less than ten Business days' notice by Tenant, Landlord will execute, acknowledge and deliver to Tenant or any other party specified by Tenant a statement certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same, as modified, is in full force and effect and stating the modifications) and the date to which each obligation constituting Base Rent and Additional Costs have been paid, and stating whether or not to the best knowledge of Landlord, Tenant is in an Event of Default in the performance of any covenant, agreement or

condition contained in this Lease, and, if so, specifying each such Event of Default of which Landlord may have knowledge, and certifying as to any other matter with respect to this Lease as Tenant or such other addressee may reasonably request.

ARTICLE 30

CONSENTS AND APPROVALS

Section 30.01. Consent Not a Waiver. The failure on the part of Landlord to object to any act of Tenant requiring Landlord's consent or approval under the terms of this Lease will not be deemed to constitute Landlord's consent or approval for such act or any future similar act. The granting of any consent or approval by Landlord to Tenant to perform any act of Tenant requiring Landlord's consent or approval under the terms of this Lease will not be deemed to constitute Landlord's consent or approval for any future similar act. Tenant hereby expressly covenants and warrants that as to all matters requiring Landlord's consent or approval under the terms of this Lease, Tenant will secure such consent or approval for each and every happening of the event requiring such consent or approval and will not claim any waiver on the part of Landlord of the requirement to secure such consent or approval.

Section 30.02. Consent Not To Be Unreasonably Delayed. Anywhere in this Lease where Landlord has agreed not to unreasonably withhold its consent, Landlord also agrees that its consent will not be unreasonably delayed.

Section 30.03. Landlord Not Liable for Money Damages. Whenever in this Lease Landlord's consent or approval is required and this Lease provides that Landlord's consent or approval will not be unreasonably withheld and Landlord will refuse such consent or approval, or in any instance in which Landlord will delay its consent or approval, Tenant will in no event be entitled to make, nor will Tenant make, any claim, and Tenant hereby waives any claim, for money damages (nor will Tenant claim any money damages by way of set-off, counterclaim or defense) based upon any claim or assertion by Tenant that Landlord unreasonably withheld or unreasonably delayed its consent or approval, unless Tenant's claim is based upon an assertion that Landlord acted in bad faith. Tenant's sole remedy will be an action or proceeding to enforce any such provision, for specific performance, injunction, or declaratory judgment or for a determination as to whether Landlord reasonably withheld its consent, and the decisions will be final and conclusive on the parties.

ARTICLE 31

SURRENDER AT END OF TERM

Section 31.01. Surrender at End of Term. On the last day of the Term or upon any earlier termination of this Lease, or upon a re-entry by Landlord upon the Premises pursuant to Article 24 hereof, Tenant will well and truly surrender and deliver up to Landlord the Premises and the Project

in good order, condition and repair, reasonable wear and tear and damage by casualty or condemnation excepted, free and clear of all lettings, occupancies, liens and encumbrances other than those, if any, existing at the date hereof, created by or consented to by Landlord, Residential Leases the term of which extends beyond the Expiration Date, or which lettings and occupancies by their express terms and conditions extend beyond the Expiration Date, and which Landlord will have consented and agreed, in writing, may extend beyond the Expiration Date, without any payment or allowance whatever by Landlord. Tenant hereby waives any notice now or hereafter required by law with respect to vacating the Premises on any such termination date.

Section 31.02. Delivery of Residential Leases and Other Agreements. On the last day of the Term or upon any earlier termination of the Lease, or upon a re-entry by Landlord upon the Premises pursuant to Article 24 hereof, Tenant will deliver to Landlord Tenant's executed counterparts of all Residential Leases and any service and maintenance contracts then affecting the Premises, true and complete maintenance records for the Premises, all original licenses and permits then pertaining to the Premises, permanent or temporary Certificates of Occupancy then in effect for the Project, and all warranties and guarantees then in effect which Tenant has received in connection with any work or services performed or Fixtures installed in the Project, together with a duly executed assignment thereof to Landlord and all records required by Section 26.08.

Section 31.03. Abandonment of Property. Any personal property of Tenant or of any Residential Tenant, or subtenant of a Residential Tenant which will remain on the Premises for ten Business Days after the termination of this Lease and after the removal of Tenant or such Residential Tenant, or subtenant of a Residential Tenant from the Premises, may, at the option of Landlord, be deemed to have been abandoned by Tenant or such Residential Tenant, or subtenant of a Residential Tenant and either may be retained by Landlord as its property or be disposed of, without accountability, in such manner as Landlord may see fit. Landlord will not be responsible for any loss or damage occurring to any such property owned by Tenant or any Residential Tenant, or subtenant of a Residential Tenant.

Section 31.04. Survival. The provisions of this Article 31 will survive any termination of this Lease.

ARTICLE 32

ENTIRE AGREEMENT

This Lease, together with the Exhibits hereto, contains all the promises, agreements, conditions, inducements and understandings between Landlord and Tenant relative to the Premises and there are no promises, agreements, conditions, understandings, inducements, warranties, or representations, oral or written, expressed or implied, between them other than as herein or therein set forth and other than as may be expressly contained in any written agreement between the parties executed simultaneously herewith.

ARTICLE 33

QUIET ENJOYMENT

Landlord covenants that so long as this Lease is full force and effect and Tenant is not in default beyond notice and grace hereunder, Tenant will and may (subject, however, to the exceptions, reservations, terms and conditions of this Lease) peaceably and quietly have, hold and enjoy the Premises for the term hereby granted without molestation or disturbance by or from Landlord or any Person claiming through Landlord and free of any encumbrance created or suffered by Landlord, except those encumbrances, liens or defects of title, created or suffered by Tenant and the Title Matters.

