

GROUND LEASE AGREEMENT

Town of Palm Beach, Florida,
a political subdivision of the State of Florida

and

CRE Fund at Okeechobee Boulevard, LLC,
a Florida limited liability company

GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT is made and entered into this _____ day of _____ 2019 by and between the Town of Palm Beach a political subdivision of the State of Florida ("**Town**"), and CRE Fund at Okeechobee Boulevard, LLC, a Florida limited liability company, having its office and principal place of business at 12895 S.W. 132 Street, Suite 202, Miami, Florida 33186 ("**Tenant**").

WITNESSETH:

WHEREAS, Tenant submitted an unsolicited proposal for the lease and development of certain real property owned by Town and further defined in this Lease as the **Property**; and

WHEREAS, the Town reviewed and accepted the proposal submitted by Tenant for lease and development of the Property and directed the Town Manager to negotiate a ground lease with Tenant; and

WHEREAS, the Town wishes to lease the Property to Tenant and Tenant wishes to lease the Property from the Town on the terms and conditions set forth in this Lease.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

ARTICLE 1 - RECITALS

The foregoing recitals are true and correct and are hereby incorporated herein by reference.

ARTICLE 2 - DEFINITIONS

The following words, terms, and phrases wherever used in this Lease shall have the meanings set forth in this Article and the meanings shall apply to both singular and plural forms of such words, terms and phrases.

- 2.01 "**Additional Insured**" has the meaning set forth in Section 12.05.
- 2.02 "**Additional Rent**" has the meaning set forth in Section 5.08.
- 2.03 "**Approval Deadline**" has the meaning provided in Section 3.08(C).
- 2.04 "**Assignment**" has the meaning provided in Article 18.
- 2.05 "**Base Rent**" has the meaning set forth in Section 5.01.
- 2.06 "**Completion Guaranty**" has the meaning set forth in Section 7.01.
- 2.07 "**County**" means Palm Beach County, Florida

- 2.08 **"Council"** means the Town Council of the Town of Palm Beach.
- 2.09 **"Bond"** has the meaning set forth in Section 7.10.
- 2.10 **"Business Day"** means any day other than a Saturday, Sunday or County holiday. Use of the word "day" as opposed to Business Day means a calendar day.
- 2.11 **"Confidential Information"** has the meaning provided in Section 27.28.
- 2.12 **"Continuing Guaranty Provisions"** has the meaning given to such term in the Payment Guaranty.
- 2.13 **"Continuing Guaranty Provision Termination Date"** has the meaning given to such term in Section 5.05.
- 2.14 **"Date of Beneficial Occupancy"** has the meaning set forth in Section 3.01.
- 2.15 **"Deficiencies"** has the meaning provided in Section 9.04(B)
- 2.16 **"Town Manager"** means the Town Manager or Deputy Town Manager or his or her designee.
- 2.17 **"Effective Date"** means the date that this Lease is approved and signed by the parties.
- 2.18 **"Event of Force Majeure"** has the meaning set forth in Section 27.26.
- 2.19 **"Environmental Condition"** means a Recognized Environmental Condition (as such term is defined as of the date hereof by ASTM E1527-13 – Standard Practice for Environmental Site Assessments) existing on the Property prior to the Effective Date that is in violation of applicable Environmental Laws.
- 2.20 **"Environmental Laws"** means all applicable Federal, State and local laws, statutes, ordinances, rules, regulations and governmental restrictions relating to the protection of the environment, human health, welfare or safety, or to the emission, discharge, seepage or release of Hazardous Substances into the environment, including, but not limited to, ambient air, surface water, groundwater or Property or otherwise relating to the handling of such Hazardous Substances.
- 2.21 **"Fee Mortgage"** has the meaning set forth in Section 19.11.
- 2.22 **"Fee Mortgagee"** has the meaning set forth in Section 19.11.
- 2.23 **"Final Approval"** has the meaning set forth in Section 3.08(B).
- 2.24 **"Florida Public Records Law"** has the meaning set forth in Section 27.28.
- 2.25 **"Guarantor"** means AHS Residential, LLC, a Florida limited liability company,

2.26 **"Guaranty"** means collectively, the Payment Guaranty and the Completion Guaranty.

2.27 **"General Contractor"** means AHS Construction LLC, a Florida limited liability company, or any subsequent general contractor reasonably approved by the Town.

2.28 **"Governmental Approvals"** has the meaning set forth in Section 3.08.

2.29 **"Governmental Authority"** shall mean any and all federal, state, city, county and local governments, departments, bureaus, agencies or offices thereof, and any other governmental, public or quasi-public authorities having jurisdiction over the Property.

2.30 **"Hazardous Substances"** shall mean any contaminant, hazardous or toxic substance, material or waste of any kind or any other substance that is regulated by any Environmental Laws.

2.31 **"Initial Leasehold Improvements"** means a minimum of two hundred fifty (250) residential units (but the foregoing shall not be construed to establish a maximum number of units) and related improvements and structures hereafter constructed or erected on the Property and all fixtures affixed or attached thereto, all in connection with the Permitted Uses.

2.32 **"Initial Term"** has the meaning set forth in Section 3.01.

2.33 **"Inspection Period"** has the meaning set forth in Section 3.07.

2.34 **"Inspections"** has the meaning set forth in Section 3.07.

2.35 **"Land Use Amendment"** has the meaning set forth in Section 3.08.

2.36 **"Lease"** means this Lease and all exhibits attached hereto, which are incorporated herein by this reference. Words such as "herein," "hereafter," "hereof," "hereby" and "hereunder" when used with reference to this Lease, refer to this Lease as a whole, unless context otherwise requires.

2.37 **"Leasehold Mortgage"** shall mean a mortgage or mortgages or other similar security agreements given to any Leasehold Mortgagee of the leasehold interest of Tenant hereunder, and shall be deemed to include any mortgage or trust indenture under which this Lease shall have been encumbered, as modified, amended, restated, renewed and consolidated from time to time.

2.38 **"Leasehold Mortgagee"** shall mean a Lender holding a Leasehold Mortgage.

2.39 **"Lease Year"** means a twelve (12) month period beginning on the Date of Beneficial Occupancy, and each twelve (12) month period thereafter, until the expiration or earlier termination of this Lease. If the Date of Beneficial Occupancy does not occur on the first day of a calendar month, the first Lease Year shall include the days between

the Date of Beneficial Occupancy and the last day of the month in which the Date of Beneficial Occupancy Occurs.

2.40 **"Letter of Credit"** has the meaning set forth in Section 5.05.

2.41 **"Lender"** shall mean a Federal or State bank, savings bank, association, savings and loan association, credit union, commercial bank, trust company, insurance company, an institutional investor such as a publicly held real estate investment trust; any governmental agency or entity insured by a governmental agency or similar institution authorized to take mortgage loans in the State of Florida, in all events whether acting individually or in a fiduciary or representative capacity (such as an agency capacity), or any combination of Lenders.

2.42 **"Major Contractors"** means the trade contractors under contract with the General Contractor for the construction of the Tenant Improvements having a contract value equal to or exceeding \$1,000,000.00. The General Contractor shall not be deemed a Major Contractor.

2.43 **"Major Improvements"** has the meaning set forth in Section 7.12.

2.44 **"Mechanic Lien"** has the meaning set forth in Section 11.02.

2.45 **"Minor Improvements"** means any (a) addition, alteration or improvement to the interior of the buildings or other structures located on the Property; or (b) any addition, alteration or improvement to the exterior of the buildings or other structures located on the Property if such exterior changes do not substantially change the Tenant Improvements approved by the Town. By way of example and not limitation, alterations to change facades, entrances, exterior doors or windows, replacement of roof, repairs and enhancements to common area facilities, parking lot improvements or painting would be permitted but an addition which would require (a) an amendment to the original approved Site Plan for the Tenant Improvements, (b) a governmental approval to increase the density or (c) a renovation of the majority of the Tenant Improvements that would change the use of the majority of the Tenant Improvements from Tenant's Intended Project to another Permitted Use, shall require the approval of the Town, which approval shall not be unreasonably withheld, delayed or conditioned.

2.46 **"Offer Terms"** has the meaning set forth in Section 27.21.

2.47 **"Payment Guaranty"** has the meaning set forth in Section 5.05.

2.48 **"Permitted Assignee"** has the meaning set forth in Section 18.02.

2.49 **"Permitted Exceptions"** means matters appearing on the Title Commitment accepted by Tenant or not timely objected to by Tenant as set forth in Section 3.04.

2.50 **"Plans and Specs"** have the meaning set forth in Section 7.03.

2.51 **"Preferred Transferee"** has the meaning set forth in Section 18.

2.52 **"Premises"** means the Property together with all buildings, facilities and other improvements now or hereafter constructed thereon, including without limitation, the Tenant Improvements, subject to easements, rights-of-way and any other encumbrances of record, but excluding any encumbrance which Town is obligated to remove pursuant to Section 3.04 and Section 3.06 of this Lease.

2.53 **"Property"** means collectively the land owned by the Town and located at 5976 Okeechobee Blvd, West Palm Beach, Florida, consisting of approximately 28.38 acres of unimproved real property as more particularly described in **Exhibit "A"** attached hereto and incorporated herein (the **"Land"**) together with the airspace above the Land, and the subsurface rights under the Land, sidewalks, streets, avenues, curbs and roadways comprising or abutting the Property, and all rights of ingress and egress thereto, all subject to easements, rights-of-way and any other encumbrances of record, but excluding any encumbrance which the Town is obligated to remove pursuant to Section 3.04 and Section 3.06 of this Lease.

2.54 **"Prototype Units"** has the meaning set forth in Section 7.03.

2.55 **"Release Documents"** has the meaning set forth in Section 19.08.

2.56 **"Renewal Term"** has the meaning set forth in Section 3.02.

2.57 **"Requirements"** means the requirements imposed by law, code, ordinance, order, directive, regulation and governmental or quasi-governmental requirements applicable to the Tenant or the Premises including, without limitation, Environmental Laws.

2.58 **"Site Plan"** has the meaning set forth in Section 7.03.

2.59 **"Space Lease"** means a written lease (other than this Lease or any residential lease), sublease, license or other agreement between Tenant and a Sub-Tenant for the use or occupancy of space or land on or within the Premises, as amended from time to time.

2.60 **"Substantial Completion"** has the meaning set forth in Section 7.02.

2.61 **"Subleasehold Mortgage"** means a mortgage or mortgages or other similar security agreements given to any Subleasehold Mortgagee encumbering the subleasehold interest of a Sub-Tenant under a Space Lease, as modified, amended, restated, renewed and consolidated from time to time.

2.62 **"Subleasehold Mortgagee"** means a Lender holding a Subleasehold Mortgage.

2.63 **"Sub-Tenant"** means any person using or occupying any portion of the Premises under a Space Lease. The term Sub-Tenant shall not include any residential tenant, occupant or guest or any occupant of a bed or unit in any assisted living facility located on the Premises.

2.64 **"Sub-Tenant Contractor"** means any general contractor and/or trade contractor performing any Major Improvements on behalf of Tenant or any Sub-Tenant in connection with any portion of the Premises that is sub-leased to a Sub-Tenant.

2.65 **"Successor Landlord"** has the meaning set forth in Section 19.11.

2.66 **"Taking"** has the meaning set forth in Section 14.01.

2.67 **"Tenant Default"** has the meaning set forth in Section 17.02.

2.68 **"Tenant Improvements"** means all buildings, structures, pavement, facilities, landscaping and other improvements and fixtures, above and below ground, constructed by or on behalf of Tenant upon the Property during the Term and any Renewal Term, if applicable, including the Initial Leasehold Improvements.

2.69 **"Tenant Parties"** means Tenant, its contractors, suppliers, employees, officers, licensees, agents and invitees (each individually, a **"Tenant Party"**). The term Tenant Parties shall not include any Sub-Tenant, any tenant, occupant or guest of a Residential Unit or any person occupying a bed or unit in any assisted living facility located on the Premises.

2.70 **"Tenant's Intended Project"** has the meaning set forth in Section 4.02.

2.71 **"Tenant's Broker"** has the meaning set forth in Section 27.17.

2.72 **"Term"** means the Initial Term plus any Renewal Term.

2.73 **"Title Commitment"** has the meaning set forth in Section 3.03.

2.74 **"Title Objection Notice"** has the meaning set forth in Section 3.04

2.75 **"Title Review Period"** has the meaning set forth in Section 3.03.

2.76 **"Triennial Inspections"** has the meaning set forth in Section 9.04(B).

2.77 **"Town Representatives"** means the Town and its elected officers, contractors, employees and agents (each individually a **"Town Representative"**).

2.78 **"Transfer Notice"** has the meaning in Section 27.21.

ARTICLE 3 - EFFECTIVE DATE, TERM AND EVALUATION OF PREMISES

3.01 Term. The initial term of this Lease shall commence on the Effective Date and expire fifty (50) Lease Years from the later of (**"Date of Beneficial Occupancy"**): (i) Tenant achieving Substantial Completion (as hereinafter defined) or (ii) twenty-four (24) months from the filing date of the Land Use Amendment (as hereinafter defined), unless this Lease is sooner terminated pursuant to the terms hereof (the **"Initial Term"**). Notwithstanding the foregoing, in no event shall the Date of Beneficial Occupancy occur later than the first day of the month that is thirty-six (36) months following the Effective Date of this Lease, subject to extension by up to ninety (90) days in the aggregate for Events of Force Majeure.

3.02 Renewal Terms. Provided no Tenant Default exist, at the written request of either Tenant or the Town given at least one hundred twenty (120) days prior to the expiration of the Initial Term, the parties agree to consider the request of the other to negotiate in good faith a renewal of this Lease for one additional period of ten (10) Lease Years (a "**Renewal Term**"). The parties further agree to consider in good faith two additional Renewal Terms of ten (10) Lease Years each following the same procedure set forth herein with notice given by either Tenant or the Town at least one hundred twenty (120) days prior to the expiration of each current Renewal Term. In the event that either party agrees to such renewal, the rental amount for the first Lease Year of any Renewal Term shall not increase by more than ten percent (10%) from the amount payable the Lease Year in which the Initial Term (or any subsequent Renewal Term) expires with a ten percent (10%) increase every five years thereafter. Nothing herein shall be deemed to require either the Town or Tenant to agree to any Renewal Term.

3.03 Title Insurance. Tenant shall have forty-five (45) days following the Effective Date to examine title to the Property ("**Title Review Period**") and, at Tenant's option, obtain a title insurance commitment ("**Title Commitment**") for the issuance of a leasehold title policy, agreeing to issue to Tenant a title insurance policy in such amount as deemed appropriate by Tenant. Tenant shall furnish a copy of the Title Commitment, to the Town together with legible copies of all exceptions to coverage reflected thereon upon receipt. The cost of the Title Commitment and title insurance policy and any premium shall be borne by Tenant.

3.04 Title Defects. In the event the Title Commitment shows as an exception any matters that render title to the leasehold estate unmarketable or would unreasonably interfere with the Permitted Uses, Tenant shall deliver written notice to the Town of Tenant's objections thereto prior to expiration of the Title Review Period ("**Title Objection Notice**"). The Town shall have the right, but not the obligation, within sixty (60) days from receipt of the Title Objection Notice, to cure such title defects or to make arrangements with the title insurer for the removal of such objections from the Title Commitment. If the Town elects not to cure such title defect(s) it shall give written notice to Tenant within thirty (30) days of receipt of the Title Objection Notice and Tenant shall have the option of: a) accepting title to the Premises as it then exists; or b) terminating this Lease. If Town elects to cure the title defect(s) and the defect(s) shall not have been so cured or removed from the Title Commitment by endorsement thereto at the termination of the sixty (60) day period, Tenant shall have the option of: (a) accepting title to the Premises as it then exists; (b) providing Town with an additional ninety (90) days to remove such defects; or (c) terminating this Lease. Tenant shall provide the Town with written notice of its election within ten (10) days after either (x) receipt of the Town's notice that it has elected not to cure title defect(s) or (y) the expiration of the sixty (60) day period. In the event the Town is unable to or does not cure such defects within the additional ninety (90) day period, Tenant shall have the option of: (a) accepting title to the Property as it then exists; or (b) terminating this Lease. Tenant shall provide the Town with written notice of its election within ten (10) days after expiration of the ninety (90) day period. In the event Tenant terminates this Lease pursuant to this Section 3.04, the parties shall be released from all obligations under this Lease, with the exception of those obligations arising hereunder prior to termination of this Lease or which expressly survive termination. In the event Tenant fails to properly exercise its right to terminate this Lease, Tenant shall be deemed to have waived such right and shall be deemed to have accepted title to the Premises subject to all matters of record and such matters shall be deemed "Permitted Exceptions". Notwithstanding anything contained herein to the contrary, Town shall satisfy or cause the removal of any requirements in the Title Commitment necessary to convey the leasehold interest to be insured thereunder to Tenant, including, the delivery of an owner's title affidavit, authority resolutions and/or removing any monetary encumbrance or lien on the fee simple interest in the Property.

3.05 Survey. Tenant shall have the right, within the Title Review Period, to obtain a current survey of the Premises. The survey shall be prepared in accordance with the minimum technical standards for surveys within the State of Florida. If the survey reveals any encroachments, overlaps, boundary disputes or other defects, other than the Permitted Exceptions, which render title to the leasehold estate unmarketable or would reasonably interfere with the Permitted Uses, the same shall be treated as title defects as described in Section 3.04 of this Lease and Tenant shall have the same rights and remedies as set forth therein.

3.06 Warranty of Title. The Town hereby represents and warrants that it is the fee owner of the Property, and that the Property will, on the Date of Beneficial Occupancy, be free from all mortgages or other monetary encumbrances by and under the Town and all licenses and leases except for this Lease, but Tenant shall be solely responsible for the same to the extent arising by and under Tenant. Tenant shall give the Town written notice in the event of any monetary encumbrance that exists on the Date of Beneficial Occupancy, and the Town shall be required to cure such monetary encumbrance within ninety (90) days following such written notice. The term monetary encumbrance shall not include municipal charges that are susceptible of proration, and any such charges shall be appropriately prorated as of the Date of Beneficial Occupancy.

3.07 Inspections.

(A) Commencing on the Effective Date and expiring sixty (60) days thereafter ("**Inspection Period**") Tenant may conduct any inspections and tests that Tenant deems appropriate with respect to the Property, including, but not limited to, the following: (a) physical inspection of the Property; (b) soil investigation; (c) environmental assessment; (d) topographic studies; and (e) engineering, utilities and site planning studies ("**Inspections**"). All Inspections performed hereunder shall be conducted at Tenant's sole cost and expense and shall be performed by licensed persons or firms dealing in the respective areas or matters. Tenant hereby indemnifies the Town Representatives from and against any and all loss, damage, claim, demand, liability or expense (including reasonable and documented attorneys' fees at trial and all appellate levels) arising from or out of a Tenant Party's entry upon and inspection of the Property except Tenant shall not be required to indemnify the Town for the mere discovery of an adverse condition unless Tenant exacerbates the condition. Tenant's obligation to indemnify the Town Representatives pursuant to this Section 3.07(A) shall survive the expiration or termination of this Lease. Prior to the expiration of the Inspection Period, Tenant shall provide Town with one (1) complete copy of all written reports detailing the results of the Inspections obtained by Tenant hereunder. Tenant may elect, for any reason or no reason, in its sole and absolute discretion, to terminate this Lease upon written notice to Town on or before the expiration of the Inspection Period, time being of the essence. If termination notice is timely given by Tenant pursuant to this Section 3.07(A), this Lease shall be deemed terminated, and the parties hereto shall be relieved of all liabilities and obligations under this Lease, except for those obligations arising hereunder prior to termination of this Lease or which expressly survive termination. In the event Tenant fails to properly exercise its right to terminate this Lease pursuant to this Section 3.07(B), Tenant shall be deemed to have waived such right. In the event Tenant terminates this Lease pursuant to this Section 3.07(A), Tenant, at its sole cost and expense, shall repair any damage resulting from the Inspections and restore the Property to such reasonably similar condition as it existed prior thereto, using materials of comparable kind and quality; provided, however, Tenant shall not be required to repair minor items such as occasional tire tracks or ordinary settling of previously filled holes.

(B) The parties acknowledge and agree that Tenant's election not to terminate this Lease prior to the expiration of the Inspection Period means that Tenant has accepted the condition of the Property in its AS-IS condition without warranty by the Town whatsoever including, without limitation, the Environmental Condition of the Premises, except for the warranties of the Town expressly stated herein or in any document given in connection herewith.