ARTICLE 34

DISPUTE RESOLUTION

Section 34.01. Mediation. If, after the Effective Date, a dispute occurs between Landlord and Tenant with respect to any matter arising under this Lease that is expressly subject to this Article 34, the party raising a dispute or claim will give the other written notice specifying the nature of the dispute and the monetary amount involved, if any. For a period of 15 Business Days after receipt of such notice, Landlord and Tenant will proceed diligently and in good faith in an effort to resolve the dispute to their mutual satisfaction. If Landlord and Tenant fail to resolve the dispute prior to the expiration of the 15-day period, then mediation may be commenced by a written demand made by either party upon the other. As part of such demand, the moving party will identify a mediator. If the non-moving party does not agree with the mediator chosen by the moving party, the non-moving party will send written notice to the moving party of its decision and choose its own mediator within five Business Days thereafter, and Landlord's and Tenant's mediators will work together and within ten Business Days thereafter, choose a mediator agreeable to both mediators from a list of approved mediators from the AAA (defined below). The mediation will be held at a date, time, and place mutually agreeable to Landlord and Tenant and will be administered in accordance with the Commercial Mediation Rules of the American Arbitration Association ("AAA"). The costs of the mediation will be borne equally by Landlord and Tenant.

Section 34.02. Discovery. Notwithstanding any provision in the AAA Rules to the contrary, in any mediation proceeding, Landlord and Tenant each (i) will have the right to add by way of joinder any other party under contract for work or professional services of any kind relating to the Project; (ii) prior to the mediation hearing, will be entitled to take limited discovery in the form of the right to request documents, the right to serve not more than 30 interrogatories and the right to take not more than four depositions, with respect to each other party; and (iii) at the mediation hearing, will be entitled to present evidence and to cross-examine witnesses.

Section 34.03. Non-Binding Presumption. The decision and award of the mediator, if any, will not be binding on Landlord or Tenant and will not be introduced into evidence in any court or

proceeding between the parties unless Landlord and Tenant enter into a written agreement memorializing the decision and award of the mediator.

Section 34.04. Judicial Proceedings. Except as otherwise specifically provided in this Lease or as otherwise mutually agreed in writing by Landlord and Tenant, any dispute between the parties arising from or in connection with this Lease will be resolved by judicial proceedings.

ARTICLE 35

INVALIDITY OF CERTAIN PROVISIONS

If any term or provision of this Lease or the application thereof to any Person or circumstances will, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby, and each term and provision of this Lease will be valid and be enforced to the fullest extent permitted by law.

ARTICLE 36

RECORDING OF MEMORANDUM

Tenant, at Tenant's sole cost and expense, may record a memorandum of (a) this Lease, or (b) any amendment or modification of this Lease. Landlord will, upon the request of Tenant, join in the execution of a memorandum of this Lease or a memorandum of any amendment or modification of this Lease in proper form for recordation.

ARTICLE 37

MISCELLANEOUS

Section 37.01. Captions. The captions of this Lease are for convenience of reference only and in no way define, limit, or describe the scope or intent of this Lease or in any way affect this Lease.

Section 37.02. Table of Contents. The Table of Contents is for the purpose of convenience of reference only and is not to be deemed or construed in any way as part of this Lease or as supplemental thereto or amendatory thereof.

Section 37.03. Pronouns. The use herein of the neuter pronoun in any reference to Landlord or Tenant will be deemed to include any individual Landlord or Tenant, and the use herein of the words "successors and assigns" or "successors or assigns" of Landlord or Tenant will be deemed to include the heirs, legal representatives and assigns of any individual Landlord or Tenant.

Section 37.04. Depository Charges. Depository may pay to itself out of the monies held by Depository pursuant to this Lease its reasonable charges for services rendered hereunder. Tenant will pay Depository any such charges for such services.

Section 37.05. More than One Entity. If more than one entity is named as or becomes Tenant hereunder, Landlord may require the signatures of all such entities in connection with any notice to be given or action to be taken by Tenant hereunder except to the extent that any such entity will designate another such entity as its attorney-in-fact to act on its behalf, which designation will be effective until receipt by Landlord of notice of its revocation. Subject to Section 37.06, each entity named as Tenant will be fully liable for all of Tenant's obligations hereunder. Any notice by Landlord to any entity named as Tenant will be sufficient and will have the same force and effect as though given to all parties named as Tenant. If all such parties designate in writing one entity to receive copies of all notices, Landlord agrees to send copies of all notices to that entity.

Section 37.06. Limitation of Liability.

(a) The liability of Landlord or of any Person who has at any time acted as Landlord hereunder for damages or otherwise will be limited to Landlord's interest in the Premises, including, without limitation, the rents and profits therefrom, the proceeds of any insurance policies covering or relating to the Premises, any awards payable in connection with any condemnation of the Premises or any part thereof, and any other rights, privileges, licenses, franchises, claims, causes or action or other interests, sums or receivables appurtenant to the Premises. No other property or assets of Landlord or any such Person will be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies hereunder.

i. None of Landlord's members, directors, officers, employees, agents, or servants will have any liability (personal or otherwise) hereunder, and no property or assets of such Persons will be subject to levy, execution, or other enforcement procedure for the satisfaction of Tenant's remedies hereunder

(b) The liability of Tenant or of any Person who has at any time acted as Tenant hereunder for damages or otherwise will be limited to Tenant's interest in the Premises, including, without limitation, the rents and profits therefrom, the proceeds of any insurance policies covering or relating to the Premises, any awards payable in connection with any condemnation of the Premises or any part thereof, any funds held by Depository pursuant to any of the provisions of this Lease, and any other rights, privileges, licenses, franchises, claims, causes or action or other interests, sums or receivables appurtenant to the Premises. Neither Tenant nor any such Person nor any of the members, directors, officers, employees, agents or servants or either will have any liability (personal or otherwise) hereunder beyond Tenant's interest in the Premises, and no other property or assets of Tenant or any such Person or any of the members, directors, officers, employees, agents or servants of either will be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies hereunder.

Section 37.07. No Merger. Except as otherwise expressly provided in this Lease, there will be no merger of this Lease or the leasehold estate created hereby with the fee estate in the Premises or any part thereof by reason of the same Person acquiring or holding, directly or indirectly, this Lease or the leasehold estate created hereby or any interest in this Lease or in such leasehold estate as well as the fee estate in the Premises.

Section 37.08. Refuse. Tenant will store all refuse from the Premises off the streets in an enclosed area on the Premises in accordance with the requirements of municipal and private sanitation services serving the Premises.

Section 37.09. No Brokers. Each of the parties represents to the other that it has not dealt with any broker, finder or like entity in connection with this Lease. If any claim is made by any Person who will claim to have acted or dealt with Landlord or Tenant in connection with this transaction, the party for whom the Person claims to represent will pay the brokerage commission, fee or other compensation to which such Person is entitled and will reimburse the other for any costs or expenses including, without limitation, reasonable attorneys' fees and disbursements, incurred by the other party in defending itself against claims made against it for any such brokerage commission, fee or other compensation.

Section 37.10. Amendments in Writing. This Lease may not be changed, modified, or terminated orally, but only by a written instrument of change, modification or termination executed by the party against whom enforcement of any change, modification, or termination is sought.

Section 37.11. Governing Law. This Lease and any dispute, controversy or proceeding arising out of or relating to this Lease (whether in contract, tort, common or statutory law, equity or otherwise) will be governed by Virginia law, without regard to conflict of law principles of Virginia or of any other jurisdiction that would result in the application of laws of any jurisdiction other than those of Virginia, and must be brought and resolved in the courts of the Commonwealth of Virginia located in the County of Fairfax, Virginia or U.S. District Court for the Eastern District of Virginia, Alexandria Division.

Section 37.12. Successors and Assigns. The agreements, terms, covenants, and conditions herein will be binding upon, and will inure to the benefit of, Landlord and Tenant and their respective successors and assigns that are permitted under this Lease.

Section 37.13. Sections. All references in this Lease to "Articles" or "Sections" will refer to the designated Article(s) or Section(s), as the case may be, of this Lease.

Section 37.14. Plans Specifications. All of Tenant's right, title and interest in all plans and drawings required to be furnished by Tenant to Landlord under this Lease and in any and all other plans, drawings, specifications, or models prepared in connection with construction of the Project, any Restoration or Capital Improvements, will become the sole and absolute property of Landlord upon the Expiration Date or any earlier termination of this Lease. Tenant will deliver all such documents to Landlord promptly upon the Expiration Date or any earlier termination of this Lease.

Tenant's obligation under this Section 37.14 will survive the Expiration Date. Notwithstanding the foregoing, if a New Lease is entered into, then the New Tenant will be entitled to such documents, ***provided however***, the New Tenant will be obligated to deliver the same to Landlord at the expiration or earlier termination of the New Lease.

Section 37.15. Licensed Professionals. All references in this Lease to "licensed professional engineer," "licensed surveyor" or "registered architect" will mean a professional engineer, surveyor or architect who is licensed or registered, as the case may be, by the Commonwealth of Virginia.

Section 37.16. Matters Effecting Title to Premises. Landlord will not enter into or cause there to be entered into any agreements, easements, instruments, or other documents that will encumber or otherwise effect title to the Premises without obtaining the prior written consent of Tenant.

Section 37.17. No Joint Venture. Nothing herein is intended nor will be deemed to create a joint venture or partnership between Landlord and Tenant, nor to make Landlord in any way responsible for the debts or losses of Tenant.

Section 37.18. Tax Benefits. To the extent permitted by law, Tenant will have the right to all depreciation deductions, investment tax credits and other similar tax benefits attributable to any construction, demolition and Restoration performed by Tenant or attributable to the ownership of the Project. Landlord, from time to time, will execute and deliver such instruments as Tenant will reasonably request in order to effect the provisions of this Section 37.18, and Tenant will pay Landlord's reasonable costs and expenses thereof. Landlord makes no representations as to the availability of any such deductions, credits, or tax benefits.

Section 37.19. Waiver of Jury Trial. Each party waives all rights to a trial by jury in any claim, action, proceeding, or counterclaim arising out of or in any way connected with this Lease.

Section 37.20. Submission Not an Offer. Submission of this Lease by Landlord to Tenant does not constitute an offer by Landlord to lease the Premises upon the terms hereof, and in no event will Landlord be bound hereunder except upon the mutual execution and delivery by Landlord and Tenant of the Lease, and the approval of such execution by Landlord's Board of Directors pursuant to applicable law.

ARTICLE 38

TAX CREDIT SYNDICATION

Section 38.01. Agreement of Landlord to Cooperate with Syndication of Tax Credits.