(C) In addition to the foregoing, Tenant's election not to terminate this Lease prior to the expiration of the Inspection Period shall be deemed Tenant's unconditional agreement to remediate, at Tenant's sole cost and expense and in compliance with all Environmental Laws, any Environmental Condition disclosed in a Phase I Report, and if applicable, a Phase II Report, existing on the Property as of or following the Effective Date of this Lease (notwithstanding when such Environmental Condition shall be discovered). If requested by the Town and to the extent Tenant elected to obtain the reports indicated herein, Tenant shall provide the Town, whether or not it terminates this Lease prior to the expiration of the Inspection Period, with true and correct copies of any Phase I environmental inspection of the Property ("**Phase I Report**") obtained by Tenant and, if applicable, any Phase II environmental inspection ("**Phase II Report**") obtained by Tenant and any supplementary reports or findings undertaken by or received by Tenant promptly following the Town's request from time to time, and Tenant shall cause the preparer(s) of such Phase I Report, and if applicable, Phase II Report to certify them both to Tenant and the Town. The parties acknowledge and agree that the means and methods of remediation of any Environmental Condition subject to the provisions of this Section 3.07(B) shall be within the sole, reasonable control and discretion of the Tenant, provided such means and methods are performed in compliance with applicable Requirements. Notwithstanding the foregoing, provided Tenant has not elected to terminate this Lease prior to the expiration of the Inspection Period, if an Environmental Condition in violation of an Environmental Law exist on the Property and is disclosed in a Phase I Report or a Phase II Report obtained by Tenant, Tenant shall provide the Town with true and correct copies of all environmental remediation plans and a time estimate for remediation of such Environmental Condition from its duly qualified environmental consultant, and Tenant shall diligently cause the remediation thereof to be completed in a timely manner; provided, however, Tenant shall not be deemed in default under this Lease if Tenant is unable to complete the remediation during the estimated time period so long as Tenant is diligently pursuing the completion of the remediation. Tenant shall provide the Town with true and correct copies of all closure and other documents required to evidence the remediation of such Environmental Condition within the time period established by such time estimate, as such time periods may be reasonably extended.

(D) From and after the expiration of the Inspection Period and through the Date of Beneficial Occupancy, unless this Lease has been earlier terminated and provided no Tenant Default exist, Tenant shall have the exclusive right to use and occupy the Premises for the development of the Property and the installation and construction of the Initial Leasehold Improvements, subject to the terms and conditions of this Lease including, without limitation, Tenant's receipt and tender to the Town of all Governmental Approvals as set forth in Section 3.08.

3.08 Final Approvals. This Lease requires Tenant's diligent pursuit of any and all governmental approvals, subject only to conditions and stipulations acceptable to Tenant in its sole discretion, necessary for Tenant's Intended Project and any Permitted Uses (collectively, the "**Governmental Approvals**"), including without limitation, all public easements, permits, subdivisions, plats, traffic concurrency, water/sewer utility capacity, storm water management

approvals, environmental resources permits, landscaping and tree preservation approvals, site plan approval and entitlements, the expiration of all appeal periods and challenges exhausted. The Governmental Approvals shall include in Tenant's sole discretion all comprehensive plan amendments and zoning changes necessary to implement Tenant's Intended Project ("**Land Use Amendment**") The Tenant may, but shall not be required, to file its application for the Land Use Amendment until the expiration of the Inspection Period. Provided that Tenant has not terminated this Agreement prior to the expiration of the Inspection Period, Tenant will submit its application for the Land Use Amendment not later than the May, 2020 submittal date. With respect to the Governmental Approvals, the parties agree as follow:

(A) Town shall cooperate with Tenant, without cost or expense to the Town, in the pursuit of the Governmental Approvals by promptly executing applications and other instruments necessary to obtain the Governmental Approvals when the property owner is required to execute such applications or instruments (each an "**Ancillary Action**"). The Town shall authorize such applications or other instruments on behalf of the Town by the Town Manager or his or her designee, to the extent the Town Manager has legal authority to do so. In all instances when the Town is requested or required to take any Ancillary Action, Tenant shall reimburse the Town, as Additional Rent, within thirty (30) days following the Town's periodic tender of an invoice, in an amount equal to the Town's actual and commercially reasonable third party fees and costs (including reasonable outside counsel attorney's fees and costs) associated with the Town's assessment of any documents; provided, however, in no event shall the aggregate total costs to be paid by Tenant to the Town for Ancillary Actions pursuant to this Section 3.08(A) exceed \$25,000.00. Notwithstanding the foregoing, in the event the Town is made a party to, is required by law and/or is requested by Tenant to cooperate with Tenant in defending any action, claim, litigation or challenge related to the Governmental Approvals, prior to such Governmental Approvals becoming final (i.e. prior to receipt of Final Approval), such as by way of example and not limitation, the defense of a challenge to a Comprehensive Plan Amendment or to a zoning change, Tenant agrees to indemnify and hold the Town harmless from any and all commercially reasonable fees, costs and expenses (including reasonable outside counsel attorney's fees and costs) actually incurred by the Town with respect to such matter. To the extent requested by Tenant, the Town's cooperation in Ancillary Actions as set forth herein shall include the Town's reasonable efforts in assisting Tenant in expediting Site Plan review and issuance of any building permits required with respect to the Tenant's Intended Project. Tenant acknowledges that: (a) Town shall be acting in its proprietary capacity in executing such applications or instruments and that nothing in this Section 3.08 shall be construed as obligating or requiring Town to take any specific action on such applications or instruments when acting in its governmental or regulatory capacity; and (b) any and all costs incurred in the pursuit of the Governmental Approvals shall be borne solely by Tenant as provided herein.

(B) "**Final Approval**" shall be deemed to have been granted on the date when: (a) all of the Governmental Approvals have been issued by the appropriate Governmental Authorities, (b) any ordinances adopted in connection with the Governmental Approvals have taken effect, (c) the time has passed for appeal of all Governmental Approvals, or any appeals and litigation with respect to any Governmental Approval have been prosecuted and resolved in a manner satisfactory to Tenant and are not subject to remand to lower courts or governmental agencies and (d) no notice of referendum or initiative to challenge any Governmental Approval has been published or publicized during a time when such referendum or initiative can legally accomplish the overturning of any Governmental Approval. Tenant shall deliver a true and correct copy of each of its submittals in furtherance of Governmental Approvals to the Town promptly after Tenant's submittal thereof to Governmental Authorities,

and Tenant shall, if requested by the Town, provide the Town with a true and correct copy of material responses and written inquiries from Governmental Authorities.

(C) If Final Approval has not been obtained on or before the date that is eighteen (18) months from date the Tenant files the application for the Land Use Amendment ("**Approval Deadline**"), Tenant may terminate this Lease upon written notice to the Town given within thirty (30) days after the expiration of the Approval Deadline (as extended, if applicable). The Approval Deadline may be extended by either or both of the following events: (i) due to Events of Force Majeure (provided that such extension for Events of Force Majeure may not exceed 90 days in the aggregate and shall be confirmed by Tenant's written notification to the Town, which may be by electronic mail, within fifteen (15) Business Days following any Event of Force Majeure), in which event the Tenant shall be entitled to extend the Approval Deadline by up to an additional ninety (90) days by providing written notice thereof to the Town; or (ii) if the Town does not execute and deliver to Tenant any application or other instrument necessary to obtain the Governmental Approvals within ten (10) business days after Tenant's written request for the same ("**Town Delay**"), then the Approval Deadline shall be extended by one (1) day for each day after such tenth 10th Business Day until the Town executes and returns such application or instrument to Tenant. Tenant's termination right herein is subject in all respects to Tenant's submittal of its application for the Land Use Amendment no later than the next permitted submittal date after the expiration of the Inspection Period (subject to extensions for Force Majeure or Town Delay) and Tenant will use commercially diligent and good faith efforts to obtain all Governmental Approvals.

(D) If the Final Approval has not been obtained within five (5) years after the Approval Deadline (as extended, if applicable) (the "**Outside Termination Date**") and the Tenant has not otherwise terminated this Lease as permitted under this Section 3.08(C) above, and notwithstanding that Tenant has commenced paying sums due under ARTICLE 5 hereunder, the Town may also terminate this Lease by sending written notice to Tenant no later than thirty (30) days after the expiration of the Outside Termination Date. Upon termination of this Lease by Tenant or the Town pursuant to this Section 3.08(B) or 3.08(C), this Lease shall be deemed terminated, and the parties hereto shall be relieved of all liabilities and obligations under this Lease, except for those obligations arising hereunder prior to termination of this Lease or which expressly survive termination.

ARTICLE 4 - PREMISES AND PRIVILEGES

4.01 Description of Premises. Town hereby demises and leases to Tenant, and Tenant rents from Town, the Property, subject to the terms, conditions and covenants set forth herein.

4.02 Description of Tenant's Intended Project. Tenant intends to use the Property for the purpose of constructing, maintaining and operating, at Tenant's sole discretion either (a) a multi-family rental community consisting of six hundred (600) market rate residential units with County workforce housing mandated component ("**Residential Units**"), or (b) four hundred twenty (420) Residential Units and approximately 60,000 square feet of commercial uses and/or a two hundred forty (240) bed assisted living facility or any combination thereof, and in each case related parking facilities and amenities and uses ancillary to the primary permitted use ("**Tenant's Intended Project**"). Notwithstanding the foregoing, Tenant shall have the right to use the Property for Tenant's Intended Project, other residential uses, retail uses or office uses or any combination of the foregoing provided such uses are permitted by the Requirements and

do not constitute a Prohibited Use (the "**Permitted Uses**"). Town acknowledges and agrees that the Tenant's Intended Project can be constructed in phases, at Tenant's sole discretion.

4.03 Prohibited Uses. Tenant agrees the Property shall be utilized solely for the Permitted Uses and for no other purpose whatsoever without the Town's prior written consent. Without limitation of the foregoing, the uses set forth in **Exhibit "D"** are expressly prohibited (any of such use being a "**Prohibited Use**"). Any use of the Property for any Prohibited Use shall be subject to the specific remedies of the Town also set forth in **Exhibit "D"**.

4.04 Restrictions on Privileges, Uses and Rights.

(A) The rights granted hereunder are expressly limited to the improvement, maintenance, and operation of the Property pursuant to the terms and conditions of this Lease.

(B) Tenant shall not store inoperable vehicles, and, except during periods of construction or installation of Tenant Improvements at the Premises, equipment or machinery within public view on the Property.

(C) From and after the Date of Beneficial Occupancy, all storage and dumpsters must be screened or concealed from public view, and storage shall be limited to storage incidental to Tenant's overall operation on the Premises.

(D) Irrespective of whether incidental to any Permitted Use, under no circumstances shall the Property be used for Prohibited Use set forth in **Exhibit "D"**.

4.05 Condition and Use of the Property. Except as otherwise provided for herein, and subject to Tenant's rights to complete inspections pursuant to Section 3.03, Section 3.05 and Section 3.06, Tenant accepts the Property in its "AS IS CONDITION" and "WITH ALL FAULTS," together with all defects, latent and patent, if any. Tenant further acknowledges that, except to any extent expressly set forth in this Lease, the Town has made no representations or warranties of any nature whatsoever regarding the Property including, but not limited to, the physical and/or environmental condition of the Property or any improvements located thereon; the value of the Property or improvements; the zoning of the Property; title to the Property; the suitability of the Property or any improvements for Tenant's Intended Project; or Tenant's legal ability to use the Property for Tenant's Intended Project.

ARTICLE 5 - RENTAL, FEES, CHARGES AND SECURITY DEPOSIT

5.01 Rental. All sums due from Tenant hereunder are base rent or Additional Rent, whether or not expressly so denominated. From the Date of Beneficial Occupancy through the Initial Term, Tenant shall pay to the Town, for the use and occupancy of the Premises, the annual base rent set forth in **Exhibit "C"** ("**Base Rent**") attached hereto and made part hereof.

5.02 Commencement and Time of Payment of Rental. Payment of annual Base Rent by Tenant to the Town shall commence upon the Date of Beneficial Occupancy. The annual Base Rent shall be payable in equal monthly installments, in advance, on or before the first (1st) day of each and every month throughout the Term of this Lease, plus sales tax thereon. The monthly rent due hereunder shall be pro-rated for any month in which the Date of Beneficial Occupancy commences if such date is other than the first day of the month. All payments must be delivered, without demand and without any deduction, holdback or set off whatsoever (unless expressly permitted by the terms of this Lease), to: 360 S. County Road, Accounts

Payable, Palm Beach, FL 33480, or at such other address as may be directed by the Town in writing from time to time. Payments shall be made payable to "The Town of Palm Beach, Florida" Tenant acknowledges that Tenant shall be required to remit sales taxes applicable to the payment of Base Rent and Additional Rent hereunder to the Town with its payment of monthly Base Rent (or any payment of Additional Rent) unless Tenant submits a certificate of exemption from the Florida Department of Revenue or any successor agency to the Town prior to any rental payment that does not include sales tax.

5.03 Renewal Term Rent. In the event Tenant and the Town agree to renew the Term of this Lease as provided in Section 3.02 above, the rental rate applicable to the Premises during each Renewal Term shall be as determined under Section 3.02(C) above.

5.04 Late Payments - Interest. Tenant shall pay to Town interest at the rate of one and one-half percent (1.5%) per month on any late payments received more than three (3) Business Days after its due date.

5.05 Letter of Credit and Payment Guaranty. Within ten (10) Business Days after the Date of Beneficial Occupancy, as security for the payment of the Base Rent and Additional Rent required to be made by Tenant under this Lease, the Tenant shall deliver to the Town an (i) unconditional payment guaranty from the Guarantor ("**Payment Guaranty**") in the form attached hereto as **Exhibit "G"** (ii) an irrevocable stand-by letter of credit ("**Letter of Credit**") issued by a Lender in favor of Town in the amount equal to \$867,618.00 (which amount equals annual rent for the first year of the term of this Lease). The Letter of Credit shall in form reasonably acceptable to the parties and shall include, among other things, (1) the Town as the sole beneficiary thereunder, (2) automatic yearly renewals, and (3) contain a statement indicating that the Letter of Credit may be drawn at sight, upon presentation of statement by an authorized representative of the Town indicating that "the beneficiary is entitled to draw upon this letter of credit in the amount of [\$amount of overdue rent] pursuant to that certain ground lease between applicant and the beneficiary". The Town shall have the right to terminate this Lease in the event that the Payment Guaranty and Letter of Credit are not duly and timely delivered to the Town.

For purposes hereof, the "**Stabilization Date**" means the date on which the Premises has achieved an average Debt Service Coverage Ratio (as hereafter defined) of 1.15 to 1.0. Tenant shall provide the Town with a certification as to the Stabilization Date executed by its chief financial officer or chief executive officer together with a company prepared balance sheet of Tenant, a cash flow statement and a current (no more than 30 days old) rent roll (collectively, the "**Financial Statements**") certifying that Tenant has achieved the required Debt Service Coverage Ratio. "**Debt Service Coverage Ratio**" means the ratio of Effective Gross Income to Operating Expenses. "**Effective Gross Income**" means, the sum of all rents, expense reimbursements and other income and revenues from the operation of the Premises, annualized where applicable, from tenants under fully executed leases (rent from any tenant that took occupancy during such period shall be considered in occupancy for the full period), for the trailing three (3) month period reflected in the Financial Statements less Operating Expenses, annualized where applicable, for the period reflected in the Financial Statements. "**Operating Expenses**" means the sum of all costs, debts and expenses paid or incurred with respect to the Premises for the trailing three (3) month period reflected in the Financial Statements, annualized where applicable, which operating expenses shall include, but not be limited to, all Base Rent and Additional Rent actually paid for the period reflected in the Financial Statements, taxes and payments that are Tenant's obligations under this Lease, insurance costs, the funding of any

reserves required by any Leasehold Mortgagee, actual management fees and actual debt service paid under any loan or loans encumbering the Tenant's leasehold interest.

The calculation of Debt Service shall be evidenced by a certification of Tenant's chief executive officer or chief financial officer together with the Financial Statements. The Payment Guaranty shall remain in effect until the Payment Guaranty Termination Date as defined below.

In the event of a Tenant Default for failure to pay Base Rent or Additional Rent which is not cured within the applicable cure period set forth in Section 17.02(A) of this Lease, Town shall send a second written notice of default to Tenant and if Tenant fails to pay the delinquent Base Rent and/or Additional Rent within ten (10) business days after receipt of such second notice of default, Town, in addition to any other rights and remedies available to Town at law or in equity, shall have the right to draw upon the Letter of Credit in the amount of the past due Base Rent and Additional Rent. In the event that Tenant is not in default for failure to pay any Base Rent or Additional Rent, after the expiration of all applicable cure periods hereunder, as of the date which is one (1) year following the later of (a) the Date of Beneficial Occupancy and (b) the Stabilization Date ("**LC Termination Date**") then Town shall return the original Letter of Credit to Tenant within thirty (30) days following written demand from Tenant after the expiration of the LC Termination Date. Except for the Continuing Guaranty Provisions, as defined in the Payment Guaranty, the Payment Guaranty shall remain in effect for obligations accruing under the Lease until two (2) years from the later of (i) the Date of Beneficial Occupancy and (ii) the Stabilization Date (the "**Payment Guaranty Termination Date**"). The Continuing Guaranty Provision under the Payment Guaranty shall not be applicable to payment obligations occurring after (i) the release of Guarantor after an assignment of the Lease permitted under Section 18.08 of the Lease, or (ii) the termination of this Lease for a reason other than Tenant's default, in which instance Guarantor shall be responsible for monetary obligations of Tenant through the date the Payment Guaranty Termination Date would have otherwise occurred (the "**Continuing Guaranty Provision Termination Date**").

5.06 Triple Net Lease. This Lease shall be deemed to be "triple net" without cost or expense to the Town including, but not limited to, cost and expenses relating to taxes, insurance, and the maintenance and operation of the Premises.

5.07 Taxes and Fees. Tenant shall pay, on or before delinquency, all Federal, State and local taxes and fees, and all special assessments of any kind, which are now or may hereafter be levied upon the Premises or the estate hereby granted, or upon Tenant, or upon the business conducted on the Premises, or upon any of Tenant's property used in connection therewith, or upon any rentals or other sums payable hereunder, including, but not limited to any ad valorem taxes and sales or excise taxes on rentals, and personal property taxes against tangible and intangible personal property of Tenant (collectively, the "**Taxes**"). Notwithstanding the foregoing, Tenant hereby covenants and agrees to pay monthly to the Town, as Additional Rent, any sales, use or other tax, or imposition in lieu thereof (excluding State and/or Federal Income Tax) now or hereinafter imposed upon the rents, use or occupancy of the Premises imposed by the United States of America, the State of Florida or the County, notwithstanding the fact that the statute, ordinance or enactment imposing the same may endeavor to impose the tax upon the Town as landlord/lessor, to the extent as applicable, unless Tenant is exempt from paying sales taxes and provides the Town with a sale tax exemption certificate. All real estate taxes and assessments which are due and payable in the first Lease Year of the Term of this Lease or within one (1) year after the expiration of the Term of this Lease shall be prorated as of the Effective Date or the date of expiration of the Term, whichever is applicable, on the basis of the fiscal year with respect to which such taxes or assessment are assessed. Tenant

shall be responsible for and shall pay the portion of such real estate taxes and assessments relating to the period beginning with the Effective Date through and including the expiration of the term of this Lease.

5.08 Additional Rent. Any and all sums of money or charges required to be paid by Tenant under this Lease, other than the Base Rent, shall be considered "**Additional Rent**", whether or not the same is specifically so designated and Town shall have the same rights to enforce due and timely payment by Tenant of all Additional Rent as are available to the Town with regards to Base Rent.

5.09 Accord and Satisfaction. In the event Tenant pays any amount that is less than the amount stipulated to be paid under this Lease, such payment shall be considered to be made only on account of the stipulated amount. No endorsement or statement on any check or letter shall be deemed an accord and satisfaction. Town may accept any check or payment without prejudice to the Town's right to recover the balance due or to pursue any other remedy available to Town pursuant to this Lease or under the law.

ARTICLE 6 - QUALITY AND CHARACTER OF OPERATIONS

6.01 No Covenant of Continuous Operation. Tenant agrees to use, occupy and operate the Premises in a reputable manner and consistent with industry standards and practices of reputable, non-delinquent businesses, all consistent with and subject to the terms and conditions of this Lease. Tenant shall have no obligation to continuously operate within the Premises; provided, however, if Tenant elects not to operate within the Premises, Tenant shall continue to comply with all of the terms and conditions of this Lease, including without limitation the obligation to pay Base Rent, Additional Rent, make third party payments required of Tenant and maintain the Premises.