(a) Landlord hereby acknowledges that the right to syndicate the low-income housing tax credits (the "Tax Credits") allocated to the Project is a material benefit bargained for by Tenant.

Therefore, Landlord agrees that Tenant will have the right to syndicate the Tax Credits allocated to the Project and Landlord will reasonably cooperate with Tenant in connection with any syndication of the Tax Credits.

(b) Tenant will not be charged any fee by Landlord in connection with a syndication of the Tax Credits allocated to the Project or require the reimbursement of any costs incurred in connection with the admission of a Person who will claim the Tax Credits with respect to the Project (the “Tax Equity Investor”) as a partner or member of Tenant under its organizational documents.

(c) Landlord acknowledges and agrees that the Project may be operated and maintained in accordance with the [LIHTC EUA] so long as the [LIHTC EUA] remains in effect (the “Tax Credit Period”); *provided, however*, that the affordability requirements of this Lease (including, without limitation, those set forth in Exhibit G) shall continue to apply to the Project regardless of any reduction or expiration of any affordability requirements in the [LIHTC EUA].

(d) During any Tax Credit Period where a Tax Equity Investor is a partner, member or shareholder of Tenant, a Tax Equity Investor will be afforded the notice and cure rights of a Mortgagee under Section 10.04(c) above (the parties agreeing that any notice given to a Tax Equity Investor under Section 25.01 will also be deemed to satisfy the notice requirement of Section 10.04(c)), *provided however*, that:

(i) if upon a Tenant default there are both a Mortgagee and Tax Equity Investor entitled to notice and cure rights under this Lease (each a “Potential Curing Party”), then Landlord may accept the cure efforts of the first Potential Curing Party to notify Landlord of its intent to pursue such cure, at which point the other Potential Curing Party will have no further rights to cure such Tenant default;

(ii) the Tax Equity Investor will only be afforded the additional cure periods set forth in Section 10.04(c) if Tenant has terminated (or terminates prior to the end of the notice and cure period for such Event of Default) Tenant’s property manager and replaces such property manager with an Approved Property Manager (that is not an Affiliate of the terminated property manager) under the Lease.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year first above written.

[SIGNATURE BLOCKS TO BE INSERTED PRIOR TO CLOSING]

Exhibit A [Legal Description of Land]

[To be Attached]

Exhibit B

Project Description

[Will be provided]

EXHIBIT C

Plans and Specifications

[List of Plans and Specifications will be added prior to execution of the ground lease]

Exhibit D

[Project Schedule]

**[EXHIBIT D WILL BE AGREED UPON BY LANDLORD AND TENANT AND ADDED
HERETO PRIOR TO EXECUTION OF THE GROUND LEASE]**

Exhibit E

Form of
GUARANTY OF COMPLETION

THIS GUARANTY OF COMPLETION (this “Guaranty”) is made this ____ day of _____, 202__, by _____, a _____ (the “Guarantor”) in favor of FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY, a political subdivision of the Commonwealth of Virginia, its successors and assigns (“FCRHA”).

RECITALS

R-1 [_____] , a [_____] , as tenant (“Tenant”), and FCRHA, as landlord, have entered into the Deed of Lease, dated _____, 2023, by and between FCRHA and Tenant (the “Lease”), covering real property located in the County of Fairfax, Virginia, as more particularly described in Exhibit A attached hereto and made a part thereof (the “Premises”);

R-2 Tenant is obligated to deliver a payment and performance guaranty for the Final Completion (as defined in the Lease) of the Project (as defined in the Lease), and Tenant has caused the delivery of this Guaranty by Guarantor, to satisfy Tenant’s obligations with respect to the delivery of such guaranty; and

R-3 Guarantor will receive material benefit from the execution of this Guaranty and the execution of the Lease by Tenant.

NOW, THEREFORE, IN CONSIDERATION of the agreement by FCRHA to enter into the Lease with Tenant and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Guarantor hereby agrees with FCRHA as follows:

1. The Recitals set forth above are hereby incorporated in this Guaranty by this reference. Capitalized terms used in this Guaranty and not otherwise defined herein will have the meanings as are set forth in the Lease.

2. If Tenant will (a) fail to achieve Final Completion, within the period or periods required by the Lease, and in accordance with all laws, rules, regulations and requirements of all governmental authorities having jurisdiction, or (b) fail to keep the Premises free from all liens and claims which may be filed or made for performing work and labor thereon or furnishing materials therefor in connection with the construction of the Initial Construction Work; then Guarantor hereby guarantees to FCRHA that it will:

(i) cause the Final Completion to occur in the manner and within the period of time

required by the Lease and in accordance with the Plans and Specifications, amended only as approved in writing by FCRHA, and in accordance with all laws, rules, regulations and requirements of all governmental authorities having jurisdiction;

(ii) cause any such mechanics' or materialmen's liens and claims related to the Initial Construction Work to be removed or bonded and thereafter keep the Premises thereon free from all such liens and claims;

(iii) make payment in full to any contractor(s) to which Tenant is obligated in accordance with the Lease for any and all contracts related to the Initial Construction Work; and

(a) pay all costs and expenses incurred in doing (i), (ii) and (iii) of this Section; provided however, that if Guarantor fails to timely take the actions described in (i), (ii) and (iii) of this Section and pay the costs and expenses incurred in connection therewith, then FCRHA may take the actions described in (i), (ii) and (iii) of this Section and Guarantor will pay to or reimburse FCRHA for all such costs and expenses incurred by FCRHA in connection therewith.

(b) Guarantor further agrees to indemnify and hold harmless FCRHA from any loss (including reasonable attorney's fees) resulting from any default by Guarantor under the terms of this Guaranty.

3. Guarantor hereby waives (to the extent permitted by applicable laws) notice of acceptance of this Guaranty by FCRHA and any and all notices and demands of every kind and description which may be required to be given by any statute or rule or law (other than notices required by the terms of the Lease), and agrees that the liability of Guarantor hereunder will in no way be affected, diminished or released (a) by any forbearance which may be granted to Tenant (or to any successor to it or to any person or entity which will have assumed the obligations of Tenant under the Lease), (b) by any waiver by FCRHA of any term, covenant or condition in any of the Lease, (c) by reason of any change or modification in any construction contract with any contractor or any of the construction contracts, or (d) by the acceptance of additional security for the obligations under the Lease or the release by FCRHA of any security or of any party primarily or secondarily liable under the Lease, including one or more of the undersigned (if applicable).

4. Guarantor hereby agrees that the Plans and Specifications, and any other terms, covenants and conditions contained in the Lease or any construction contract with any contractor may be altered, extended, changed, modified, or released by Tenant, with the approval of FCRHA (when required under the Lease), and without notice to or the consent of Guarantor, without in any manner affecting the obligations of Guarantor under this Guaranty or releasing Guarantor therefrom. Guarantor specifically acknowledges and agrees that change orders approved by Tenant will in no manner release Guarantor from the obligations evidenced by this

Guaranty.

5. Guarantor agrees that this Guaranty may be enforced by FCRHA without the necessity at any time of resorting to or exhausting any other remedies under the Lease and without the necessity at any time of having recourse under the Lease. Guarantor further agrees that nothing herein contained will prevent FCRHA from suing under the Lease or terminating the Lease or from exercising any other right available to it under the Lease, and the exercise of any of the aforementioned rights will not constitute a legal or equitable discharge of Guarantor, it being the purpose and intent of Guarantor that its obligations under this Guaranty be released therefrom upon payment of all sums due hereunder and achievement of Final Completion in accordance with the terms and conditions of the Lease and this Guaranty. Notwithstanding anything to the contrary herein, this Guaranty will terminate and be of no further force or effect and Guarantor will be released of all obligations hereunder upon the achievement of Final Completion, as set forth in the Lease.

6. Nothing contained in this Guaranty will operate as a release or discharge in whole or in part, of any claim of Guarantor against Tenant by subrogation or otherwise, by reason of any act done or any payment made by Guarantor pursuant to the provisions of this Guaranty; provided, however, all such claims will be subordinate to the claims of FCRHA and Guarantor assigns all of its right, title and interest in all claims of Guarantor as security for the fulfillment of all of Guarantor's obligations under this Guaranty.

7. Guarantor acknowledges, consents and agrees (a) that the provisions of this Guaranty and the rights of all parties to this Guaranty are governed by the laws of the Commonwealth of Virginia and interpreted and construed in accordance with such laws and (b) that the United States District Court for the Eastern District of Virginia or any court of competent jurisdiction of the Commonwealth of Virginia will have jurisdiction in any proceeding instituted to enforce this Guaranty and any objections to venue are waived by Guarantor.

8. GUARANTOR AND FCHRA HEREBY, JOINTLY AND SEVERALLY, WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH GUARANTOR AND FCHRA MAY BE PARTIES, ARISING OUT OF OR IN ANY WAY PERTAINING TO THIS GUARANTY OR THE LEASE. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS GUARANTY. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY GUARANTOR, AND GUARANTOR HEREBY REPRESENTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. GUARANTOR FURTHER REPRESENTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS GUARANTY AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, SELECTED OF ITS OWN FREE WILL, AND THAT IT

HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

9. The rights, powers, privileges, and discretions (the “Rights”) to which FCRHA may be entitled hereunder will inure to the benefit of its successors and assigns. All the Rights of FCRHA are cumulative and not alternative and may be enforced successively or concurrently. Failure of FCRHA to exercise any of its Rights will not be deemed a waiver thereof and no waiver of any of its Rights will be effective unless in writing and signed by FCRHA. The terms, covenants, and conditions of or imposed upon Guarantor herein will be binding upon his respective heirs, personal representatives, successors, and assigns.

10. Guarantor represents and warrants that it has examined or has had an opportunity to examine the Lease, and that it has full power, authority, and legal right to execute and deliver this Guaranty, and that this Guaranty is a binding legal obligation of Guarantor.

11. In case any provision contained in this Guaranty will for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision of this Guaranty, but this Guaranty will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

WITNESS the signature and seal of Guarantor as of the day and year first above written.

GUARANTOR:

_____,

By: _____ [SEAL]

Name:

Title:

Exhibit F

Reserved

Exhibit G

9% North Project

Criteria for Affordable Housing Units, Tenants, Rents and Eligible Household Income

The Premises will be used as a residential rental development having 100% of its ___ dwelling units operated as affordable housing (such dwelling units may be referred to as “**Affordable Housing Units**” or as “**AHUs**”). At all times during the term of the Lease Tenant will maintain, as applicable, all AHUs in compliance with (a) as and when applicable, the laws, rules, and regulations of the federal Low-Income Housing Tax Credit Program administered under Section 42 of the Internal Revenue Code of 1986, as amended, (“**LIHTC Program**”) and/or the applicable requirements of the Virginia Housing, and (b) with the terms and conditions of the Lease and this Exhibit G thereto. Notwithstanding anything herein to the contrary, so long as an AHU Unit is subject to the regulatory restrictions of the LIHTC Program, then Tenant will comply with the requirements of (a) and (b) above with respect to such AHU Unit. At such time as an AHU Unit is not a subject to the regulatory restrictions of the LIHTC Program (i.e., after the expiration of the extended use restriction period), then Tenant need only comply with requirements of (b) with respect to such AHU Unit.