6.02 Nondiscriminatory Services Requirement. Tenant shall provide all services to its customers, tenants and patrons without regard to race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity and expression, disability, or genetic information, in each case, in accordance with Requirements; provided, however, that Tenant may make or give such reasonable and nondiscriminatory discounts, rebates, or other similar price reductions as it may desire to groups such as its employees, seniors, students, children under twelve (12) and military personnel so long as permitted under applicable Requirements. Tenant shall include the foregoing clause in all non-residential subleases under this Lease (and in the event that Tenant subleases a portion of the Premises for the development or operation of residential units, then the foregoing clause shall be included.)

6.03 Management of Premises. Tenant shall ensure the Residential Units are managed, maintained, and operated under the supervision and direction of appropriately experienced manager(s) consistent with managers at other projects operated by Tenant as of the date of this Lease. Town acknowledge and agrees that Tenant's subsidiary management company is an acceptable manager of the Residential Units so long as it is duly licensed and insured. Tenant shall provide the Town with contact information for one or more local manager(s) of the Tenant or any Sub-Tenant who will be available by telephone in case of an emergency.

ARTICLE 7 - CONSTRUCTION OF IMPROVEMENTS

7.01 Tenant Construction Requirements. All Tenant Improvements constructed or placed on the Property, or improvements constructed outside the Property on Town-owned property or County-owned property required by the Governmental Approvals to be made by Tenant (such as off-site drainage improvements or traffic improvements), shall be completed at Tenant's sole cost and expense, shall comply with any and all applicable Requirements, shall follow generally acceptable and appropriate construction methods that are in compliance with the foregoing, and shall be constructed in accordance with the requirements of this Article. To guaranty completion of the Tenant Improvements in accordance with the terms of this Lease, the Guarantor, shall execute and deliver to Town the guaranty of completion in the attached hereto as **Exhibit "F"** (the "**Completion Guaranty**"), which Completion Guaranty shall not become effective until the expiration of the Approval Deadline or Outside Termination Date, as applicable, if this Lease is not terminated by either party (as permitted in Section 3.08(C) and 3.08(D) respectively) and remains in full force and effect.

7.02 Initial Leasehold Improvements. Tenant, at its sole cost and expense, shall cause the design and construction of the Initial Leasehold Improvements. Substantial completion of the Initial Leasehold Improvements constructed by Tenant pursuant to the Plans and Specs (as hereinafter defined) shall be deemed to have occurred when the applicable Governmental Authority issues a temporary or permanent certificate of occupancy for the Initial Leasehold Improvements on the Property permitting the occupancy of such residential and any commercial building by the public ("**Substantial Completion**").

7.03 Approval Requirements for Initial Leasehold Improvements. Prior to submitting an application to any Governmental Authority for the construction of the Initial Leasehold Improvements, Tenant shall cause a detailed site plan ("**Site Plan**") and the plans and specifications for the Initial Leasehold Improvements and any other such Tenant Improvements ("**Plans and Specs**") to be prepared and delivered to the Town Manager for review, comment and approval, which approval shall not be unreasonably withheld, conditioned or delayed. The Town Manager shall review the Site Plan and/or Plans and Specs and provide a written response to Tenant within fifteen (15) Business Days of receipt of the Site Plan and/or Plans and Specs. If the Town Manager does not provide a response within the time periods required by this Article 7, then the Item submitted to the Town Manager for review and approval by Tenant shall be deemed approved. Notwithstanding anything contained herein to the contrary, so long as Tenant elects to construct the Initial Leasehold Improvements as Residential Units consistent with Requirements and using materially the same design and standards consistent with its other residential projects known as "Village at Mangonia" located at 2201 N. Australian Ave., West Palm Beach, Palm Beach County, Florida and "Lake Worth Village" located at 2220 Lake Work Road, Lake Worth, Palm Beach County, Florida (together the "**Prototype Units**") the Town Manager shall have no approval rights over the Tenant's Plans and Specs for the Residential Units and Tenant shall provide copy of such Plans and Specs for the Initial Leasehold Improvements to the Town only as a courtesy and for the Town Manager's confirmation that they are materially consistent with the Prototype Units. In the event the Town Manager does not approve the Site Plan and/or Plans and Specs, the Town Manager's response shall include the reasons for the disapproval and identify the modifications to the Site Plan and/or Plans and Specs required to obtain the Town Manager's approval. Tenant shall resubmit a modified, responsive Site Plan and/or Plans and Specs to the Town Manager within thirty (30) days of the date Tenant receives the Town Manager's written disapproval notice for final review and approval. The Town Manager shall review the modified Site Plan and/or Plans and Specs and provide a written response to Tenant within fifteen (15) Business Days of written

notice of such modifications and If the Town Manager does not respond within such fifteen (15) Business Days, provided that Tenant's written notice requesting approval stated in capital letters, "THE TOWN'S FAILURE TO RESPOND TO THIS SUBMITTAL WITHIN FIFTEEN (15) BUSINESS DAYS FOLLOWING ITS RECEIPT OF THIS WRITTEN NOTICE SHALL BE DEEMED A TOWN DELAY", the delay shall be deemed a Town Delay and the Approval Deadline shall be extended by one (1) day for each day of Town Delay. The foregoing procedures shall continue until the Town Manager has granted his/her approval, provided, however, that any delays caused by the Town in the foregoing review process for any modifications to the Site Plan and/or Plans and Specs that exceed ninety (90) days from the date Tenant delivers the original Site Plan and Specs to the Town for approval, shall entitle Tenant to extend the Approval Deadline by each day the Site Plan and Specs are not approved by the Town. Upon approval of the Site Plan and/or Plans and Specs by the Town Manager Tenant shall obtain all permits and other government approvals required for the commencement of construction, including the Governmental Approvals, provided however, that the foregoing shall not preclude Tenant from filing or seeking approval of the Land Use Amendment. For avoidance of doubt, it shall not be necessary for Tenant to obtain approval from the Town Council or Town Manager for Tenant to commence or file applications seeking the Land Use Amendment and/or other Governmental Approvals necessary for the development of the Premises, other than the Site Plan and/or the Plans and Specs for the Initial Leasehold Improvements. Tenant shall deliver to the Town one (1) complete set of final Site Plan and/or Plans and Specs as approved by the Governmental Authorities exercising jurisdiction thereover. Changes shall be permitted if such changes may be reasonably inferred from the Site Plan and/or Plans and Specs approved by the Town, or if they are made to comply with Requirements of any Governmental Authority exercising jurisdiction thereover. The Town Manager shall review any material modifications to the Site Plan and/or Plans and Specs and provide a written response to Tenant within five (5) Business Days of receipt. In the event the Town Manager withholds or conditions its approval of the Site Plan or the Plans and Specs in a manner that will materially adversely affect the construction of Tenant's Intended Project and/or the operation of Tenant's business, Tenant shall have the option to terminate this Lease upon thirty (30) days prior written notice to Town. If termination notice is timely given by Tenant pursuant to this Section 7.03), this Lease shall be deemed terminated, and the parties hereto shall be relieved of all liabilities and obligations under this Lease, except for those obligations arising hereunder prior to termination of this Lease or which expressly survive termination.

7.04 Tenant's Obligations During Construction. During construction, Tenant shall, without limitation and each consistent with the Requirements:

- (1) follow appropriate construction methods consistent with Requirements, as to all aspects of the construction work, including the hours of construction;
- (2) perform and complete the construction work in a diligent manner, with no abandonment or cessation of construction for any period exceeding ten (10) Business Days except in the case of an Event of Force Majeure;
- (3) select the means and methods of construction, using only adequate and safe procedures, methods, structures and equipment;
- (4) perform all necessary clearing and grading of the Property and the preparation of a compacted pad for the construction of the Initial Leasehold Improvements in compliance with all Requirements;

(5) furnish, erect, maintain and remove any construction equipment and temporary structures that may be required to perform the construction work; be responsible for the safety, efficiency and adequacy of the construction equipment and construction methods used, and be responsible for any damage which may result from any failure of the construction equipment or any failure in the method of construction;

(6) provide all architectural and engineering services, scaffolding, hoists, temporary structures, light, heat, power, toilets, temporary utility connections, equipment, tools and materials and whatever else may be required for the proper performance of the construction work;

(7) restore and repair any such properties damaged as a result of construction of the Initial Leasehold Improvements, whether such properties are publicly or privately owned;

(8) carry on any construction, maintenance or repair activity with diligence and dispatch;

(9) at all times provide adequate construction supervision at the Premises; and

(10) perform such other commercially reasonable work, assume such other reasonable duties, and otherwise manage, perform and complete the any Initial Leasehold Improvements to the Property required for their safe completion and due maintenance in accordance with the Requirements and the terms and conditions of this Lease.

7.05 Final Plans. Within sixty (60) days following (i) Substantial Completion of the Initial Leasehold Improvements, or (ii) with respect to any portion of Premises that is improved after Substantial Completion of the Initial Leasehold Improvements then upon Tenant's receipt of a certificate of occupancy or certificate of completion for such Tenant Improvements, as appropriate, Tenant, at its sole cost and expense, shall have prepared and deliver to the Town: one (1) complete set of as-built drawings in a hardcopy format; one (1) complete set of as-built drawings in a PDF format in the latest version acceptable by the Town; and one complete set of as-built drawings and of all civil site work in AutoCAD in the latest version acceptable to the Town.

7.06 Cost of Construction. The Initial Leasehold Improvements constructed upon the Premises shall be completed at Tenant's sole cost and expense and shall be completed in substantial accordance with the Site Plan and Plans and Specs approved by the Town Council and applicable Governmental Authorities.

7.07 Town's Governmental Capacity. Tenant acknowledges that the Town Manager shall be acting on behalf of the Town in its proprietary capacity in granting or denying any approvals required by this Article that nothing in this Article shall be construed as obligating or requiring Town to take any specific action when acting in its governmental or regulatory capacity.

7.08 Town's Delivery Address. The Site Plan and all Plans and Specs shall be delivered to the Town Manager, at: 360 South County Road, Palm Beach, FL 33480, or at such

other address as may be directed by the Town in writing from time to time. The Town Manager shall be considered the Town's designee for purposes of approvals pursuant to this Section 7.08.

7.09 Approval of General Contractor. The Town acknowledges that the General Contractor is an affiliated of Tenant and the Town approves such General Contractor subject to such General Contractor's tender of the evidence of insurance required under this Lease and tender and maintenance of its compliance with all Requirements applicable to such General Contractor.

7.10 Construction Bonds. Tenant shall ensure that all Tenant Improvements are constructed to completion in substantial accordance with the approved Site Plan and Plans and Specs and that all persons or entities performing work or providing materials relating to such Tenant Improvements including, but not limited to, all contractors, subcontractors, laborers, materialmen, suppliers and professionals, are paid in full for such properly due and payable services and materials. Prior to the commencement of any Tenant Improvements, the estimated cost of which exceeds One Million Dollars (\$1,000,000), Tenant shall deliver, or may elect to cause its Major Contractors to deliver to the Town, at Tenant's sole cost, a payment and performance bond(s) that is in a form and substance reasonably satisfactory to the Town, from surety companies reasonably acceptable to the Town (the "**Bond**"), guaranteeing the total construction costs to complete the Tenant Improvements, including, without limitation, the Initial Leasehold Improvements (excluding furniture, trade fixtures and equipment). Such Bond or Bonds must satisfy the requirements of Section 255.05, Florida Statutes and shall contain a dual obligee rider naming the Town as beneficiary thereof. Tenant may not subdivide Tenant Improvements or phase projects for the purpose of avoiding the foregoing bond requirement. In lieu of the Bond required by this Section 7.10, Tenant may file with Town an alternative form of security in the form of cash, money order, certified check, cashier's check, irrevocable letter of credit, or security of a type listed in Part II of Chapter 625, Florida Statutes; provided, however, the form of the security and company issuing such security, if applicable, shall be subject to the prior written approval of Town, which approval shall not be unreasonably withheld, conditioned or delayed, and shall be in accordance with applicable Countywide Policies and Procedures established in accordance with the Palm Beach County Administrative Code. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the Bond required by this Section 7.10. The Bond or any such alternative form of security may be reduced by Tenant subject to reasonable approval of Town during the construction of the Tenant Improvements, but not more than once per month, based upon the percentage of completion of the Tenant Improvements, and the Town Manager, on behalf of the Town, may execute such certificates, notices or other documents as may be necessary to effectuate such reduction. Tenant shall provide Town evidence reasonably satisfactory to Town evidencing the percentage of completion of the Tenant Improvements, including, but not limited to, an executed Application and Certification for Payment (AIA Document G702 or its equivalent) indicating the balance to finish the work. The requirements in this Section 7.10 with respect to a Bond or other cash security shall also apply to any Sub-Tenant Contractor and shall be complied with prior to the commencement of construction of any improvements on any portion of the Premises that is sub-leased to a Sub-Tenant the cost of which exceeds \$1,000,000.00.

7.11 Contractor Insurance.

- (A) Tenant shall also require its General Contractor constructing the Initial Leasehold Improvements (or performing any subsequent Major Improvements) to provide the following insurance:
- (1) Commercial General Liability insurance with minimum limits of One Million Dollars (\$1,000,000) per occurrence and Ten Million Dollars (\$10,000,000), in the aggregate (under an Umbrella Excess Liability Policy as provided in Section 12.02), which shall not exclude products/completed operations. The Town and Tenant shall each be endorsed as an additional insured on the Commercial General Liability policy, Business Auto Liability policy, and Employer's Liability policy as required under this Lease.
 - (2) Business Auto Liability insurance with minimum limits of Five Hundred Thousand Dollars (\$500,000) per accident.
 - (3) Workers' Compensation insurance in compliance with Chapter 440, Florida Statutes and all Requirements. The Workers' Compensation policy shall include Employer's Liability with minimum limits of One Million Dollars (\$1,000,000) per accident.
 - (4) Builder's Risk in accordance with Section 12.04(A).
 - (5) Any subcontractor working on the Premises shall be required to maintain Commercial General Liability insurance with minimum limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate, which shall not exclude products/completed operations.

7.12 Major Improvements after the Completion of the Initial Leasehold Improvements.

After completion of the Initial Leasehold Improvements, Tenant shall be entitled to make alterations, additions or improvements to the Premises or any part thereof, without the requirement for obtaining the Town's consent, so long as such alterations, additions or improvements are Minor Improvements. If Tenant desires to make an alteration, addition, or improvement which is not a Minor Improvement (a "**Major Improvement**"), Tenant shall cause a detailed site plan (if applicable) ("**Major Improvement Site Plan**") and the plans and specifications for the Major improvement ("**Plans and Specs for Major Improvements**") to be prepared and delivered to the Town Manager for review, comment and approval, which approval shall not be unreasonably withheld, conditioned or delayed. The Town Manager shall review the Major Improvement Site Plan and/or Plans and Specs for Major Improvements and provide a written response to Tenant within fifteen (15) Business Days of receipt of the Major Improvement Site Plan and/or Plans and Specs for the Major Improvements. In the event the Town Manager does not approve the Major Improvement Site Plan and/or Plans and Specs for Major Improvements, the Town Manager's response shall include the reasons for the disapproval and identify the modifications to the Major Improvement Site Plan and/or Plans and Specs for the Major Improvements required to obtain the Town Manager's approval. Tenant shall resubmit a modified and responsive Major Improvement Site Plan and/or Plans and Specs for the Major Improvements to the Town Manager within thirty (30) days of the date Tenant

receives the Town Manager's written disapproval notice for final review and approval. The Town Manager shall review the modified Major Improvement Site Plan and/or Plans and Specs for the Major Improvements and provide a written response to Tenant within fifteen (15) Business Days of receipt of such modifications. The foregoing procedures shall continue until the Town Manager has granted his/her approval. The Town and Tenant shall in good faith, acting reasonably, attempt to resolve any disputes concerning the Major Improvement Site Plan and Plans and Specs for the Major Improvements in an expeditious manner, failing which matter shall be resolved in accordance with Section 27.33 hereof. If the Town fails to respond to any submission or request for reconsideration by Tenant hereunder within the time frame required herein for such response, Tenant's submittals or requests shall be deemed approved.

7.13 No Liens. Tenant agrees that nothing contained in this Lease shall be construed as consent by Town to subject the fee simple estate of Town to liability under the Construction Lien Law of the State of Florida and understands that Town's fee simple estate shall not be subject to such liability. Tenant shall notify any and all parties or entities performing work or providing materials relating to any Tenant Improvements of this provision of this Lease. If so requested by Town, Tenant shall file a notice satisfactory to Town in the Public Records of Palm Beach County, Florida, stating that Town's fee simple estate shall not be subject to liens for Tenant Improvements or, in the alternative, the Town may elect to file such notice.

ARTICLE 8 - OBLIGATIONS OF TENANT

8.01 Nuisance or Injury. Tenant shall not commit any nuisance or injury on the Premises and shall not do, or reasonably permit to be done, anything which may result in the creation, commission or maintenance of such nuisance or injury on the Premises.

8.02 Vapors, Fumes or Emissions. Tenant shall not create, nor permit to be caused or created upon the Premises any obnoxious odor or noxious gases; provided, however, that fumes resulting from the normal operations of properly certified and maintained trucks and other vehicles shall be excepted from this provision so long as they adhere to the Requirements.

8.03 Hazardous Conditions. Tenant shall not do or, if in its reasonable control, permit to be done any act or thing upon the Premises that would constitute a hazardous condition increasing the risk normally attendant upon the operations permitted by this Lease.

8.04 Emergency Evacuation and Hurricane Plans. Tenant shall provide the Town with emergency evacuation and hurricane plans prior to Tenant's receipt of its building permit for the Initial Leasehold Improvements. These plans shall be detailed procedures of actions to be taken by Tenant and its Sub-Tenants, if any, in the event of an emergency evacuation or hurricane warning. Tenant shall update its emergency evacuation and hurricane plans annually, if requested by the Town Council. Tenant shall comply and use diligent efforts to cause Sub-Tenants to comply with such emergency plans.

8.05 Security of Premises. Tenant acknowledges and accepts full responsibility for the security and protection of the Premises, and any and all inventory, equipment, facilities and improvements now existing or hereafter placed on or installed in or upon the Premises, and for the prevention of unauthorized access to its facilities. Tenant fully understands that the police security protection provided by Town does not extend to the Premises. Further, Tenant fully understands that the police protection provided by Palm Beach County is limited to that provided to any other business situated in Palm Beach County, Florida by the Palm Beach County Sheriff's Office. Tenant expressly acknowledges that any special security measures

deemed necessary or desirable by Tenant for additional protection of the Premises and improvements constructed thereon, shall be the sole responsibility of Tenant and shall involve no cost to Town or County, and Tenant expressly acknowledges that if there are any crimes in the area of or within the Property, it shall be Tenant's sole obligation to provide such additional security that may be required under any such circumstances. The Town expressly disclaims any responsibility whatsoever to monitor such matters.

ARTICLE 9 - MAINTENANCE AND REPAIR

9.01 Maintenance/Repair of Premises. Tenant shall be responsible for and shall undertake all repairs and maintenance of and replacements to the Premises (which shall include, but shall not be limited to, all landscaped areas, paved areas, buildings and improvements thereon), whether such repair or maintenance be ordinary or extraordinary, structural or otherwise throughout the Term of this Lease. All maintenance, repairs and replacements shall be in a quality and class reasonably comparable to the quality and class of the Initial Leasehold Improvements (taking into account the age of the Initial Leasehold Improvements and any replacements, modifications and additions thereof, and ordinary wear and tear) and shall be at Tenant's sole cost and expense and consistent with all applicable Requirements. Tenant shall keep or shall cause any Sub-Tenant to keep, all Tenant Improvements, including, without limitation, all landscaped areas, paved areas, curbing, buildings, fixtures and equipment, storm drainage, plumbing and HVAC systems, interior and exterior signage, roofing and all other improvements, in good condition and repair throughout the Term of this Lease. For purposes of this Section 9.01, "good condition and repair" means maintaining the Premises at a level necessary to keep the Premises in clean and good working condition (taking into account ordinary wear and tear) in accordance with all Requirements and that all public areas remain in an safe and attractive condition, in compliance with the Requirements, throughout the Term of this Lease. For purposes of this Article, "attractive condition" means at a standard reasonably commensurate with well-maintained properties with comparable uses in the area where the Premises are located. During the Term, and in connection with the redevelopment of any phase of the Premises and in a manner consistent with the Requirements, Tenant shall be entitled to raze the applicable portion of Tenant Improvements on the Property provided Tenant leaves such portion of the Property in clean and safe condition in compliance with the Requirements and plants grass or other landscaping materials in the area where the Tenant Improvements were removed and continues to comply with all of the other terms and conditions of this Lease.