1. Designation on Approved Plans

Approved site plans and building plans will include a table setting forth the number of units in each of the bedroom count categories and will demonstrate that such units meet the minimum floor area limitations. The AHUs accepted as part of proffered conditions associated with a rezoning application for the Premises and included on approved site plans will be deemed features shown for purposes of Va. Code Ann. §15.2-2232 and, as such, will not require further approvals pursuant thereto in the event the Board of Supervisors will acquire or lease such units.

2. Administration of Affordable Housing Units

A. All AHUs are to be initially leased for a minimum six-month term with a maximum term of one year and maximum renewal term(s) of one year to tenants who meet the eligibility criteria established in accordance with the Lease, including, but not limited to, the terms of this Exhibit G and/or all applicable LIHTC Program requirements. Such leases are referred to as “**Affordable Housing Leases**” and qualified tenant occupants of such AHUs are referred to herein as “**Affordable Housing Tenants**.” The Affordable Housing Leases for AHUs will include conditions that require the Affordable Housing Tenant to occupy the AHU as his or her domicile, that prohibit the subleasing of the unit, that require continued compliance with the applicable eligibility criteria, and that require the Affordable Housing Tenant to annually verify under oath, on a form approved by the Fairfax County Department of Housing and Community

Development (“**DHCD**”), the total household annual income and such other facts that the Tenant may require in order to ensure that the Affordable Housing Tenant household continues to meet the applicable eligibility criteria. The fact that an Affordable Housing Tenant applicant does not possess a housing choice (a/k/a “Section 8”) voucher or other subsidy will not be a permissible reason for Tenant to reject or discriminate against such applicant, provided, however, that the Tenant will be allowed to apply reasonable credit, background, and other admissions criteria to all applicants.

B.

- (1) As used in this Exhibit, area median income (“**AMI**”), or any specified percentage of AMI, means the annual estimate of area median income, or percentage thereof, for the Washington Metropolitan Statistical Area (“**WMSA**”) published by the United States Department of Housing and Urban Development (“**HUD**”), as adjusted for household size.
- (2) Affordable Housing Tenant households must continue to meet the eligibility and income criteria set forth in this Exhibit G in order to continue occupancy of the AHU, provided that (a) during any period in which a unit is subject to LIHTC Program restrictions, an Affordable Housing Tenant household will continue to be eligible so long as it complies with LIHTC Program requirements, and (b) during any period in which a unit is not subject to LIHTC Program restrictions, an Affordable Housing Tenant household will continue to be eligible so long as its income does not exceed 80%¹ of AMI. However, an Affordable Housing Tenant household that no longer meets such criteria may continue to occupy an AHU until the end of the applicable lease term.
- (3) AHUs may not be subleased.

C. Within 15 days of the end of each quarter, the Tenant will provide the DHCD with a certified statement from the property manager as of the first of such quarter providing for:

- (1) The address and name of the Premises and the name of the Tenant.
- (2) The number of AHUs by bedroom count and floor area, which are vacant.
- (3) The number of AHUs by bedroom count and floor area that are leased. For each such unit, the statement will contain the following information:
 - (i) The unit number, address, bedroom count and floor area.
 - (ii) The Affordable Housing Tenant's name and household size.

- (iii) The effective date of the Affordable Housing Lease.
- (iv) The Affordable Housing Tenant's household income as of the date of the lease as certified by such Affordable Housing Tenant and confirmed by acceptable third-party verification (e.g., IRS W-2 Form) at such Affordable Housing Tenant's most recent (re)certification.
- (v) The current monthly rent.
- (vi) The Area Median Income ("AMI") level.

(4) That to the best of the Tenant's information and belief, the tenant households who lease AHUs meet the eligibility criteria established in accordance with the Lease, including, but not limited to, the terms of this Exhibit G and, to the extent applicable, the LIHTC Program requirements.

(5) At the request of DHCD, the Tenant will provide the DHCD with a copy of each new or revised annual tenant verification obtained from the renters of AHUs pursuant to Paragraph B above.

D. Distribution of Affordable Housing Units by AMI Level and Unit Type. The table below sets forth the number of AHUs of each unit type that will be occupied by households having incomes at or below thirty percent (30%), fifty percent (50%) and sixty percent (60%) of AMI, as applicable:

As units become vacant, Tenant will lease such units with households whose incomes fall into a category (based on unit size and AMI) that is under-represented based on the table below.

Area Median Income (AMI)	Number of Units
30%	
50%	
60%	

[TOTAL NUMBER OF UNITS ACROSS ALL FOUR PROJECTS TO BE APPROXIMATELY 279; WITH APPROXIMATELY 26 TOTAL UNITS AT 30% AMI; APPROXIMATELY 39 TOTAL UNITS AT 50% AMI; AND THE REMAINDER AT 60% AMI. EXACT UNIT COUNTS BY PROJECT, BOTH TOTAL AND BY AMI TIER, ARE TO BE DETERMINED.]