9.02 Cleanliness of Premises.

(A) Tenant shall maintain or shall cause any Sub-Tenant to maintain the Premises in a clean and safe condition at all times in compliance with the Requirements and shall cause pest control services to be provided for the Premises.

(B) Tenant, and if applicable, any Sub-Tenant, shall be responsible for the provision of trash removal services for the Premises and agrees to deposit trash, garbage and debris in appropriate containers for collection. Tenant shall ensure exterior building and vehicular parking areas are maintained in a neat and clean manner and remain reasonably free from trash and debris at all times and otherwise in compliance with the Requirements.

9.03 Landscaping. Tenant shall maintain or such cause any Sub-Tenant to maintain, all landscaping on the Premises in good condition and free from unsightly conditions in a manner consistent with all Requirements. Tenant's landscaping responsibilities shall include,

without limitation, watering grass, shrubs and trees; mowing grass; trimming shrubs and trees; and replacing damaged or dead landscaping. For purposes of this Section, "good condition" means a standard of maintenance of the landscaping reasonably comparable to the landscaping of well-maintained similarly used properties in Palm Beach County, Florida (taking into account ordinary wear and tear).

9.04 Inspections.

(A) Town and its employees and representatives shall have the right to enter the Premises (but not the Residential Units and/or commercial unit) during regular business hours upon no less than forty-eight (48) hours prior written notification to Tenant for the purpose of determining whether or not Tenant is in compliance with this Lease but the foregoing shall not restrict their rights of entry to the extent generally available to the members of the public.

(B) Tenant shall, three (3) years from the Date of Beneficial Occupancy and on each three (3) years thereafter during the Term of this Lease, deliver to the Town a property condition report ("**Triennial Inspection**") prepared by a duly licensed and insured property inspector disclosing any pending and uncured written notices of violations or non-compliance with any building, zoning, fire safety or other applicable State of Florida, County, federal (Including the Americans with Disabilities Act) and/or municipal codes, laws or regulations ("**Deficiencies**"). In the event that any Triennial Inspection discloses any such Deficiencies. Tenant shall, within ninety (90) days following such third anniversary date or the third anniversary thereof, as applicable, provide an updated Triennial Inspection certifying the correction of such Deficiencies, provided, however, that if the Deficiencies cannot be corrected within the foregoing ninety (90) day period through no fault of Tenant and so long as Tenant commenced to correct the Deficiencies promptly and continues to diligently pursue such correction, the ninety (90) day period to correct and provide an updated Triennial Inspection report shall be extended for a reasonable time not to exceed an additional sixty (60) days. In the event that Tenant fails to timely tender any Triennial Inspection or, if applicable, timely tender such required update with the time period set forth in this section (B), then the Town may send written notice of the same to Tenant and if Tenant fails to provide the Triennial Inspection or tender the required update, as applicable, within thirty (30) days after written notice from Town, then Town may obtain a Triennial Inspection and Tenant shall reimburse Town for the cost thereof, as Additional Rent, within ten (10) days following the Town's tender of an invoice and a copy of such Triennial Inspection. Any Deficiencies noted in a Triennial Inspection shall not be eligible for dispute by Tenant under Section 9.05 and Tenant shall cause any such Deficiencies to be corrected within ninety (90) days following the date of the Triennial Inspection, or the extended cure period provided herein, and if Tenant does not deliver evidence of such completion, the Town may invoke (without limitation) the rights set forth in Section 9.05.

9.05 Self-help Rights. In the event Town reasonably determines that Tenant is not in compliance with the requirements of Section 9.02, the Town may, but shall not be obligated to, provide Tenant written notice of such noncompliance. If Tenant does not cause such noncompliance to be corrected within sixty (60) days of receipt of any Town's written notice (or such longer period of time as may be reasonably necessary to cure such noncompliance provided Tenant commences curing the non-compliance within such sixty (60) day period and completes such cure within ninety (90) days), Town and its employees and contractors may, but shall not be obligated to, enter the Premises and cause the same to be accomplished at Tenant's sole cost and expense. If Tenant disputes the need for corrective action, Tenant shall deliver written notice of its basis for the dispute within the aforementioned sixty (60) day period. In the event Tenant fails to timely dispute the need for corrective action, Tenant shall be

deemed to have waived such right. Tenant shall assume and be liable to Town for payment of all reasonable, as Additional Rent, out-of-pocket costs incurred by Town, plus a five percent (5%) administrative overhead fee, which costs and administrative overhead fee shall be due and payable within thirty (30) days of the date of Town's written notice together with copies of receipts and invoices evidencing such costs provided by Town. In the event such noncompliance is repeated within thirty (30) days of Town's written notice, Town may charge Tenant an increased administrative overhead fee of fifteen percent (15%). Tenant acknowledges that Town may cause the corrective action to be completed by third party contractors or Town employees in its sole discretion. In the event the work is performed by Town employees, Town shall be entitled to invoice Tenant based upon the actual hourly rate of pay for such employees, plus any costs associated with materials and equipment (and no other internal costs of Town shall be permitted under this paragraph.). Any non-delivery by the Town of any such written notice of non-compliance shall not be deemed to acknowledge Tenant's compliance or waive any of the Town's rights or remedies with respect to Tenant's non-compliance or default.

ARTICLE 10 - UTILITIES

10.01 Utility Costs. Tenant, and if applicable any Sub-Tenant, shall be solely responsible for the payment of all impact, connection, and all other fees with respect to the development, construction, operation, subleasing and all other activities related to the Premises. Tenant shall pay when due all charges, fees, and deposits (collectively, "**Charges**") for all public and private utility services (including utility services provided by the County), including, but not limited to, water, sewer, stormwater, electricity, gas, light, heat, air conditioning, telephone, trash removal, cable television, and other utility and communication services that are provided to any portion of the Premises during the Term of this Lease. Tenant at its sole cost and expense shall cause all utilities for the Premises to be under separate accounts.

10.02 Interruption of Service. No failure, delay or interruption in supplying any utility services for any reason whatsoever (whether or not a separate charge is made therefor) shall be construed to be an eviction of Tenant or grounds for any diminution or abatement of rental or shall be grounds for any claim by Tenant under this Lease for offsets or damages, consequential or otherwise. Tenant acknowledges that the Town is not the municipality providing such utility services.

ARTICLE 11 – RIGHT TO CONTEST

11.01 Charges and Taxes. Tenant shall have the right, at its sole cost and risk, to contest the validity of any Charges and/or Taxes, at Tenant's own expense and the failure on Tenant's part to pay any such Charges or Taxes shall not constitute a default hereunder so long as Tenant complies with applicable Requirements regarding such contests and such contests do not result in the sale, forfeiture or loss of the Premises or any services to the Premises or the imposition of any penalties or liens against the Premises. If Tenant is unsuccessful with a contest Tenant shall immediately pay any such contested Charges and/or Taxes. Any such proceeding instituted by Tenant shall be commenced as soon as is reasonably possible after the issuance of any such Charges and/or Taxes and shall be prosecuted to final adjudication with reasonable dispatch. The Town agrees that it will cooperate with Tenant in any such contest to such extent as the Tenant may reasonably request, it being understood, however, that the same shall not subject the Town to any cost, expense or liability of any nature whatsoever and Tenant hereby indemnifies and agrees to defend and save the Town free and

harmless from and against any such costs, expenses or liability related to such Charges and/or Taxes.

11.02 Construction Liens. Tenant will not permit any liens of any nature arising out of or resulting from the performance of any work or labor upon the Premises or the furnishing of any materials for use upon the Premises, by, on behalf of or at the direction of a Tenant Party ("**Mechanic Lien**"). If such Mechanic Lien is filed against the Premises, Tenant shall, within thirty (30) days after notice of the filing thereof, cause the same to be removed or transfer to security.

ARTICLE 12 - INSURANCE REQUIREMENTS

12.01 Insurance Policies. Tenant shall provide, at its own cost and expense, the following insurance during Term of this Lease, and shall provide required evidence thereof to the Town thirty (30) Business Days' prior to any occupancy of the Property. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida each of which must have an A.M. Best Company financial and performance rating of A-IX or better. The insurance shall be evidenced by certificates and/or policies that include the amount of premiums, noting that they have been paid. It shall be an affirmative obligation of Tenant to advise Ebix in writing at townofpalmbeach@ebix.com; P.O. Box 100085-HM, Duluth, GA 30096 within 24 hours or the next Business Day of cancellation, non-renewal or modification of any required insurance. The Town reserves the right to require additional coverages and limits from time to time if such additional coverage and limits are legally necessary in order to comply with Requirements applicable to the Town based upon the particular activity of the Tenant on the Property or if, due to the passage of time, the limits of insurance set forth herein are reasonably deficient, provided, however, that Tenant shall only be required to provide such additional coverages and limits if such insurance is generally available at commercially reasonable premiums. If the Tenant maintains higher limits than the minimums shown below, the Town shall be entitled to coverage for the higher limits maintained by the Tenant. Tenant acknowledges and agrees that the requirements contained in this Article, or Town's review or acceptance of insurance, shall not in any manner limit or qualify the liabilities and obligations assumed by Tenant under this Lease.

12.02 Comprehensive General Liability Insurance. At all times during its occupancy of the Property, Tenant shall carry general liability insurance with coverage limits of liability not less than \$5,000,000 each occurrence and \$10,000,000 in the annual aggregate (which can be carried under an Umbrella Excess Liability Policy as provided in Section 12.03). In the event that Tenant's liability insurance covers more than one location, Tenant shall provide a per-location endorsement assuring that the limits of such policy are applicable to the Premises. The Certificate of Insurance shall indicate an Occurrence Basis and, if such policy(ies) insure more than one location, shall include a per location endorsement. The Town of Palm Beach shall be endorsed as an additional insured under the general liability insurance policy of the Tenant, and the Town shall also be endorsed as an additional insured under the general liability insurance policies of all contractors, subcontractors without the wording "as required by written contract." The general liability coverage shall be primary and non-contributory. Space Leases may contain reasonably lower limits than the above so long as Tenant maintains the foregoing insurance covering the acts and omissions of its Sub-Tenants.

12.03 Umbrella or Excess Liability. Tenant may satisfy the minimum limits required above for commercial general liability coverage under Umbrella or Excess Liability Insurance. The Umbrella or Excess Liability policy shall have an aggregate limit not less than the highest

"each occurrence" limit for the commercial general liability. The Town shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability policy, unless the Certificate of Insurance notes the Umbrella or Excess Liability policy provides coverage on a "Follow-Form" basis, subject to the terms and conditions of the respective policies.

12.04 Property. Wind & Flood Insurance.

(A) Builder's Risk Insurance. Tenant, the General Contractor and any Sub-Tenant Contractor, shall obtain and maintain Builder's Risk insurance covering any Tenant Improvements during the course of any construction at the Premises in an amount at least equal to one hundred percent (100%) of the estimated completed value of the Tenant Improvements being constructed. Coverage shall be provided on an All-Risk basis including coverage for the perils of wind and flood. Tenant agrees this coverage shall be provided on a primary basis.

(B) After Substantial Completion, Tenant shall also maintain and provide evidence of the following as required under this Lease:

(1) Property insurance in an amount not less than one hundred percent (100%) of the total replacement cost of the Tenant Improvements. The settlement clause shall be on a Replacement Cost basis. Coverage shall be written with a Special - Cause of Loss (All-Risk) form and include an endorsement for Ordinance & Law in an amount not less than One Million Dollars (\$1,000,000). This coverage shall be provided on a primary basis. The foregoing requirement shall not apply to any Tenant Improvements constructed on the Property by any Sub-Tenant, as Tenant shall require that such Sub-Tenant obtain the foregoing insurance.

(2) Subject to a flood elevation certificate issued by a certified surveyor if the Premises are located within a Flood Zone, flood insurance in an amount not less than the lesser of (a) one hundred percent (100%) of the total replacement cost of the Tenant Improvements, or (b) the maximum amount available from the National Flood Insurance Program. If approved by the National Flood Insurance Program, Five Hundred Thousand Dollars (\$500,000) in coverage shall be provided on a primary basis, and Tenant's property insurance shall provide secondary coverage to the National Flood Insurance Program policy. The foregoing requirement shall not apply to any Tenant Improvements occupied by a Sub-Tenant under a Space Lease as Tenant shall require that such Sub-Tenant obtain such flood insurance on any improvements occupied by such Sub-Tenant.

(3) Windstorm insurance, unless included as a covered peril in the property insurance, in an amount not less than the lesser of (a) one hundred percent (100%) of the total replacement cost of the Tenant Improvements, or (b) the maximum amount available under the Florida Windstorm Underwriting Association. This coverage shall be provided on a primary basis and shall have such deductible as Tenant elects, in its reasonable discretion. The foregoing requirement shall not apply to any Tenant Improvements occupied by a Sub-Tenant under a Space Lease as Tenant shall require that such Sub-Tenant obtain such windstorm insurance.

(4) Proof of Hired and Non-Owned Auto Liability insurance. For personally owned vehicles, Tenant shall obtain and provide evidence to the Town of limits not less than \$300,000 each occurrence combined single limit.

(5) Tenant shall cause any property management company engaged to manage the Premises to carry, Workers' Compensation coverage with statutory limits pursuant to Florida State Statute 440 or an exemption letter from the State.

(6) Tenant shall cause any property management company engaged to manage the Premise to carry Employers Liability coverage with limits not less than \$100,000 for each accident, \$100,000 disease (each employee) and \$500,000 disease (policy limit).

12.05 Additional Insured Endorsement. Tenant shall endorse Town as "Additional Insured" on each of the liability policies required to be maintained by Tenant hereunder with the exception of Worker's Compensation/Employers Liability Insurance. Each "Additional Insured" endorsement shall read: "Town of Palm Beach, Florida, including its agents, officers, past and present employees, elected officials and representatives", or as otherwise approved or modified by Town, provided Town delivers written notice of any required modification to Tenant.

12.06 Certificate of Insurance.

(A) Tenant shall provide the Town with a certificate of insurance, evidencing limits, coverages and endorsements required herein within the time frames set forth below:

(1) Commercial General Liability insurance prior to the Effective Date; and

(2) Builder's Risk insurance and Property, Wind and Flood insurance within the time frames set forth in Section 12.04.

(B) In the event coverage is cancelled or is not renewed, Tenant shall provide Town a new certificate of insurance or certificates of insurance evidencing replacement coverage prior to the expiration or cancellation of the coverage. The certificate holder's name and address shall read as required above, or as otherwise approved or modified by Town, provided Town delivers written notice of any required modification to Tenant. In the event that the Town does not have timely evidence of replacement insurance before any lapse, then the Town may purchase any such insurance in behalf of Tenant, and Tenant shall reimburse Town for the cost hereof, as Additional Rent, within thirty (30) days following the Town's periodic tender of an invoice.

12.07 Waiver of Subrogation. Tenant hereby waives, and waives on behalf of any Sub-Tenant, all rights of subrogation against the Town for any insurance maintained or required to be maintained by Tenant under this Lease, and the Town hereby waives all rights of subrogation against Tenant for any insurance maintained by Town with respect to the Premises or any part thereof. In addition, all required or maintained insurance policies with respect to the Premises shall provide a waiver of subrogation and rights of recovery against the other party, including its agents, officers, past and present employees, elected officials and representatives; each insurance policy shall protect both parties and be primary and non-contributory for any and all losses covered by the above described insurance. Insurers have no recourse against the

Town of Palm Beach for payment or assessments in any form on any insurance policy required to be maintained by Tenant under this Lease.

12.08 Premiums and Proceeds. Tenant shall be responsible for all of Tenant's premiums, including, without limitation, increases, for property, flood and wind insurance policies. Subject to rights of any Leasehold Mortgagee to the use and application of any insurance proceeds as more fully set forth herein, Tenant agrees that all property, flood and windstorm insurance proceeds shall be made available for use to promptly replace, repair or rebuild the Tenant Improvements.

12.09 Deductibles, Coinsurance & Self-Insured Retention. Tenant shall be fully and solely responsible for Tenant's deductible, coinsurance penalty, or self-insured retention; including any losses, damages, or expenses not covered due to an exhaustion of limits or failure to comply with the policy and each of which shall be subject to the waiver of subrogation herein to the same extent as if such amounts were covered by third party insurance.

12.10 Right to Review or Adjust Insurance. Town may reject any insurer that is not in compliance with the financial standards set forth in Section 12.01 of this Lease or self-insurance plan providing coverage because of poor financial condition or failure to operate legally. In such event, Town shall provide Tenant a written notice of rejection, and Tenant shall replace such insurer with a company or companies that meet the financial standard set forth in Section 12.01 of this Lease within thirty (30) days of receipt of the notice. In addition, the Town may periodically (but not more than one (1) time in every ten (10) years) adjust the amounts of required liability insurance to be maintained pursuant to Section 12.02, if due to the passage of time or the claims history of such policies the amounts thereof are reasonably insufficient, provided, any increase in the amount of liability insurance the Town requires Tenant to carry is comparable to the general liability insurance required to be carried by other owners and operators of similar quality and type projects in Palm Beach County, Florida.

12.11 No Representation of Coverage Adequacy. Tenant acknowledges the limits, coverages and endorsements required by this Article are intended to minimize liability for the Town. Tenant agrees that it will not rely upon the requirements of this Article when assessing the extent or determining appropriate types or limits of insurance coverage to protect Tenant against any loss exposures, whether as a result of this Lease or otherwise.

12.12 Subtenant Insurance. Tenant shall require that the Town is named as an additional insured in all subtenant liability insurance.

12.13 Specialty Insurance. In the event that any portion of the Premises is used by Tenant or any subtenant or licensee for uses that reasonably require additional forms of insurance including, for example and without limitation, for the service of alcoholic beverages (when liquor liability insurance would be required) or for day care or child care (when non-molestation insurance would be required), Tenant shall carry, or shall require any such subtenant or licensee to carry, such form of insurance naming the Town as an additional insured.

ARTICLE 13 - DAMAGE TO OR DESTRUCTION OF PREMISES

13.01 Removal of Debris. If the Premises, or any portion thereof, is damaged by fire, the elements or other casualty, Tenant shall promptly remove all debris resulting from such damage from the Premises and shall take other commercially reasonable actions to place the

Premises in a condition to ensure the safety of persons entering upon the Premises. If Tenant fails to promptly comply with the provisions of this Section 13.01, Town may, but shall not be required to notify Tenant in writing of such failure, and Town may but shall not be required to take such measures as it deems reasonably necessary to render the Premises in a safe condition if Tenant fails to comply within thirty (30) days after written notice from Town. If Tenant disputes the need for corrective action, Tenant shall notify Town in writing of its basis for the dispute within fifteen (15) days of Town's written notice. In the event Tenant fails to timely dispute the need for corrective action, Tenant shall be deemed to have waived such right. Tenant agrees that Tenant shall fully assume and be liable to Town as Additional Rent for payment of any actual, reasonable out-of-pocket costs incurred by Town pursuant to this Section 13.01, which costs shall be due and payable to Town within thirty (30) days from the date Tenant receives written notice together copies of with receipts and invoices evidencing such costs provided by Town. Tenant acknowledges that Town may cause the corrective action to be completed by third party contractors or Town employees in its sole discretion. In the event the work is performed by Town employees, Town shall be entitled to invoice Tenant based upon the actual hourly rate of pay for such employees, plus any costs associated with materials and equipment (and no other internal costs of Town shall be permitted under this paragraph.). Notwithstanding anything to the contrary set forth in this Section 13.01, in no event shall Tenant be responsible for any costs relating to any corrective action taken by Town while the need for such corrective action is under dispute by Tenant.

13.02 Tenant's Obligations. Except as otherwise provided for in this Lease, if the Tenant Improvements, or any portion thereof, are damaged by fire or other casualty covered within the insurance designation of fire, extended coverage, windstorm or flood coverage as same is customarily written in the State of Florida, whether by an act of God or by the act, default or negligence of a Tenant Party, Tenant shall, at its sole discretion (but subject to the rights of any Leasehold Mortgagee set forth in this Lease), either (i) raze the Tenant Improvements at its sole cost and expense provided Tenant leaves such portion of the Property in clean and safe condition in compliance with the Requirements and plants grass or other landscaping materials in the area where the Tenant Improvements were removed and continues to comply with all of the other terms and conditions of this Lease and provided that the remainder of the Property following such razing shall be sufficient for Tenant to abide by its obligations under this Lease when taking into account Tenant's other obligations or (ii) provided that the net insurance related to such casualty are made available to Tenant, repair, restore or rebuilt the Tenant Improvements. Any repair, restoration or rebuilding of the Tenant Improvements shall be as nearly as reasonably possible to its value, conditions and character which existed immediately prior to such damage or destruction, subject to such changes or alterations as Tenant may elect to make in conformity with the provisions of this Lease, the Requirements, and modern construction techniques and methods. Provided Tenant otherwise complies with the terms of this Lease and the Requirements, Tenant may construct Tenant Improvements which are larger, smaller or different in design, function or use and which represent a use comparable to prior use or compatible with uses of property in the immediate geographical area. If Tenant is restoring the Tenant Improvements, then within sixty (60) days of the date of the casualty, Tenant shall provide Town with a written estimate of the total cost of the restoration and the estimated time to complete the restoration prepared by an architect or engineer selected by Tenant. In the event the casualty occurs during the last ten (10) years of the Term and the cost to restore the Premises, as reasonably estimated by Tenant, would equal or exceed 50% of the full replacement cost of the Tenant Improvements or if during the final two (2) years of the Term, the Premises are damaged or destroyed and the restoration thereof cannot reasonably be completed within one hundred eighty (180) days after the date of such damage, then Tenant may at its option terminate this Lease by written notice to Town within

sixty (60) days after the casualty and the termination shall become effective on the date specified in the termination notice, which date shall be no sooner than thirty (30) days or later than one hundred eighty (180) days after the date of the termination notice. In the event Tenant elects to terminate this Lease pursuant to this Section 13.02, Town may require Tenant to cause the demolition and removal of all or a portion of the Tenant Improvements from the Premises at Tenant's sole cost and expense, and Tenant shall leave such portion of the Property in clean and safe condition in compliance with the Requirements and plant grass or other landscaping materials in the area where the Tenant Improvements were removed. In the event Town elects to require all or a portion of the Tenant Improvements to be demolished and removed from the Premises, Town shall notify Tenant in writing within ninety (90) days of the date of Tenant's termination notice. In the event Tenant elects to restore or rebuild the Tenant Improvements pursuant to this Section 13.02, Tenant shall commence restoration as soon as reasonably practicable after any such casualty and shall diligently pursue such restoration to completion in accordance with the construction requirements set forth in Article 7 and the requirements of any Leasehold Mortgagee. All repairs and restoration shall be performed by Tenant at Tenant's sole cost and expense in accordance with the requirements contained in this Lease, provided, however, that the construction covenants contained in any Leasehold Mortgage shall control over any construction requirements contained in this Lease. If Tenant elects to rebuild the improvements but fails to commence the restoration of the Tenant Improvements within the earlier of one (1) year following the date of casualty or ninety (90) days after receiving the permits required for the restoration or fails to diligently pursue such restoration to completion within eighteen (18) months from the earlier of the date of the casualty or receipt of permits to rebuild, and Tenant is obligated, or has elected to restore the Tenant Improvements pursuant to this Section 13.02, Town shall have the option of causing the necessary restoration to be performed at Tenant's sole cost and expense, to be reimbursed by Tenant as Additional Rent within thirty (30) days following the Town's periodic tender of an invoice, provided that the rights of the Town shall be subject and subordinate to the rights of any Leasehold Mortgagee. If Tenant has elected to terminate this Lease pursuant to this Section 13.02 and Town requires all or a portion of the Tenant Improvements to be demolished and removed from the Premises and Tenant fails to cause such demolition and removal to occur within the time frame provided for in this Section 13.02, Town shall have the option, of causing the demolition and removal to be performed at Tenant's sole cost and expense. Tenant agrees that Tenant shall fully assume and be liable to the Town for payment of the costs of restoration or the cost of demolition, as Additional Rent. Reimbursement of such costs shall be due and payable to the Town periodically within thirty (30) days from the date Tenant receives written notice together with copies of receipts and invoices evidencing such costs provided by Town. The provisions of this Section 13.02 shall survive the termination of this Lease until fully satisfied.

13.03 Insurance Proceeds. Upon receipt by Tenant of the proceeds of any insurance policy or policies required hereunder, the proceeds shall be disbursed at the direction of Tenant and/or any Leasehold Mortgagee during construction to pay the cost of such work, unless Tenant is not obligated and/or elects not to rebuild the Tenant Improvements and this Lease is terminated, in which case Tenant shall be entitled to retain any proceeds and shall use such proceeds (i) first for the payment of demolition and removal costs under Section 13.02; (ii) second, to satisfy any Leasehold Mortgage, (iii) third, for the payment of any Base Rent, Additional Rent or other sums due to Town through the termination date of the Lease, (iv) fourth, to the performance of all other unperformed terms, covenants, conditions and obligations of Tenant under this Lease existing as of the date of termination, and (v) fifth, any remaining balance to Tenant and Town, with Town having the right to receive a share of the balance of Tenant's insurance proceeds covering such damage, Town's share being in the same proportion which the value of Town's reversionary interest in the Tenant Improvements and

bears to the fair market value thereof, as such proportion is established by computations acceptable to Tenant and the Town. If Tenant has elected to reconstruct or rebuild the Tenant Improvements and the net amount of the insurance proceeds is insufficient to pay the costs of the required repair, replacement or rebuilding of the damaged Tenant Improvements, Tenant shall pay any additional sums required to complete any required repair, replacement or rebuilding. If the amount of the insurance proceeds is in excess of the costs of the required repair, replacement or rebuilding, the excess amount shall be remitted to Tenant and/or to any Leasehold Mortgagee, subject to offset by any amounts then past due from Tenant under this Lease.

ARTICLE 14 – CONDEMNATION

14.01 Complete Taking. If the entire Premises are taken or condemned for any public or quasi-public use or purpose, by right of eminent domain or by purchase in lieu thereof (in each case, a "**Taking**"), then this Lease will cease and terminate as of the date on which the condemning authority takes possession. If this Lease is so terminated, the Town and the Tenant shall be entitled to make claims to the condemning authority as follows:

(A) The Town shall be entitled to make a claim for the fair market value (at the time of Taking) of the Town's fee simple interest in the portion of the Property taken or condemned and considered as vacant and unimproved, and unencumbered;

(B) Tenant shall be entitled to make a claim for the fair market value (at time of Taking) of its leasehold interest under this Lease and in the Tenant Improvements from the date of the Taking through the remainder of the Initial Term, not including any Renewal Terms unless previously exercised, and any other claims permitted under applicable laws, including loss of business damages; and

(C) The Town shall be entitled to make a claim for its reversionary value of the Tenant Improvements after deducting the value of the Tenant Improvements which are part of the Tenant's claim in paragraph (B) above.

14.02 Partial Taking. If there is a partial taking but as a result of the partial taking, the remainder of Premises cannot be operated by Tenant for such portion of the Tenant's Intended Project or other Permitted Uses conducted thereon, then Tenant may terminate this Lease upon written notice to the Town delivered no more than forty-five (45) days after Tenant and the Town have been notified of the portion of the Premises to be condemned. If Tenant elects to terminate this Lease, any claim for the condemnation award shall be governed by Section 14.01 above, as if a complete condemnation had occurred. If Tenant does not elect to terminate the Lease, there shall be an equitable abatement of Base Rent and Additional Rent based upon the value of the Premises taken by the condemnation and the parties shall proceed in accordance with the terms hereof and the award shall be paid first to Tenant for the restoration, repair or rebuilding of the Premises, with the parties entitled to make any claim for the remaining balance of the award as set forth in Section 14.01.

14.03 Restoration after Taking. If this Lease does not terminate due to a Taking, then:

(A) Tenant will be required to restore the remaining portion of the Premises with due diligence in accordance with the provisions of this Lease pertaining to alterations and renovations, provided, however, that the construction covenants in any Leasehold Mortgage shall control;

(B) The entire proceeds of Tenant's portion of the award will be deposited and treated in the same manner as insurance proceeds are to be treated under this Lease until the restoration work has been completed; and

(C) If the award is insufficient to pay for the restoration work, Tenant will be responsible for the remaining cost and expense.

14.04 Temporary Taking. If there is a Taking of the temporary use (but not title) of all or any part of the Premises, this Lease will remain in full force and effect. The Base Rent and Additional Rent payable under this Lease shall be abated on a per diem basis during the period of such temporary Taking based on the percentage of acreage of the Premises on which Tenant is unable to operate the Tenant Intended Project or other Permitted Use bears to the overall acreage of the Property. Tenant will receive the entire award for any temporary Taking to the extent it applies to the period prior to the end of the Term of this Lease and the Town will receive the balance of the award.

ARTICLE 15 - ENCUMBRANCES

Tenant shall have the right to mortgage, pledge or otherwise encumber this Lease, the Premises or any improvements now existing or hereinafter erected or constructed upon the Premises without Town's prior written consent. In no event shall any mortgage, pledge or encumbrance attach to the Town's fee interest in the Property but shall, instead, attach only to Tenant's leasehold interest.

ARTICLE 16 - TITLE TO IMPROVEMENTS

16.01 Title to Improvements on the Premises. Tenant shall be deemed to be the owner of a leasehold interest in all Tenant Improvements during the Term. Upon expiration or earlier termination of this Lease, all Tenant Improvements, above and below ground, constructed or placed upon the Property by Tenant shall become the absolute property of Town, and Town shall have every right, title, and interest therein, and the Town shall take such Tenant Improvements subject to the rights of any tenant or occupant of the Residential Units, any assisted living facility, any Sub-Tenant on the Premises, and Tenant shall be required to satisfy any Leasehold Mortgage prior to the expiration or earlier termination hereof.

16.02 FF&E. Notwithstanding the foregoing, any movable furniture, trade fixtures, equipment, personal property or intellectual property shall remain the property of Tenant and if applicable any Sub-Tenant and may be removed by Tenant or any Sub-Tenant in accordance with the terms of this Lease.

16.03 Evidence of Transfer. Upon the request of Town, Tenant shall provide Town with a bill of sale or other evidence of the transfer of ownership of the Tenant Improvements.

16.04 Survival. The provisions of this Article shall survive expiration or termination of this Lease.

ARTICLE 17 - EXPIRATION, DEFAULTS, REMEDIES AND TERMINATION

17.01 Expiration. This Lease shall automatically terminate at the end of the Initial Term, unless renewed in accordance with Section 3.02. In the event this Lease is renewed in accordance with Section 3.02, this Lease shall automatically terminate at the end of the applicable Renewal Term.

17.02 Default The occurrence of any one or more of the following events shall constitute a material default of this Lease by Tenant (each a "**Tenant Default**"):

(A) The failure by Tenant to make payment of Base Rent, Additional Rent or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of five (5) Business Days after its due date; provided, however, the cure period as to Tenant's first failure to make a payment in any Lease Year shall be within ten (10) Business Days after Tenant receives written notice with respect to such first failure from Town that such payment was not received as and when due. For purposes hereof, any default that can be cured by the payment of money including, for example, the failure to obtain the insurance required under this Lease, shall be deemed a Tenant Default under this Section 17.02(A).

(B) The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, subject to extension of time for such performance due to Events of Force Majeure duly noticed by Tenant to Town, where such failure continues for a period of thirty (30) days after written notice thereof from Town to Tenant setting forth with reasonable specificity the nature of the alleged breach, with copies thereof to each Leasehold Mortgagee who shall have notified Town of its name, address and interest prior to such notice in the manner set forth in this Lease; provided, however, that if the nature of Tenant's Default is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commenced such cure within such thirty (30) day period and thereafter diligently pursues such cure to completion within ninety (90) days following such written notice. Nothing contained in this paragraph shall be deemed to alter or affect the cure period for performance of any covenant, condition or provision for which a specific time period is provided in this Lease.

(C) (a) the making by Tenant of any general assignment, or general arrangement for the benefit of creditors; (b) the filing by or against Tenant of a petition to have Tenant adjudged bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy unless (i) in the case of a petition filed against Tenant, the same is dismissed within ninety (90) days, or (ii) in the case of a petition filed by Tenant, Tenant is the subject of a reorganization but continues performing its obligations with respect to the Premises under this Lease; (c) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within forty-five (45) days; or (d) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within forty-five (45) days.

17.03 Remedies. If a Tenant Default shall occur, Town, at any time after the periods set forth in Section 17.02(A), (B) and (C), and provided Tenant has failed to cure such Tenant Default within such applicable period, shall give written notice to Tenant and to any Leasehold Mortgagee who has notified Town in accordance with this Lease, specifying such Tenant Default and stating that this Lease and the term hereby demised shall expire and terminate on

the date specified in such notice or, in the alternative, that Tenant's right of possession shall terminate. Upon the date specified in such notice, if the Tenant Default has not been cured, then, subject, however, to the provisions of Section 19.03(D), this Lease and the Term hereby demised or, at the Town's option, Tenant's right of possession shall terminate, and in both instances all rights of Tenant under this Lease, shall expire and terminate. If a Tenant Default shall occur and the rights of any Leasehold Mortgagee shall not have been exercised as provided in this Lease, including the right to enter into a New Lease (as hereinafter defined) as provided in Section 19.03(D), then the Town, shall have the following rights and remedies which are cumulative and without waiver of the Town's ongoing termination rights:

(A) to restrain, by injunction, the commission of or attempt or threatened commission of a Tenant Default and to obtain a decree specifically compelling performance of any such term or provision of the Lease; and

(B) to terminate any and all obligations that the Town may have under this Lease, in which event the Town shall be released and relieved from any and all liability under this Lease; provided, however, that the remedy under this provision may be exercised only in conjunction with a termination of this Lease in accordance with this Section 17.03. If this Lease is terminated as set forth in this subsection (B), the Town shall have the right to exercise any of the following actions: (i) take possession of the Premises by any lawful means and re-enter and re-take possession of the Premises for the account of Tenant and the Town shall be entitled to recover any reasonable costs and expenses incurred in recovering possession of the Premises, (ii) re-enter and re-take possession of the Premises for the account of Town, thereby terminating any further liability under this Lease on the part of Tenant and Town. Notwithstanding the foregoing, Town shall have a cause of action to recover any Base Rent and Additional Rent (if any) remaining unpaid as of the date of termination when Town retakes possession of the Premises for the account of Town; and (iii) except as expressly set forth otherwise in this Lease, pursue any other remedy now or hereinafter available to Town under the laws of the State of Florida; provided, however, in no event shall the Town be entitled to accelerate any annual Base Rent due under this Lease.

Notwithstanding anything in this Lease to the contrary, Town shall have the right to bring an action for its damages upon the occurrence of a Tenant Default (beyond the expiration of applicable notice and cure periods) and Town reserves all rights which laws of the State of Florida confer upon a landlord against a tenant in default, provided, however, Town hereby waives all claims to punitive, indirect, special or consequential damages. Tenant hereby waives any additional notice Tenant may be entitled to pursuant to Florida law.

17.04 Surrender of Premises. Except as otherwise provided in Section 13.02 with respect to Town's option to have the Tenant Improvements demolished, if this Lease or Tenant's right to possession is terminated Tenant expressly agrees that it shall immediately surrender the Premises to Town in good condition, upon expiration or termination of this Lease, depreciation and wear from ordinary use for the purpose for which the Premises were leased being excepted, subject to the occupancy of the Premises by residential tenants, occupants of any assisted living facility and any Sub-Tenant. In the event Tenant shall holdover, refuse, or fail to give up the possession of the Premises at the termination of this Lease, Tenant shall be liable to Town for any and all actual damages, and in addition thereto, Tenant shall also be strictly liable to pay to Town during the entire time period of such holdover, double rental, as provided for in Section 83.06, Florida Statutes. Tenant shall remove all of its personal property from the Premises prior to the expiration of this Lease. Any personal property of Tenant not removed by

Tenant shall, at the option of Town, become the property of Town, or alternatively, may be disposed of by Town at Tenant's expense.

ARTICLE 18 - ASSIGNMENT, TRANSFER AND SUBLETTING

18.01 Consent Required; Permitted Subtenants. Provided no Tenant Default exists under this Lease, Tenant shall have the right to sell, assign, sub-let or otherwise transfer ("**Assignment**") all or any portion of its rights under this Lease from time to time, to such other corporations, general or limited partnerships, limited liability companies, joint ventures or any other entities or persons as Tenant shall select upon written notice to Town and compliance with the transfer terms and conditions of this Article 18.

18.02 Permitted Assignees. It shall be deemed an assignment of this Lease if all or substantially all of the assets of Tenant or Guarantor, as applicable, are acquired by another entity, or if a change in control is accomplished, by reason of a merger, acquisition, or other business reorganization, in which event Tenant or Guarantor, as applicable shall give written notice thereof to the Town. No then existing Guaranty shall be impaired or released by any such transaction. Notwithstanding anything to the contrary contained in this Lease, in no event shall Town's consent to a transfer of a controlling interest in Guarantor or Tenant (or merger or sale of substantially all of the assets) or a transfer of this Lease by Tenant be required if the transferee, as applicable, is (i) a publicly traded (on a U.S. National Securities Exchange, including NASDAQ, or Over-the-Counter Market (OTC)), real estate investment trust or other publicly traded entity (a "**Permitted Assignee**"), or (ii) with respect to Guarantor, a substitute guarantor has assumed the obligations of Guarantor as set forth in Section 18.08 hereof, or (iii) if the Permitted Assignee guaranties the assumption of this Lease by a subsidiary as provided in Section 18.04 hereof. The Town's consent shall not be required for an assignment of any minority membership interests in Guarantor or Tenant to the extent that such minority transfers have not, cumulatively, affected a change in control. Any Leasehold Mortgage Transfer shall be governed by Article 19 hereof. The term "substantially all" as used in this Section 18.02 means more than 50% of the assets or legal or beneficial membership interest whether in one transaction or a series of transactions, and the term "control" as used in this Section 18.02 means the power, directly or indirectly, to direct the management of Guarantor or Tenant, as applicable, whether through voting of a majority of the membership interest of Guarantor or Tenant, as applicable, or other arrangement.

18.03 Preferred Transferees. Except for a transfer of the ownership interest in or assets of Guarantor or Tenant, as applicable, to a Permitted Assignee or an assignment of this Lease by Tenant to a Permitted Assignee as permitted in Section 18.02, in the event of a proposed assignment of this Lease by Tenant or a transfer of all or substantially all of the assets of Guarantor to a corporation, general or limited partnership, limited liability company, joint venture, or any other entity, the prior written consent of the Town shall be required. The Town shall not unreasonably withhold or delay its consent to the proposed assignment of this Lease to an entity (or the transfer of the ownership interest in Guarantor or substantially all of the assets of Guarantor) that unconditionally assumes the obligations of Tenant arising from and after the date of the proposed transfer and meets all of the qualifications set forth in subparagraphs (A) through (H) below (a "**Preferred Transferee**"):

- (A) is and has been in the business (directly or indirectly through an affiliate), for no less than seven (7) years immediately preceding the proposed transfer or assignment date, operating or owning real estate projects in

the United States similar in kind to the project constituting the Tenant Improvements at the time of such Assignment ;

- (B) is not, other than immaterial or de minimis claims, in default (after the expiration of any applicable grace or cure period) under any other lease or development agreement as of the date of transfer;
- (C) is not in litigation (and has not been in litigation at any time during the immediately prior three (3) years), as a defendant, with the Town or the County (or the affiliate or subsidiary of an entity in such litigation with the Town or County);
- (D) is not subject to any regulatory or other sanctions for its failure to abide by any law or legal requirement applicable to such transferee or affiliate thereof;
- (E) has not filed for bankruptcy or been the subject of any similar proceeding for reorganization of assets in the immediately prior ten (10) years;
- (F) has a sound business reputation as an owner and/or operator of similar real estate projects;
- (G) individually or in the aggregate with any affiliates and subsidiaries of such transferee, has/have a total "**tangible net worth**" of no less than \$50,000,000.00, which can be evidenced by the delivery of financial statements (audited, if available or otherwise certified to be true and correct by its chief financial officer). For purposes of this Section 18.03(G) hereof, "**tangible net worth**" means the company or companies total equity plus subordinated debt less goodwill and all other intangible assets; and
- (H) such transferee or affiliate thereof would not reasonably be a cause of embarrassment or otherwise be reasonably inappropriate for a business relationship with a governmental entity. For purposes of this Section 18.03(H), the terms "**embarrassment**" or "**inappropriate**" mean a person or entity who has been accused or convicted of a crime, or is a Sanctioned Person or Sanctioned Entity, or has been accused in the public media of lewd or lascivious conduct, or whose reputation is associated by the public at large with conduct contrary to local moral standards of appropriate behavior. "**Sanctioned Entity**" means (i) an agency of the government of, (ii) an organization directly or indirectly controlled by, or (iii) a person resident in a country that is subject to a sanctions program whether or not identified on the list maintained by OFAC and available at <http://www.treas.gov/offices/eotffc/ofac/sanctions/index.html>, or as otherwise published from time to time as such program may be applicable to such agency, organization or person or otherwise subject to governmental sanctions. "**Sanctioned Person**" means a person named on the list of Specially Designated Nationals or Blocked Persons maintained by OFAC available at <http://www.treas.gov/offices/eotffc/ofac/sdn/index.html>, or as otherwise

published from time to time or otherwise subject to sanctions by OFAC, and "OFAC" means the U.S. Department of the Treasury's Office of Foreign Assets Control or otherwise subject to governmental sanctions.