In the event of federal cuts to the Housing Choice Voucher (a/k/a Section 8) program, the FCRHA will prioritize the funding of any Project-Based Vouchers awarded to the Project in accordance with and subject to Section 8 laws, rules, and regulations.

E. Affordable Housing Unit Rental Pricing. The maximum rent charged to the Affordable Housing Tenant for each AHU at each AMI tier will be calculated and reset each year throughout the term of the Lease pursuant to the formula established under the federal LIHTC Program and administered by the Virginia Housing under Section 42 of the Internal Revenue Code of 1986, as amended from time to time, provided however, that in the event such LIHTC Program should be terminated or discontinued at any time during the term of the Lease, all units will be deemed to be affordable to a tenant household if the monthly rent charged to the Affordable Housing Tenant for that unit, together with reasonable utility costs, does not exceed 30% of the monthly gross income of households whose incomes do not exceed, as applicable, 30%, 50%, and 60% of the annual AMI as established above. For purposes of establishing the maximum affordable rent, (a) the imputed household size for determining the applicable income limit is assumed to be one person for a unit that does not have a separate bedroom, and 1.5 persons per separate bedroom for a unit with one or more separate bedrooms and (b) the AMI level for each AHU will be as set forth in Section 3.D above. This method of establishing annual rent charged to the Affordable Housing Tenant will continue to apply to all AHUs both during and after the period that the LIHTC Program is in effect for any of the AHUs and will continue through the end of the lease term. Notwithstanding anything to the contrary contained herein, if rental subsidy payments are made to or on behalf of a tenant household under the Section 8 Housing Choice Voucher Program (either tenant- or project-based) or any other rental subsidy program, then (x) the unit will be deemed affordable if the tenant's share of rent and utilities does not exceed the maximum amount described above, and (y) such tenant may occupy any AHU as long as the tenant's share of the rent and utilities does not exceed the maximum amount described above and the tenant's household income is at or below the designated AMI applicable to the unit.

F. Eligible Affordable Housing Tenant Household Incomes. The maximum eligible household gross income for Affordable Housing Tenant households for each AHU at each AMI level will be calculated and reset each year using HUD's annual estimate of AMI for the WMSA as referenced above, adjusted for household size, and, if applicable, applied in accordance with LIHTC Program.

G. Household Size. The minimum household size for any unit will be one person per bedroom. The maximum household size for any unit will not exceed the applicable limits of state and local laws and regulations and any limits of federal programs applicable to the Project.

3. Occupancy of Affordable Housing Units

A. Before a prospective Affordable Housing Tenant may rent an AHU, he or she must meet the eligibility criteria established in the Lease and this Exhibit G, including, but not limited to the household income limitations for eligible households. The Tenant is responsible for determining

that the proposed Affordable Housing Tenant household meets the eligibility criteria applicable to an Affordable Housing Tenant household for the applicable AHU at a particular AMI level.

B. Affordable Housing Tenants must occupy the AHUs as their domicile and will provide an executed affidavit on an annual basis certifying their continuing occupancy of the units. Affordable Housing Tenants will provide such affidavit to the Tenant by the date that may be specified in their Affordable Housing Lease or that may otherwise be specified by the Tenant.

C. The Affordable Housing Lease will provide that in the event an Affordable Housing Tenant fails to provide Tenant with an executed affidavit as provided for in the preceding paragraph within 30 days after a written request for such affidavit, then the Affordable Housing Lease will automatically terminate, become null and void, and will require the occupant to vacate the unit within 30 days after written notice from the Tenant. Tenant will take appropriate enforcement action when necessary if such Affordable Housing Tenant fails to vacate the applicable unit. Provided Tenant has acted in accordance with the foregoing, a failure by an Affordable Housing Tenant to vacate a unit will not be considered an Affordable Housing Criteria Default under the terms of the Lease.

D. Except as specifically provided for in the Lease, this Exhibit G, and pursuant to the LIHTC Program (for those AHUs to which the LIHTC Program is applicable), if a renter of an AHU no longer meets the Affordable Housing Tenant criteria, as a result of increased income or other factors (subject to Section 3.B of this Exhibit G), then at the end of the applicable Affordable Housing Lease term, Tenant will require the occupant to vacate that AHU and Tenant will take appropriate enforcement action when necessary if such Affordable Housing Tenant fails to vacate the applicable unit. Provided Tenant has acted in accordance with the foregoing, a failure by an Affordable Housing Tenant to vacate a unit will not be considered an Affordable Housing Criteria Default under the terms of the Lease.

E. The Affordable Housing Lease will provide that in the event an Affordable Housing Tenant fails to occupy the applicable AHU for a period in excess of 60 days, a default under the applicable Affordable Housing Lease will occur. The Affordable Housing Lease will automatically terminate, become null and void and Tenant will require occupants to vacate the AHU within 30 days of written notice from the Tenant and Tenant will take appropriate enforcement action when necessary if such Affordable Housing Tenant fails to vacate the applicable unit. Provided Tenant has acted in accordance with the foregoing, a failure by an Affordable Housing Tenant to vacate a unit will not be considered an Affordable Housing Criteria Default under the terms of the Lease.

4. Additional Criteria

A. Utility Charges. The rental charges actually collected by Tenant from Affordable Housing Tenants may include or exclude utility charges, at the option of Tenant, and such utility charges may be billed directly from the provider of such utility to the individual Affordable

Housing Tenants and/or billed separately by Tenant to the individual Affordable Housing Tenants.