18.04 Subsidiary Entity. The Town agrees that a Preferred Transferee or Permitted Assignee will be permitted to utilize a subsidiary entity to execute the applicable assignment and/or transfer documents hereunder or otherwise assume this Lease. A transfer to a Permitted Transferee shall also be subject to, at the option of the Permitted Transferee: (1) such Permitted Transferee providing the evidence under Section 5.05 of this Lease to evidence that the Premises will continue to maintain a minimum Debt Service Coverage Ratio of 1.15 to 1.0 or (2) providing a payment guaranty, from an affiliate of such Permitted Transferee reasonably acceptable to the Town, which guaranty shall be in substantially similar form as the Payment Guaranty executed by Guarantor, and which guaranty shall be in effect until the later of (i) two (2) years following the date of Lease transfer and (ii) the date such Permitted Transferee has provided evidence under Section 5.05 that the Premises has achieved a minimum Debt Service Coverage Ratio of 1.15 to 1.0.

18.05 Transfers to Entities Other than Permitted Assignees or Preferred Transferees. If Tenant desires to assign this Lease (to an entity other than a Permitted Assignee or a Preferred Transferee), then the prior written consent of Town to such Assignment (i) may be withheld in Town's sole discretion, if the assignment request is made prior to the Stabilization Date; and (ii) shall not be unreasonably withheld, delayed or conditioned (provided no Tenant Default exists under this Lease) if the assignment request is made after the Stabilization Date.

18.06 Assignment Consent Requests. If an assignment request is made by Tenant pursuant to this Article 18, then within fifteen (15) Business Days after written notice of request from Tenant to an Assignment that includes the documents set forth hereafter and that states, in capitalized letters, "THE TOWN'S CONSENT TO THIS PROPOSED ASSIGNMENT SHALL BE DEEMED GRANTED IF THE TOWN DOES NOT PROVIDE ITS WRITTEN OBJECTIONS HERETO WITHIN FIFTEEN (15) BUSINESS DAYS". The Town shall notify Tenant in writing whether or not it consents to the Assignment and if the Town consents to the Assignment, Tenant shall be released from all of the obligations of the tenant under this Lease accruing from and after the date of the Assignment. If the Town fails to provide written notice to Tenant of its consent or denial of the Assignment within the foregoing fifteen (15) Business Day period, so long as Tenant's written notice is in the required form, then the Town shall be deemed to have provided its consent to the Assignment. Furthermore, in no event shall the Town be required to consent to an Assignment of this Lease to a transferee who has not met the requirements to constitute a Preferred Transferee as set forth in Section 18.03 nor shall the Town's consent be deemed to have been granted if Tenant's request for consent is to any party other than a Preferred Transferee.

18.07 Release. With respect to any transfer to a Permitted Transferee or if the Town consents (or is deemed to have consented) to an Assignment hereunder, the original Tenant or then applicable transferor (as the case may be) shall be released of and from all obligations under this Lease accruing after the effective date of such Assignment, but only as to the portion of the Premises so transferred and the Town shall execute and deliver a written release if requested by Tenant's written notice promptly following such request. The Town shall also execute any other assignment and/or transfer documents as may be reasonably requested by Tenant to confirm Town's consent to and/or acknowledgement of any Assignment hereunder, provided that the terms of such documents comply with the requirements hereof. The Town's

actual and commercially reasonable third party attorneys' fees shall be reimbursed, as Additional Rent, at the time of and as a condition of any such consent.

18.08 Guaranty Release. In no event shall the obligations of Guarantor be released in connection with any transfer under of this Lease by Tenant, unless this Lease is assumed by a Permitted Assignee or a Preferred Transferee or, if assumed by an affiliated entity, except and unless a replacement guarantor, who is either a Permitted Assignee, or a Preferred Transferee has been submitted to the Town and such substitute Guarantor executes in favor of Town, a guaranty of all obligations of Guarantor arising from and after the date of the transfer, in substantially similar form as the Guaranty, in which event the Town shall release the original Guarantor from all of the liability and obligations under the Guaranty accruing from and after the date of transfer. In addition, Guarantor shall automatically be released from the Guaranty upon the Continuing Guaranty Provision Termination Date with respect to all obligations that would otherwise accrue under the Guaranty from and after such date.

18.09 Subleases of Part of the Premises. Notwithstanding anything to the contrary contained herein, Tenant shall have the right to sublease any portion of the Premises to one or more Sub-Tenants with notice to Town and copy of any such sublease or subleases but without the prior written consent of Town. All subleases shall be subject to the same conditions, obligations, and terms as set forth herein and Tenant shall be fully responsible for the observance by any Sub-Tenant of the terms and covenants contained in this Lease.

18.10 Assignment by Town. The Town may freely assign this Lease at any time without the consent of Tenant, and upon assumption by such assignee of Town's obligations hereunder, Town shall be released from all liability and obligation arising hereunder upon such assignment.

ARTICLE 19 - RIGHTS OF LEASEHOLD MORTGAGEES; FEE MORTGAGES

19.01 Right to Mortgage. Tenant and any Sub-Tenant may encumber its leasehold estate and interest in the Premises by mortgage, security agreement or other such instrument in favor of a Leasehold Mortgagee or Subleasehold Mortgagee without the consent of the Town during the Term of this Lease. Town shall not be obligated to, nor deemed to have subjected or subordinated Town's fee simple interest in the Property to any Leasehold Mortgage or Subleasehold Mortgage. Town's fee simple interest is and shall remain at all times superior and prior in right to any Leasehold Mortgage and/or Subleasehold Mortgage. To the extent any of the other provisions of this Lease are inconsistent with the provisions of this Article 19, so long as any Leasehold Mortgage remains in effect, the provisions of this Article 19 shall control and shall be read in a manner to give the protection of the provisions hereof to the holder(s) of such Leasehold Mortgage.

19.02 Notice of Default. A Leasehold Mortgagee or Subleasehold Mortgagee may provide written notice of its Leasehold Mortgage or Subleasehold Mortgage, as applicable, in the same manner and at the same address as required by this Lease for notices delivered to Town, together with the name and address of such Leasehold Mortgagee or Subleasehold Mortgagee. In the event and following the date such written notice is delivered to Town, the Town agrees that upon serving Tenant with any notice under this Lease of a Tenant Default, it shall also deliver a copy of such notice upon the Leasehold Mortgagee and Subleasehold Mortgagee in the same manner as required by this Lease for notices delivered to Tenant. The delivery shall be made at the address the Leasehold Mortgagee and Subleasehold Mortgagee shall have designated by written notice to the Town, from time to time.

19.03 Opportunity to Cure; Recognition. Any Leasehold Mortgagee or Subleasehold Mortgagee may make any payment or perform any act or obligation required hereunder to be made or performed by Tenant under this Lease with the same effect as if made or performed by Tenant within the time permitted for the curing of such failure or default as set forth below.

(A) Monetary Event of Default. For a Tenant Default which can be cured with the payment of money ("**Monetary Event of Default**"), a Leasehold Mortgagee or Subleasehold Mortgagee shall have the right, but not the obligation, to cure the Monetary Event of Default during the period which is thirty (30) days following the expiration of Tenant's cure period under this Lease and Town shall accept the curing of a Monetary Event of Default by any Leasehold Mortgagee or Subleasehold Mortgagee during this period as performance by Tenant. During this thirty (30) day cure period, Town shall be entitled to exercise all its rights and remedies against Tenant because of the Monetary Event of Default; provided, however, in no event shall Town exercise its remedy to terminate this Lease or terminate Tenant's possession during Leasehold Mortgagee or Subleasehold Mortgagee's cure period. In the event Leasehold Mortgagee or Subleasehold Mortgagee does not cure the Monetary Event of Default within the thirty (30) day cure period, then Town may exercise all of its rights and remedies under this Lease, including its remedy to terminate this Lease in the event such Monetary Event of Default remains uncured, however, subject at all times to the Leasehold Mortgagee and Subleasehold Mortgagee's rights under Section 19.03(D) below.

(B) Non-Monetary Event of Default. For a Tenant Default which cannot be cured with the payment of money alone ("**Non-Monetary Event of Default**"), Leasehold Mortgagee or Subleasehold Mortgagee shall have the right, but not the obligation, to cure the Non-Monetary Event of Default during the period (the "**Non-Monetary Cure Period**") which is ninety (90) days after the expiration of Tenant's cure period, and Town shall accept the curing of the Non-Monetary Event of Default by Leasehold Mortgagee or Subleasehold Mortgagee as performance by Tenant. During this Non-Monetary Cure Period, Town shall be entitled to exercise all its rights and remedies against Tenant because of the Non-Monetary Event of Default; provided, however, in no event shall Town exercise its remedy to terminate this Lease or terminate Tenant's possession of the Premises during Leasehold Mortgagee or Subleasehold Mortgagee's Non-Monetary Cure Period. In the event the Leasehold Mortgagee or Subleasehold Mortgagee does not cure the Non-Monetary Event of Default within such Non-Monetary Cure Period, then Town may exercise its remedy to terminate this Lease, however subject at all time to the Leasehold Mortgagee and Subleasehold Mortgagee's rights under Section 19.03(D) below. In the event Leasehold Mortgagee or Subleasehold Mortgagee elects to exercise its cure rights under this Lease for a Non-Monetary Event of Default, Leasehold Mortgagee or Subleasehold Mortgagee shall give the Town written notice of its election to exercise such cure rights prior to the expiration of Tenant's cure period and use commercially reasonable, diligent and good faith efforts to cure such Non-Monetary Event of Default. A Non-Monetary Event of Default by Tenant which cannot be cured by Leasehold Mortgagee or Subleasehold Mortgagee without Leasehold Mortgagee or Subleasehold Mortgagee having possession of the Premises shall be governed by Section 19.03(C) instead of this Section 19.03(B).

(C) Non-Monetary Event of Default requiring Possession to Cure. Notwithstanding anything to the contrary contained in this Section 19.03, in the event of a Non-Monetary Event of Default by Tenant which by its nature cannot be cured by Leasehold Mortgagee or Subleasehold Mortgagee without Leasehold Mortgagee or Subleasehold Mortgagee having possession of the Premises or appointing a receiver, then Town shall take no action to effect a termination of this Lease or terminate Tenant's possession, without (i) first

giving to such Leasehold Mortgagee and Subleasehold Mortgagee prior written notice of such Non-Monetary Event of Default; (ii) allowing Leasehold Mortgagee or Subleasehold Mortgagee, as applicable, time to obtain possession of the Premises, to institute and complete foreclosure proceedings or otherwise acquire Tenant's leasehold estate under this Lease, through foreclosure or by the appointment of a receiver and (iii) providing Leasehold Mortgagee and Subleasehold Mortgagee, as applicable, a period of ninety (90) days from Leasehold Mortgagee or Subleasehold Mortgagee acquiring possession of the Premises or having a receiver appointed to cure such Non-Monetary Event of Default. During the period Leasehold Mortgagee and/or Subleasehold Mortgagee is attempting to obtain possession of the Premises, Town shall be entitled to exercise all its rights and remedies against Tenant because of such Non-Monetary Event of Event, but may not exercise its remedy to terminate the Lease or terminate Tenant's possession of the Premises. In the event Leasehold Mortgagee or Subleasehold Mortgagee fails to cure the Non-Monetary Event of Default within ninety (90) days after obtaining possession of the Premises or title to the leasehold estate or causing a receiver to be appointed, Town may terminate this Lease, however subject at all times to Leasehold Mortgagee or Subleasehold Mortgagee's rights under Section 19.03(D) below. Tenant agrees to cooperate with Leasehold Mortgagee, and the Town in delivering possession of the Premises to Leasehold Mortgagee or Subleasehold Mortgagee, as applicable, and to cooperate in the appointment of a receiver, in order for Leasehold Mortgagee or Subleasehold Mortgagee, as applicable, to effectuate cure of any Non-Monetary Event of Default. In no event shall any of the terms hereof prevent or delay the Town from exercising any self-help rights that may be available under the Lease to the same extent as if the Non-monetary Event of Default did not require possession of the Premises by the Leasehold Mortgagee or Subleashold Mortgagee, through a receiver or otherwise.

In furtherance of the foregoing, Tenant acknowledges that the Town is relying upon the cooperation of Tenant in permitting the Leasehold Mortgagee or any Subleasehold Mortgagee to promptly appoint a receiver during the pendency of its efforts to obtain possession of the Premises, provided, however, that Leasehold Mortgage and Subleasehold Mortgagee shall not have an obligation to appoint a receiver; the Town is agreeing upon the terms of Section 19.03(C) in reliance upon such cooperation by Tenant. In the event that a Leasehold Mortgagee or Subleasehold Mortgagee does not desire to appoint a receiver, then notwithstanding anything herein to the contrary the Town may cause a receiver to be appointed and Tenant and such mortgagee shall cooperate with such appointment. Tenant agrees that it shall not interpose any non-compulsory counterclaim or otherwise impede or delay the right of any Leasehold or Subleasehold Mortgagee or the Town to cause a receiver to be appointed for the purpose, among other things, of prosecuting the prompt cure of any Non-Monetary Event of Default hereunder.

(D) Rejection of Lease in Bankruptcy; Termination of Lease and New Lease; Operation of the Property. If, for any reason, this Lease shall be terminated by reason of the rejection of this Lease in a bankruptcy proceeding of Tenant or by reason of a Tenant Default which remains uncured by Tenant, any Leasehold Mortgagee or Subleasehold Mortgagee following the expiration of the cure periods set forth in this Section 19.03, and any Leasehold Mortgagee or Subleasehold Mortgagee sends written notice to Town prior to termination of the Lease that such mortgagee elects to enter into a New Lease (as defined below) with Town for the Property, Town shall enter into and deliver a new lease ("**New Lease**") of the Property with such Leasehold Mortgagee or Subleasehold Mortgagee (or a subsidiary or affiliate of such mortgagee) (the "**New Tenant**") for the remainder of the Term of this Lease, at the same rent and on the same terms and conditions as contained in this Lease and dated as of the date of termination of this Lease. Town's obligation to enter into a New Lease with the New Tenant

shall be contingent upon the New Tenant (i) curing all Monetary Events of Default and unconditionally assuming the obligation to cure all Non-Monetary Events of Default that are not personal to the prior Tenant within the cure period set forth in the Lease after taking possession of the Premises, (ii) payment of all annual Base Rent and Additional Rent due hereunder by the Tenant to Town to the date of execution and delivery of the New Lease, had this Lease not been terminated, and (iii) payment of out-of-pocket reasonable attorney's fees and expenses incurred by the Town in connection with entering into the New Lease and in connection with the removal of the Tenant from the Premises. Nothing herein shall prevent or delay the Town's exercise of any self-help rights otherwise available under this Lease once it is legally permitted to do so under any bankruptcy or insolvency proceeding. The Town and New Tenant agree to enter into the New Lease within ninety (90) days from receipt of the written election notice from the applicable Lender, but the rent commencement date for the New Lease shall be the last day that Tenant paid rent ("**Outside Date**"). Town agrees that during any cure period extended to a Leasehold Mortgagee or Subleasehold Mortgagee under subsections (A),(B) and (C) above, Town will not terminate any Space Lease, disturb the possession, interest or quiet enjoyment of any Sub-Tenant, or accept any cancellation, termination or surrender of any such Space Lease (unless such termination or disturbance shall be effected as a matter of law on the termination of this Lease or if the termination of such Space Lease is done pursuant to the terms of such Space Lease(s)) or enter into a lease of all or part of the Premises (except for a New Lease with a Leasehold Mortgagee or Subleasehold Mortgagee). If the Town and New Tenant (subject to New Tenant satisfying the conditions for entering into the New Lease) do not enter into the New Lease by the Outside Date, unless the parties mutually agree to extend such Outside Date, the Town shall be free of all obligations to the Leasehold Mortgagee and Subleasehold Mortgagee and shall be free to (a) terminate this Lease and any Space Lease, (b) evict any Sub-Tenant under any Space Lease and (c) lease all or any part of the Premises at Town's sole discretion. During any period of time that Leasehold Mortgagee or Subleasehold Mortgagee is in actual possession of the Property, Leasehold Mortgagee and/or Subleasehold Mortgagee shall use, manage and operate the Property, through a receiver and licensed property manager or operator with experience in managing similar projects as the Tenant Improvements, in compliance with all Requirements applicable to the Property and in a commercially prudent and sound manner consistent with similar quality projects in the geographical area where the Property is located.

(E) Lender Transfers. Notwithstanding any other provision of this Lease, any sale or other transfer of Tenant's interest in this Lease or the Premises in any proceedings for the foreclosure of the Leasehold Mortgage, or the assignment or other transfer of this Lease or of the leasehold estate hereby created in lieu of the foreclosure of the Leasehold Mortgage (whether as a result of a default hereunder, a default under the Leasehold Mortgage or otherwise) (collectively, a "**Leasehold Mortgage Transfer**"), shall not require the consent of Town, provided that such purchaser or assignee pursuant to the Leasehold Mortgage Transfer shall be deemed to have agreed in writing to perform all of the terms, covenants and conditions on the part of Tenant to be performed hereunder from and after the date of such purchase and assignment, but only for so long as such purchaser or assignee is the owner of such leasehold estate and/or is in possession and control of the Premises.

(F) Limitations. In the event of a Leasehold Mortgage Transfer, no Leasehold Mortgagee or Subleasehold Mortgagee or other person acquiring title to Tenant's interest in the Lease or the Premises pursuant to a Leasehold Mortgage Transfer shall be (a) liable for any claim, loss or damage arising or occurring prior to acquiring such title or subsequent to any assignment of such interest, (b) liable for any act or omission of Tenant, (c) bound by any amendment to this Lease not joined in or consented to by the Leasehold Mortgagee and, if

applicable, the Subleasehold Mortgagee, or (d) subject to any offsets or defenses which Town has against Tenant. In the event of a Leasehold Mortgage Transfer, Town and the transferee shall, upon written request of the other party, reaffirm in writing the validity of this Lease. Nothing contained in this Section 19.03(F) shall be construed as eliminating, modifying, or otherwise changing any other provision of this Section 19.03 requiring a Leasehold Mortgagee or Subleasehold Mortgagee to satisfy specific requirements in order to be entitled to the benefits accorded Leasehold Mortgagee or Subleasehold Mortgagee under this Section 19.03 to the extent such requirements are applicable under the circumstances.

(G) No Personal Liability. The liability of any Leasehold Mortgagee and Subleasehold Mortgagee, or their respective designee acquiring title pursuant to a Leasehold Mortgage Transfer shall be limited to its interest in the Premises, and any judgments rendered against any such Leasehold Mortgagee or Subleasehold Mortgagee, or their respective designee following the Leasehold Mortgage Transfer shall be satisfied solely out of its interests in this Lease or the proceeds of sale of its interest in the Premises. No personal judgment shall lie against any such Leasehold Mortgagee or Subleasehold Mortgagee or their respective designee upon extinguishment of its rights in the Premises, and any judgment so rendered shall not give rise to any right of execution or levy against such Leasehold Mortgagee or Subleasehold Mortgagee's or their respective designee's assets. The provisions of this Section shall not inure to the successors and assigns of any Leasehold Mortgagee or Subleasehold Mortgagee or their respective designee following a Leasehold Mortgage Transfer.

(H) No Guaranty; Only Debtor-Creditor Relationship. Nothing contained herein shall be construed as a guaranty, of any kind or nature, by any Leasehold Mortgagee or Subleasehold Mortgagee of any of the obligations of Tenant hereunder or as creating a relationship between Tenant and any Leasehold Mortgagee and Subleasehold Mortgagee other than a relationship of creditor and debtor.

(I) Space Lease Rent. Upon the execution and delivery of a New Lease under Section 19.03(D), all security deposits of Sub-Tenants and all prepaid rent moneys of Sub-Tenants that are in the Town's possession, if any, shall be transferred to the New Tenant under the New Lease, and all such leases that have been made by the Town, shall be assigned and transferred, without recourse, by the Town to the New Tenant named in such New Lease. Until each Leasehold Mortgagee and Subleasehold Mortgagee who has provided notice to the Town pursuant to Section 19.02 above has been given a notice of Tenant Default and this Lease has been terminated, the Town shall have no right and expressly waives any right arising under applicable law in and to the rentals, fees, and other amounts payable to Tenant under any Space Lease, to the extent such rentals and fees are assigned by Tenant to its Leasehold Mortgagee.

(J) Intentionally Deleted.

19.04 No Lease Amendments. Written notice of each Leasehold Mortgage and/or Subleasehold Mortgage shall be delivered by a Leasehold Mortgagee or Subleasehold Mortgagee to the Town specifying the name and address of such Leasehold Mortgagee or Subleasehold Mortgagee, as applicable, to which notices shall be sent and the Town shall be furnished a copy of each such recorded Leasehold Mortgage and Subleasehold Mortgage by the respective mortgagee thereunder. For the benefit of any Leasehold Mortgagee and Subleasehold Mortgagee entitled to notice as hereinafter provided in this Section 19.04, Town agrees, subject to all the terms of this Lease, without the consent of such Leasehold Mortgagee or Subleasehold Mortgagee, not to accept or consent to a surrender, cancellation or termination

of this Lease, or enter into any material amendment or modification to this Lease, during any period that such Leasehold Mortgage and/or Subleasehold Mortgage shall remain a lien on Tenant's leasehold estate or a Sub-Tenant's leasehold estate.

19.05 Limitation of Liability to Perform. Notwithstanding anything contained in this Lease, a Leasehold Mortgagee and Subleasehold Mortgagee shall only be liable to perform the obligations imposed on Tenant in this Lease during the period that the Leasehold Mortgagee or Subleasehold Mortgagee, as applicable, is in possession or ownership of the leasehold estate created by this Lease or to the extent of Leasehold Mortgagee and/or Subleasehold Mortgagee's access to the Premises. Notwithstanding anything contained in this Lease, the Town shall not have any liability whatsoever to Tenant, to any Sub-Tenant, to Leasehold Mortgagee, to any Subleasehold Mortgagee or to any other party whatsoever for any events, defaults under any lease subordinate to this Lease, or other occurrences in or on the Premises except only to the extent of the Town's gross negligence or willful misconduct.

19.06 Certificates. Each party agrees, at any time and from time to time but no more than one time in each calendar year, upon not less than twenty (20) days prior written notice by the other party, to execute, acknowledge and deliver to the other party a statement in writing certifying: (a) whether this Lease is in full force and effect, and if it is alleged that this Lease is not in full force and effect, setting forth the nature thereof in reasonable detail; (b) whether this Lease has been supplemented or amended, specifying the manner in which it has been supplemented or amended; (c) the date to which all rental payments have been made; (d) the commencement and expiration date of this Lease; and (e) whether or not, to the actual knowledge of the signer of such statement, the other party is in default, in keeping, observing or performing any term, covenant, agreement, provision, condition or limitation contained in this Lease and if in default, specifying each such default, it being intended that any such statement delivered pursuant to this paragraph may be relied upon by the other party, any prospective assignee of the other party's interest in this Lease or any Leasehold Mortgagee or Subleasehold Mortgagee, but reliance on such certificate may not extend to any default as to which the signer shall not have had actual knowledge.

19.07 Subordination of Town's Lien. In order to enable Tenant to secure financing for the purchase of fixtures, equipment and/or any other item of personalty now or hereafter located on or in the Premises, Town hereby waives and will from time to time, upon request, execute and deliver an acknowledgment that it has waived its "landlord's" or other statutory or common law or contractual liens securing payment of Base Rent or Additional Rent as to such fixtures, equipment or other items of personalty provided, however, that Tenant shall reimburse the Town, as Additional Rent, for the actual and commercially reasonable costs of its outside counsel in reviewing and commenting upon any such proposed waivers.

19.08 Release of Lien. Upon the scheduled expiration or early termination of this Lease, provided such termination is in accordance with the terms of this Lease including, but not limited to, this Article, Tenant, any Leasehold Mortgagee and/or Subleasehold Mortgagee, as appropriate, shall promptly execute, in recordable form, and deliver to Town, a termination of lease, termination of memorandum of lease, release of mortgage and such other documents as Town may reasonably require (collectively, the "**Release Documents**"). In the event Tenant fails to provide the foregoing Release Documents within thirty (30) Business Days after Town's written request therefor, Town shall be entitled to execute the same for and on behalf of Tenant and Tenant hereby appoint Town attorney in fact for the limited purpose of execution of such release documents.

19.09 Indemnification. By acceptance of the rights and benefits conferred upon a Leasehold Mortgagee and Subleasehold Mortgagee by this Article, such Leasehold Mortgagee and Subleasehold Mortgagee, as applicable, agrees, for itself and its successors and assigns, that it shall be bound by the terms of this Article as if such Leasehold Mortgagee or Subleasehold Mortgagee were a direct party hereto and further agrees to protect, defend, reimburse, indemnify and hold the Town and Town Representatives harmless from and, against any and all loss, damage, claim, demand, liability or expense (including reasonable and documented attorneys' fees at trial and all appellate levels) arising from Leasehold Mortgagee or Subleasehold Mortgagee's entry upon the Premises for inspection or other purposes, agreeing that the Town shall owe them no duties of care or otherwise and that such entry shall be at their sole risk and expense and, therefore, that such indemnity shall apply to any alleged negligence by the Town, but shall not apply to the extent caused by the gross negligence or more culpable misconduct of the Town or the Town Representatives.

19.10 Personal Property. Intentionally Omitted.

19.11 Fee Mortgages. This Lease, and any New Lease and, if applicable, the leasehold estate created hereby or thereby and all Leasehold Mortgages, including all amendments, renewals, and extensions thereto or thereof, shall be prior and superior to all fee mortgages ("**Fee Mortgage**") encumbering the Town's fee estate in the Property, including the Town's reversionary interest in the Property, and the rights of the holders (each a "**Fee Mortgage**") of all such Fee Mortgages. If any Fee Mortgagee shall succeed to the rights of the Town hereunder, whether through possession or foreclosure action or delivery of a new lease or deed, or in the event that the Town shall convey its fee interest in the Property, then, at the request of such party (hereinafter referred to as "**Successor Landlord**"), Tenant shall attorn to and recognize such Successor Landlord as Tenant's landlord under this Lease and shall promptly execute and deliver any instrument reasonably required by such Successor Landlord to evidence such attornment. Upon such attornment, this Lease shall continue in full force and effect as a direct Lease between Successor Landlord and Tenant, upon all terms, conditions, and covenants as set forth in this Lease. So long as no Tenant Default exist, Tenant's possession of the Premises and Tenant's rights and privileges under this Lease shall not be diminished or interfered with by any Fee Mortgagee or Successor Landlord during the Term of this Lease. This particular provision shall be binding upon any assigns or successors in interest to the Town.

19.12 Further Assurances. Upon written request from Tenant, any Sub-Tenant, any Leasehold Mortgagee (prospective or current) or any Subleasehold Mortgagee (prospective or current), Town shall, under documentation reasonably satisfactory to the requesting party and the Town, and (i) subject to the agreement of the requesting party to reimburse the Town for its actual and commercially reasonable attorneys' fees in connection therewith, as additional rent, and (ii) the agreement by Tenant to the extent required: (a) agree directly with the applicable Leasehold Mortgagee or Subleasehold Mortgagee that it may exercise against Town all Leasehold Mortgagee's rights in this Lease; (b) agree directly with the applicable Subleasehold Mortgagee that it may exercise against Town all Subleasehold Mortgagee's rights in this Lease and the applicable Space Lease; and (c) amend this Lease and/or provide other assurances as any current or prospective Lender reasonably requests, provided such amendment does not adversely affect the Town or reduce of any payment due Town or increase of any liability or obligation of Town.

ARTICLE 20 - INDEMNIFICATION

Tenant shall indemnify, defend, and save harmless the Town Representatives from and against any and all loss, damage, claim, demand, liability, and expense (including reasonable and documented attorneys' fees at trial and all appellate levels) resulting from claims by third parties and based on any acts or omissions (specifically including negligence of any Tenant Party and Tenant's failure to comply with this Lease) of the Tenant Parties in connection with the use or occupancy of the Premises by the Tenant Parties; provided, however, Tenant shall not be responsible for any loss, damage, claim, demand, liability, or expense to the extent attributable to the gross negligence or willful misconduct of the Town or any Town Representative, although the simple negligence of Town shall be included in the foregoing indemnity. Tenant shall have the right to assume the defense of any claim covered by this indemnity on behalf of both itself and the Town Representatives, provided that the attorneys selected by Tenant to handle the defense are reasonably satisfactory to Town and the representation will not result in a conflict of interest for the attorneys. Further, Tenant may not settle any claim covered by this Article without the prior written consent of Town. This Article shall not be construed to restrict, limit, or modify Tenant's insurance obligations under this Lease. The obligations arising under this Article shall survive the expiration or sooner termination of this Lease. The foregoing indemnity includes, without limitation, any claim, suit, demand or proceeding brought by a third party against the Town as a governmental entity even if such claim, suit, demand or proceeding would not be applicable to Tenant as a private entity.

ARTICLE 21 - SIGNAGE

Tenant may install and operate upon the Premises, at Tenant's sole cost and expense, signs representing the businesses operating on the Premises in compliance with the Requirements. All signage on the Premises must comply with all applicable governmental requirements applicable thereto.

ARTICLE 22 - LAWS, REGULATIONS AND PERMITS

22.01 General. Tenant agrees that throughout the Term of this Lease, Tenant shall at all times be and shall remain in full and complete compliance with all applicable Federal, State and local laws, statutes, regulations, rules, rulings, orders, ordinances and directives of any kind or nature, as now or hereafter amended.

22.02 Permits and Licenses Generally. Tenant agrees that it shall, at its sole cost and expense, be responsible for obtaining, paying for, and maintaining current, and fully complying with, any and all permits, licenses and other governmental authorizations, however designated, as may be required at any time throughout the Term of this Lease by any Federal, State or local governmental entity or any court of law having jurisdiction over the operations and activities conducted on the Premises by Tenant, including ensuring that all legal requirements, permits, and licenses necessary for, or resulting directly or indirectly from, Tenant's operations and activities on the Premises have been obtained and are in full legal compliance. Upon the written request of Town, Tenant shall provide to Town copies of any and all permits and licenses which Town may request (or, at Town's expense, certified copies).

22.03 Safety Regulation. Tenant agrees that it shall conduct its operations and activities under this Lease in compliance with safety standards imposed by applicable Federal, State and local laws and regulations and shall require the observance thereof by all Tenant Parties.

22.04 Environmental and Natural Resource Laws, Regulations and Permits.

(A) As between Town and Tenant during the Term of this Lease, Tenant hereby expressly assumes and accepts full responsibility and liability for compliance with all applicable Environmental Laws in the handling and disposal of any and all Hazardous Substances resulting from or arising out of Tenant's operations conducted on the Premises or existing on the Premises on the date of this Lease.

(B) Violation of any part of the foregoing provisions or disposal by Tenant of any Hazardous Substances in violation of the provisions of this Section 22.04 shall be deemed to be a Tenant Default under this Lease and shall be grounds for termination of this Lease unless cured within thirty (30) days of receipt of written notice from Town or as expeditiously as possible if the violation cannot be completely cured within such thirty (30) day period, provided Tenant is diligently trying to cure the violation in compliance with all Environmental Laws. As between Town and Tenant, Tenant hereby expressly assumes all responsibility for all citations, fines, environmental controls and monitoring, clean-up and disposal, restoration and corrective measures resulting from or in any way connected with the improper use, handling, storage, and/or disposal of Hazardous Substances on or from the Premises, regardless of whether or not a default notice has been issued and notwithstanding any other obligations imposed upon Tenant pursuant to the terms of this Lease. All such remedies of Town with regard to environmental requirements as set forth herein shall be deemed cumulative in nature and shall survive expiration or termination of this Lease.

(C) Tenant agrees to protect, defend, reimburse, indemnify and hold the Town Representatives harmless from and against any and all loss, damage, claim, demand, liability and expense (including reasonable and documented attorneys' fees at trial and all appellate levels) arising from, resulting out of or in any way caused by or connected to the failure of the Premises to comply with applicable Environmental Laws, but excluding to the extent caused by the entry upon the Premises and affirmative acts of the Town or Town Representatives from and after the date of this Lease. The parties acknowledge and agree that the foregoing indemnification is in addition to, and a supplement of, Tenant's indemnification agreement set forth in Article 20. The obligations arising under this Section 22.04 shall survive the expiration or earlier termination of this Lease.

ARTICLE 23 - AMERICANS WITH DISABILITIES ACT

Tenant and the Premises shall comply with the applicable requirements of the Americans with Disabilities Act, the State of Florida Accessibility Requirements Manual, and Section 504 of the Rehabilitation Act of 1973 and any similar or successor laws, ordinances, rules, regulations and orders, including, but not limited to 28 CFR Part 36, 49 CFR Parts 27 and 37, and shall cooperate in a commercial and reasonable standard with Town to ensure Tenant remains in compliance with such requirements throughout the Term of this Lease.

ARTICLE 24 - DISCLAIMER OF LIABILITY

TENANT HEREBY DISCLAIMS, AND HEREBY RELEASES THE TOWN REPRESENTATIVES FROM ANY AND ALL LIABILITY, WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE AND NUISANCE), FOR ANY LOSS, DAMAGE, OR INJURY OF ANY NATURE WHATSOEVER SUSTAINED BY ANY TENANT PARTY DURING THE TERM OF THIS LEASE OR ANY EXTENSION THEREOF INCLUDING, BUT NOT LIMITED TO, LOSS, DAMAGE OR INJURY TO THE TENANT IMPROVEMENTS OR

PERSONAL PROPERTY THAT MIGHT BE LOCATED OR STORED ON THE PREMISES, UNLESS AND TO THE EXTENT SUCH LOSS, DAMAGE OR INJURY IS CAUSED BY A TOWN REPRESENTATIVE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. TENANT AND THE TOWN EXPRESSLY AGREES THAT UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE, AND NUISANCE), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR ANY OTHER INDIRECT, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGE RELATED TO THE LEASING OF THE PREMISES PURSUANT TO THIS LEASE.

ARTICLE 25 – TOWN NOT LIABLE

Town shall not be responsible or liable to Tenant for any claims for compensation or any losses, damages or injury whatsoever sustained by Tenant resulting from failure of any of the following: (a) water supply, heat, air conditioning, electrical current, or sewerage or drainage facility unless caused by the gross negligence or willful misconduct of Town; or (b) caused by natural physical conditions on the Premises, whether on the surface or underground, including stability, moving, shifting, settlement of ground, or displacement of materials by fire, water, windstorm, tornado, hurricane, act of God or state of war, civilian commotion or riot, or any other cause, whether beyond or within the control of Town.

ARTICLE 26 - AUTHORIZED USES ONLY

Notwithstanding anything to the contrary herein, Tenant shall not use or reasonably permit the use of the Premises for any illegal purpose.

ARTICLE 27 - MISCELLANEOUS

27.01 Waiver. The failure of either party to insist on strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that either party may have for any subsequent breach, default, or non-performance, and neither parties' right to insist on strict performance of this Lease shall be affected by any previous waiver or course of dealing.

27.02 Easements. Nothing in this Lease shall impair any existing utility easements, nor impair the right of access to any existing utility lines. Town shall not grant any utility easements, licenses and rights-of-way to others over, under, through, across or on the Premises reasonably anticipated to have a material adverse effect on the proper conduct of Tenant's authorized business operations on the Premises without the prior written consent of Tenant. The parties shall cooperate in good faith determine the appropriate location of such easements, licenses and rights-of-way in an effort to avoid any unnecessary impacts to Tenant's Intended Project and business operations on the Premises, including, without limitation, any impact to Tenant's Improvements, access to or visibility of the Premises, availability or reduction of parking on the Premises, and the scope of Tenant's rights under this Lease. Tenant agrees to consent and join to any such utility easements, license and right-of-way granted by Town in accordance with the requirements of this Section 27.02 upon Town's written request to Tenant. Town agrees to use commercially reasonable and diligent efforts to utilize existing utility easements, licenses and rights-of-way prior to exercising Town's rights under this Section 27.02.

27.03 Independent Contractor. Tenant or any successor in interest to this Lease, is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions, and Town shall in no way be responsible therefor.

27.04 Governmental Authority. Nothing in this Lease shall be construed to waive or limit Town's governmental authority as a political subdivision of the State of Florida to regulate Tenant or its operations. Town's obligations under this Lease are made in a proprietary capacity, rather than in a governmental capacity and such agreements shall not be construed as limiting, prohibiting or eliminating the obligation of the parties to comply with all applicable rules, regulations, ordinances, statutes and laws, nor to alter or impair Town's governmental functions, including, but not limited to, Town's right to lawfully exercise its regulatory authority over the development of the Premises, nor as enabling, permitting, or creating any cause of action or claim arising out of the lawful exercise of Town's governmental authority.

27.05 Intentionally Omitted.

27.06 Invalidity of Clauses. The invalidity of any portion, article, paragraph, provision, clause or any portion thereof of this Lease shall have no effect upon the validity of any other part or portion hereof.

27.07 Governing Law. This Lease shall be governed by and in accordance with the laws of the State of Florida.

27.08 Venue; Jurisdiction. Exclusive venue in any action, suit or proceeding in connection with this Lease shall be filed and held in a State court of competent jurisdiction located in Palm Beach County, Florida.

27.09 Notices. All notices and elections (collectively, "**notices**") to be given or delivered by or to any party hereunder, shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service or overnight mail, or alternatively shall be delivered by the United States Postal Service, Certified Mail, with Return Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services or overnight mail, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

Town: Town of Palm Beach, Florida
360 South County Road
Palm Beach, FL 33480
Attn: Town Manager

with copy to: Akerman LLP
Three Brickell City Centre
98 Southeast Seventh Street, Suite 1100
Miami, FL 33131
Attn: Janis K. Cheezem, Esq.

Tenant: AHS Residential, LLC
12895 S.W. 132 Street, Suite 202
Miami, Florida 33186
Attn: Juan G. Fernandez, Esq.,
Corporate Counsel
Fax number: (305) 255-5589
Email: jfg@ahsresidential.com

with copy to: Gray Robinson, P.A.
333 S.E. 2nd Avenue, Suite 3200
Miami, Florida 33131
Attn: Barbara J. Ferrer, Esq.
Fax number: (305) 416-6887
Email: barbara.ferrer@gray-robinson.com

Any party may from time to time change the address to which notice under this Lease shall be given such party, upon three (3) days prior written notice to the other party.

27.10 Inspector General. The County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of Tenant, its officers, agents, employees and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second-degree misdemeanor and shall be a default under this Lease without any grace or cure period.

27.11 Paragraph Headings. The heading of the various articles and sections of this Lease are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Lease or any part or parts of this Lease.

27.12 No Recording. Neither this Lease, nor any memorandum or short form hereof, shall be recorded in the Public Records of Palm Beach County, Florida, without the prior written consent of the Town Council; provided, however, Tenant may record, at its sole cost and expense, a memorandum of this Lease in the form attached to this Lease as **Exhibit "B"** after the expiration of the Inspection Period, which may be signed by the Town Manager on behalf of Town. Upon the scheduled expiration or early termination of this Lease, Tenant shall promptly execute, in recordable form, and deliver to Town a termination of the memorandum of this Lease. In the event Tenant fails to provide the foregoing termination document within thirty (30) Business Days after Town's written request therefor, Town shall be entitled to execute the same for and on behalf of Tenant and Tenant hereby appoints Town attorney-in-fact for the limited purpose of execution of such termination document.

27.13 Binding Effect The terms, conditions and covenants of this Lease shall inure to the benefit of and be binding upon the parties hereto and their successors, assigns and

subtenants, if any. This provision shall not constitute a waiver of any prohibition against or limitations regarding assignment or subletting.

27.14 Performance. The parties expressly agree that time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

27.15 Approvals by the Town. All requests for action or approvals by the Town will be sent to the Town Manager for decision as to who within the Town, including the Town Council, must act or approve the matter on behalf of the Town.

27.16 Construction. No party shall be considered the author of this Lease since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final Lease. Thus, the terms of this Lease shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof, shall be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Lease and the same shall remain in full force and effect.