B. Certification of Income. Tenant will obtain from each prospective Affordable Housing Tenant of an AHU a certification of income in using a form to be reasonably acceptable to both parties. Annually thereafter, Tenant will make a determination on the basis of current income of whether the income of any Affordable Housing Tenant exceeds the applicable income limit and will obtain a recertification of income from all tenants of AHUs on forms approved by Landlord. Upon request of Landlord, copies of all certifications and recertifications will be furnished to Landlord. Tenant will maintain in its records the certifications and recertifications for five years or for such longer periods as may be required by the LIHTC Program.

C. Evidence of Income. In a manner and form agreed to by Landlord and Tenant, Tenant will obtain written evidence substantiating the information given on the Affordable Housing Tenants' certifications and recertifications of income and will retain the evidence in its files for a time supportive of the certification requirements of the immediately preceding clause. HUD Handbook 4350.3 REV-1 sets forth instructions for verifying and calculating incomes.

D. No Restrictions Against Families with Children. Tenant will not restrict occupancy of AHUs which can be occupied by more than one person by reason of the fact that there are children in a family.

E. Number of Affordable Housing Units Rented. Tenant will not permit an Affordable Housing Tenant to rent more than one AHU at any given time.

F. Reports. Tenant will prepare, or will cause the managing agent of the Premises to prepare, such reports as may be required by Section 26.09 of the Lease and this Exhibit G.

G. Components of Development.

- (i) all of the AHUs will be rented or available on a non-transient basis; and
- (ii) none of the AHUs will be used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing home, sanatorium, or rest home.

H. Continuance of Rental Restriction. Subject to maintenance and repair of AHUs in the ordinary course of business, and subject to the casualty and condemnation provisions of the Lease, Tenant will maintain all of the AHUs rented or available for rental on a continuous basis.

I. Furnishing Tenant Information. Tenant agrees to furnish to Landlord, on an annual basis a Certification of Continuing Program Compliance, in a form to be reasonably acceptable to both parties, and maintain on file Tenant Income Certifications, in a form to be reasonably acceptable to both parties, in order to permit verification that the covenants set forth in this Lease and this

Exhibit G are being satisfied by Tenant. The Affordable Housing Leases will contain clauses wherein each Affordable Housing Tenant certifies as to the accuracy of statements made in the Tenant Income Certification and agrees that family income and other eligibility requirements will be deemed substantial and material obligations of such Affordable Housing Tenant's tenancy, that Affordable Housing Tenant will comply with all requests for information with respect thereto from Tenant and that failure to provide accurate information on the Tenant Income Certification or refusal to comply with a request for information with respect thereto will be deemed a violation by such Affordable Housing Tenant of a substantial obligation.

J. Covenant to Notify. Tenant will notify Landlord of the occurrence of any event of which Tenant has notice and which event, to the knowledge of Tenant, would constitute a default in Tenant's obligations under this Exhibit G.

K. Acts Requiring Landlord Approval. Tenant will not without the prior written approval of Landlord, such approval not to be unreasonably withheld or delayed:

- (i) require, as a condition of the occupancy or leasing of any AHU, any consideration or deposit except for an application fee, the prepayment of the first month's rent plus a security deposit in an amount not in excess of two month's gross rent, pet deposits, and, to the extent applicable, such other amounts addressed in paragraph M below. Any funds collected as security deposits will be kept separate and apart from all other funds of the Premises. If interest is earned on such trust account, it will accrue to the benefit of the Affordable Housing Tenant, unless otherwise required by law or federal or state regulation; or

- (ii) permit the use of the AHUs for any purpose except the use which was originally intended or permit commercial use greater than that approved by Landlord.

L. Non-Discrimination in Housing. Tenant will comply with all federal, state, and Fairfax County fair housing laws and equal employment laws and all rules and regulations promulgated in connection therewith.

M. Other Income – Tenant will have the right to charge for the following in addition to the rent:

- (i) Parking – One parking space per unit;

- (ii) Laundry - Either an in-unit washer and dryer or in building coin operated machines will be provided;

- (iii) Other Fees – Other fees including, but not limited to, pet premiums, late charges, administration fees associated with managing and invoice for utilities, NSF Fee, processing fees, early lease termination fees, charges for use of the community laundry facilities, etc.;

(iv) Bulk Cable Charge – If Tenant installs or causes to be installed the equipment necessary to provide cable, FIOS, telephone, internet, or other related services, then Tenant will be entitled to charge a fee to Affordable Housing Tenants that elect to use such equipment and additional fees for the related services that such Affordable Housing Tenants elect to use; and

(v) Storage – A monthly charge to those Affordable Housing Tenants that lease a storage unit provided by Tenant at the Premises.

N. Accessible Units. Tenant will design and construct the Project to provide at all times at least []% of the units ([]) to be fully accessible and at least [] units will be accessible for persons with hearing and visual disabilities. Further, Tenant will design and construct the remaining units such that each may be converted to fully accessible units if the need arises, with the understanding that several of these remaining units, such as a corner unit, may encounter design challenges that require minor variations from the standard accessibility criteria.

5. LIHTC Program

To the extent any provision of this Exhibit G or the Deed of Ground Lease conflicts with the LIHTC Program laws, regulations, rules, and guidance, then the LIHTC Program requirements will control. This includes without limitation the requirements of Internal Revenue Code Section 42(h)(6)(E)(ii) prohibiting the eviction or termination of tenancy other than for good cause. It is acknowledged that no reduction or expiration of any affordability requirements of the LIHTC Program will be deemed to conflict with the affordability provisions of this Lease, including this Exhibit G.