27.17 Broker. Tenant represents and warrants that Tenant has not dealt with any real estate salesperson, agent, finder or broker in connection with this Lease other than Robert D. Kelley, Licensed Real Estate Broker, ("**Tenant's Broker**") and Tenant further agrees to indemnify, defend and hold harmless Town from and against any claims or demands of any salesperson, agent, finder or broker claiming to have dealt with Tenant, including, without limitation, Tenant's Broker. The foregoing indemnifications shall include all costs, expenses and fees, including reasonable attorney's fees plus cost at trial and all appellate levels, expended or incurred in the defense of any such claim or demand. The obligations set forth in this paragraph shall survive the termination of this Lease. The Town agrees to pay Tenant's Broker commission in an amount equal to four percent (4%) of the aggregate annual Base Rent amount paid by Tenant during the initial ten (10) years of the Term of this Lease. Such commission shall be due and payable by the Town as follows (a) fifty percent (50%) within thirty (30) days following the date of approval of the Land Use Amendment, and (b) fifty percent (50%) within thirty (30) days following the Date of Beneficial Occupancy.

27.18 Public Entity Crimes. As provided in Section 287.132-133, Florida Statutes, by entering into this Lease or performing any work in furtherance hereof, Tenant certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the effective date hereof. This notice is required by Section 287.133(3) (a), Florida Statutes. Furthermore, such certification and the truth thereof shall be required by any subtenant and as a condition to Town's consent to any assignee under this Lease, whether or not related to Tenant, and in the event the Town's consent to any transfer under this Lease is not required for any reason, including without limitation with respect to transfers accomplished under ARTICLE 19 hereof, such consent shall be deemed to have been granted and the truth thereof shall be deemed to have been agreed upon and certified to by such party.

27.19 Scrutinized Companies. As provided in Section 287.135, Florida Statutes, by entering into this Lease or performing any work in furtherance hereof, Tenant certifies that it, its affiliates, suppliers, subcontractors and consultants who perform hereunder, have not been placed on the Scrutinized Companies Activities in Sudan List or Scrutinized Companies with

Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, or on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to Section 215.4725, Florida Statutes, or is engaged in business operations in Cuba or Syria. If Town determines, using credible information available to the public, that a false certification has been submitted by Tenant, this Lease may be terminated and a civil penalty equal to the greater of Two Million Dollars (\$2,000,000) or twice the amount of this Lease shall be imposed, pursuant to Section 287.135, Florida Statutes. Furthermore, this certification and the truth thereof shall be required by any subtenant and as a condition to Town's consent to any assignee under this Lease, whether or not related to Tenant and in the event the Town's consent to any transfer under this Lease is not required for any reason, including without limitation with respect to transfers accomplished under ARTICLE 19 hereof, such consent shall be deemed to have been granted and the truth thereof shall be deemed to have been agreed upon and certified to by such party.

27.20 Annual Appropriation. Nothing in this Lease shall obligate Town during any fiscal year to expend money or incur any liability that involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Town's obligations under this Lease, which involve the expenditure of money, shall be subject to annual budgetary funding and appropriations. This Section 27.20 shall not act or be construed as a waiver of any rights Tenant may have to pursue its remedies at law or in equity, include, without limitation, any claim Tenant may have for breach of contract.

27.21 Intentionally Omitted.

27.22 Entirety of Agreement. The parties agree that this Lease sets forth the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Lease may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.

27.23 Remedies Cumulative. The rights and remedies of the parties hereto with respect to any of the terms and conditions of this Lease shall be cumulative and not exclusive and shall be in addition to all other rights and remedies of the parties.

27.24 Incorporation by References. All exhibits attached hereto and referenced herein shall be deemed to be incorporated in this Lease by reference.

27.25 No Third-Party Beneficiaries. No provision of this Lease is intended to, or shall be construed to, create any third-party beneficiary or to provide any rights to any person or entity not a party to this Lease, including but not limited to any citizen or employees of Town and/or Tenant.

27.26 Force Majeure. Notwithstanding anything to the contrary set forth herein, neither party shall be liable for failure to perform any of its obligations under this Lease in the event it is prevented from so performing by an event of force majeure, including, strike, lockout, breakdown, floods, extreme weather (such as tropical storms or hurricanes), casualty, acts of terrorism, war or other emergency, restraint by court or other public authority, litigation or administrative challenges by third parties to the execution or performance of this Lease or the procedures leading to its execution and/or approval, inability to obtain labor or materials, moratoriums (an "**Event(s) of Force Majeure**"). Where there is an Event of Force Majeure the party prevented from or delayed in performing its obligations under this Lease must promptly

notify the other party giving full particulars of the Event of Force Majeure and that party must use its reasonable efforts to mitigate the effect of the Event of Force Majeure upon its or their performance and fulfillment its or their obligations under the Lease. Upon conclusion of the Event of Force Majeure the party affected must as soon as reasonably practicable recommence the performance of its obligations under this Lease. An Event of Force Majeure does not relieve a party from liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation to pay money in a timely manner, including, without limitation, the Tenant's obligation pursuant to Section 3.08 to reimburse the Town for the third party fees and costs expressly permitted by Section 3.08.

27.27 Radon. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the Palm Beach County public health department.

27.28 Public Records.

(A) Tenant acknowledges that Town is required to comply with applicable laws relating to public records, including Chapter 119, Florida Statutes, ("**Public Records Law**") and that records submitted by Tenant to Town or by Town to Tenant pursuant to this Lease may be subject to public disclosure. Tenant shall comply with all applicable provisions of the Public Records Law. Tenant shall separately submit and prominently identify any records submitted by Tenant that Tenant believes to be exempt or prohibited from disclosure under the Public Records Law ("**Exempt Records**") including the specific statutory authorization for exemption. Simultaneously with the submission of identified Exempt Records, Tenant shall submit a sworn affidavit from a person with knowledge attesting that the specified records constitute exempt records under the Public Records Law and stating the factual basis for the attestation. In the event a third party submits a request to Town for the release of records that Tenant has identified as Exempt Records, Town shall promptly notify Tenant in writing that it has received the request and state whether Town intends to release such records, but Town shall not release such records unless ordered to do so by a court of competent jurisdiction or authorized to do so in writing by Tenant. Tenant shall have the right and obligation to assume the defense of any claim arising in connection with these provisions using the services of attorneys selected by Tenant that are reasonably satisfactory to the Town and whose representation will not create a conflict of interest for the attorneys. Tenant shall protect, defend, reimburse, indemnify and hold the Town and Town Representatives harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines, penalties, judgments, and damages (including reasonable attorney fees, court costs, and litigation expenses at trial and appellate levels) relating to the non-disclosure of any Exempt Records in response to a records request by a third party. The obligations arising herein shall survive the expiration or sooner termination of this Lease.

(B) To the extent Tenant is determined to be acting on behalf of Town as stated in Section 119.0701, Florida Statutes, Tenant shall:

(1) Keep and maintain public records required were Town performing the services under this Lease;

(2) Upon request from Town, provide Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and

at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

(3) Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law for the duration of the Lease and following completion of the Lease if the records are not transferred to Town; and

(4) Upon completion of the Lease, transfer to Town, at no cost, all public records in possession of Tenant or keep and maintain public records required by Town to perform the service. If Tenant transfers all public records to Town, upon the completion of the Lease, Tenant shall destroy any duplicate public records that are exempt or confidential and exempt. If Tenant keeps and maintains public records upon completion of the Lease, Tenant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Town upon request in a format that is compatible with the information technology systems of Town.

The failure of Tenant to comply with the applicable provisions of this Section 27.28(B) shall constitute a material breach of this Lease entitling Town, after written notice to Tenant and a period not to exceed thirty (30) days for Tenant to cure such breach (although such thirty (30) day period may be abbreviated under Public Records Law based on the complexity and volume of the public records requested), to exercise any remedy provided in this Lease or under applicable law. A request for public records regarding this Lease must be made directly to Town, who will be responsible for responding to any such public records requests. Tenant will provide any requested records to Town to enable Town to respond to the public records request.

IF TENANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO TENANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS LEASE, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE OFFICE OF THE TOWN OF PALM BEACH TOWN CLERK.

27.29 Quiet Enjoyment. Town covenants and agrees that so long as no Tenant Default shall exist, Tenant may peaceably and quietly hold and enjoy the Premises for the Term of this Lease without hindrance or interruption by Town or any other person claiming by, through or under Town subject to the terms and conditions hereof. During the Term of this Lease, Tenant shall be entitled to exclusive possession of the Premises and the Town shall not grant any other rights to use the Property, including, without limitation, any easements, licenses or other occupancy rights.

27.30 Non-discrimination. In accordance with Laws, the parties shall not discriminate against any person, group of persons or entity on the basis of race, gender, religion, national or ethnic origin, age or disability.

27.31 Survival. Notwithstanding any early termination of this Lease, Tenant and Town shall remain obligated hereunder to perform any financial obligation imposed thereon arising on or prior to the date of such termination that remains unsatisfied as of the effective date of termination.

27.32 Waiver of Jury Trial; Consent to Jurisdiction. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION OR COUNTERCLAIM ARISING OUT OF OR RELATING TO (a) THIS LEASE, INCLUDING ANY EXHIBITS, OR SCHEDULES ATTACHED TO THIS LEASE; (b) ANY OTHER DOCUMENT OR INSTRUMENT NOW OR HEREAFTER EXECUTED AND DELIVERED IN CONNECTION WITH THIS LEASE; OR (c) THE TRANSACTIONS CONTEMPLATED BY THIS LEASE. THIS WAIVER SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS LEASE.

27.33 Irrevocable Waiver of Certain Rights. To induce Town to enter into this Lease:

(A) Tenant agrees and is forever estopped from asserting to the contrary that: (i) this Lease is a single lease pursuant to which the collective Premises are demised as a whole to Tenant, (ii) except as specifically permitted under the terms of this Lease, this Lease is a unitary, indivisible, unseverable instrument pertaining to all but not less than all of the Premises and (iii) neither this Lease nor the duties, obligations or rights of Tenant may be allocated or otherwise divided among the Premises by Tenant;

(B) Tenant agrees and is forever estopped from asserting to the contrary that this Lease does not in any manner make Tenant the partner, joint venturer or agent of Town;

(C) Tenant agrees and is forever estopped from asserting to the contrary that if, notwithstanding the provisions of this Section, this Lease were to be determined or found to be in any proceeding, action or arbitration under state or federal bankruptcy, insolvency, debtor-relief or other applicable laws to constitute multiple leases demising multiple properties, that such multiple leases could not, by the debtor, trustee, or any other party, be selectively or individually assumed or rejected;

(D) Tenant forever knowingly waives and relinquishes any and all rights under or benefits of the provisions of the United States Bankruptcy Code Section 365 (11 U.S.C. § 365), or any successor or replacement thereof or any analogous state law, to selectively or individually assume or reject the multiple leases comprising this Lease following a determination or finding in the nature of that described in the foregoing Subsection (C);

(E) Tenant agrees, acknowledges and is forever estopped from asserting to the contrary that this Lease is a "true lease" and not a financing lease, mortgage, equitable mortgage, deed of trust, trust agreement or other financing or trust arrangement; the economic realities of this Lease are those of a true lease; and the business relationship created by this Lease and any related documents is solely that of a long-term lease between Town and Tenant and has been entered into by both parties in reliance on the economic and legal bargains contained herein;

(F) Tenant agrees, acknowledges and is forever estopped from asserting to the contrary that the parties agree that from an economic point of view the portions of the Premises leased pursuant to this Lease constitute one economic unit and that the annual Base Rent and all other provisions have been negotiated and agreed to base on a demise of all of the Premises demised by this Lease as a single, composite, inseparable transaction; that all provisions of this Lease shall apply equally and uniformly to all the Premises as one unit and are not severable; that the economic terms of this Lease would have been substantially different had separate leases for a "divisible" lease been acceptable to Town; that a default in

any of the terms or conditions of this Lease occurring with respect to any portion of the Premises shall be a default under this Lease with respect to all of the Premises; and that the provisions of this Lease shall at all times be construed, interpreted and applied such that the intention of Town and Tenant to create a unitary Lease shall be preserved and maintained.

27.34 Arbitration. Any dispute between Town and Tenant relating to the matters addressed in Section 7.12 and/or whether a condition or event constitutes an Event of Force Majeure shall be referred to and exclusively and finally settled by binding arbitration, conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association (or similar successor rules thereto), and shall not be subject to judicial review. The place of arbitration shall be Palm Beach, Florida. In the event that any party calls for a determination in arbitration pursuant to the terms of this Lease, the parties shall have a period of ten (10) days from the date of such request to mutually agree on one arbitrator who, at a minimum, must be an attorney with at least fifteen (15) years of experience practicing real estate construction law (with significant experience in development projects and related litigation) in Palm Beach County, Florida. If the parties fail to agree, each party shall have an additional ten (10) days to select an individual meeting the same minimum qualifications set forth above, and the two (2) arbitrators selected shall select an arbitrator to be the arbitrator for the dispute in question. If any party fails to make its respective selection of an arbitrator within the additional 10-day period provided for above, then the remaining party's selection shall select the arbitrator. The arbitrator shall decide the issues submitted to him/her in accordance with (a) the language, commercial purpose and restrictions contained in this Lease (including exhibits hereto, if any) and (b) what is just and equitable under the circumstances, provided that all substantive issues shall be determined under the laws of the State of Florida. With respect to any arbitration proceeding hereunder, the following provisions shall apply: (i) the parties shall cooperate with one another in the production and discovery of requested documents, and in the submission and presentation of arguments to the arbitrator at the earliest practicable date; (ii) the arbitrator conducting any arbitration shall be bound by the provisions of this Lease and shall not have the power to add to, subtract from or otherwise modify such provisions; and (iii) each party shall be responsible for its own costs and expenses incurred in the arbitration, including attorneys' fees, but the costs of the presiding arbitrator and the arbitration itself shall be shared equally by the Parties. Arbitration of any dispute hereunder shall be conducted on an expedited basis under the "Expedited Procedures" of the Commercial Arbitration Rules to the fullest extent possible.

[SIGNATURE BLOCKS ON FOLLOWING PAGE]

[SIGNATURE PAGE OF GROUND LEASE]

The parties have executed this Lease as of the dates set forth below their respective signatures.

Witnesses (two required):

THE TOWN OF PALM BEACH, a political
subdivision of the State of Florida

Signature: _____

By: _____

Print Name: _____

By: _____

Signature: _____

Date: _____

Print Name: _____

ATTEST:

By: _____

City Clerk

APPROVED AS TO FORM AND SUFFICIENCY
FOR THE USE AND RELIANCE OF THE TOWN OF
PALM BEACH ONLY:

By: _____

City Attorney

[SIGNATURE PAGE OF GROUND LEASE]

Witnesses (two required):

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

CRE Fund at Okeechobee Boulevard, LLC,
a Florida limited liability company

By: _____

Ernesto Lopes, Manager/President

Date: _____

9/3/19

EXHIBIT "A" LEGAL DESCRIPTION

[note: an agreed upon legal description will be substituted for the following legal description based on Tenant's title commitment and the Town's agreement to the legal description set forth therein]

Property Detail

[Show Full Map](#)

Location Address	5976 OKEECHOBEE BLVD
Municipality	UNINCORPORATED
Parcel Control Number	00-42-43-26-05-004-0000
Subdivision	WESTMOOR PINES PL 1 IN
Official Records Book/Page	/
Sale Date	
Legal Description	WESTMOOR PINES PL 1 ALL BLKS 4, 5, 15, 16, 23 & RDS LYG BET & ADJ THERETO

Location Address	5976 OKEECHOBEE BLVD
Municipality	UNINCORPORATED
Parcel Control Number	00-42-43-26-00-000-1300
Subdivision	
Official Records Book/Page	/
Sale Date	
Legal Description	26-43-42, NW 1/4 OF SW 1/4 OF NE 1/4 (LESS S 60 FT OF W 60 FT K/A TELE MEDIA LEASE PAR)

Location Address	
Municipality	UNINCORPORATED
Parcel Control Number	00-42-43-26-00-000-1340
Subdivision	
Official Records Book/Page	/
Sale Date	
Legal Description	26-43-42, S 60 FT OF W 60 FT OF NW 1/4 OF SW 1/4 OF NE 1/4 K/A TELE MEDIA LEASE PAR

EXHIBIT "B"
FORM MEMORANDUM OF LEASE

(attached)

WHEN RECORDED RETURN TO:

Janis K. Cheezem, Esq.
Akerman LLP
Three Brickell City Centre
98 Southeast Seventh Street, Suite 1100
Miami, FL 33131

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MEMORANDUM OF LEASE

This is a Memorandum of Lease by and between the **TOWN OF PALM BEACH, FLORIDA**, a political subdivision of the State of Florida, whose address is 360 South County Road, Palm Beach, FL 33480, Attention Town Manager (hereinafter called "Landlord"), and **CRE FUND AT OKEECHOBEE BOULEVARD LLC**, a Florida limited liability company, whose address is c/o AHS Residential, LLC, 12895 S.W. 132nd Street, Suite 202, Miami, FL 33186, Attention: Corporate Counsel (hereinafter called "Tenant"), upon the following terms:

Date of Lease:	[_____], 2019.
Premises:	The real property known as 5976 Okeechobee Blvd., West Palm Beach, Florida legally described in <u>Exhibit A</u> attached hereto.
Commencement Date:	As determined in accordance with Section 1 of the Lease.
Rent Commencement Date:	As determined in accordance with Section 1 of the Lease.
Initial Term:	Fifty (50) years from the Date of Beneficial Occupancy as defined in the Lease.
Extension Terms:	One (1) period of ten (10) years, subject to the discretion of each of Landlord and Tenant.
Right of First Refusal:	Tenant has no option to purchase all or any portion of the Premises, including but not limited to, any right of first offer or first refusal.

The purpose of this Memorandum of Lease is to give record notice of that certain Ground Lease Agreement dated as of [_____], 2019, between Landlord and Tenant ("Lease") and of the rights created thereby, all of which are hereby confirmed. This Memorandum of Lease is not intended to, and shall not be deemed or construed to, change the provisions of the Lease in any respect. In the event of any conflict or inconsistency between the provisions of this Memorandum of Lease and the provisions of the Lease, the provisions of the Lease shall prevail.

Tenant agrees that nothing contained in this Lease shall be construed as consent by Town to subject the fee simple estate of Town to liability under the Construction Lien Law of the State of Florida and understands that Town's fee simple estate shall not be subject to such liability. Tenant shall notify any

and all parties or entities performing work or providing materials relating to any Tenant Improvements of this provision of this Lease.

Upon expiration or termination of the Lease, Tenant acknowledges, for itself and its successors and assigns, that it shall be sufficient for purposes of title for Landlord to record an affidavit setting forth the fact that the Lease has expired or has been terminated and stating the date on which such Lease expired or terminated. Any purchaser, title insurer, title agent or attorney shall be entitled to rely upon such affidavit. Tenant specifically acknowledges that, but for the provisions of this paragraph, Landlord would not enter into the Lease and the intention of the aforesaid affidavit is to give third party purchasers the right to rely upon the affidavit in establishing that the title they acquire will be free from any rights under the Lease.

SIGNATURES ON FOLLOWING PAGES

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the dates set forth in their respective acknowledgments.

WITNESSES:

Print Name:

Print Name:

LANDLORD:

THE TOWN OF PALM BEACH, FLORIDA,
a political subdivision of the State of Florida

By: _____

Name: _____

Title: _____

Date: _____

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

Personally appeared before me, a Notary Public in and for the above County and State, _____ ☐ personally known to me or ☐ has produced his driver's license as identification and acknowledged by me to be on the date of execution, _____ of **THE TOWN OF PALM BEACH, FLORIDA**, a political subdivision of the State of Florida, and (s)he executed the foregoing for and on behalf thereof.

Witnesses by hand and this notary seal, this ____ day of _____, 2019.

Notary Public in and for the State and aforesaid County

(Printed Name of Notary)

My Commission Expires: _____

WITNESSES:

WITNESSES:

[Signature]
Print Name: Juan Fernandez

[Signature]
Print Name: CARLOS E. Gonzalez

TENANT:

**CRE FUND AT OKEECHOBEE BOULEVARD
LLC**, a Florida limited liability company

By: [Signature]
Name: Erasmo Lopez
Title: Manager / President
Date: 9/3/19

STATE OF FLORIDA)
COUNTY OF Dade)

Personally appeared before me, a Notary Public in and for the above County and State, Erasmo Lopez ☒ personally known to me or ☐ has produced his driver's license as identification and acknowledged by me to be on the date of execution, _____ of **CRE FUND AT OKEECHOBEE BOULEVARD LLC**, a Florida limited liability company, and (s)he executed the foregoing for and on behalf of said corporation.

Witnesses by hand and this notary seal, this 03 day of sep, 2019.

[Signature]
Notary Public in and for the State and County aforesaid

MIRIAM CASUSO
(Printed Name of Notary)

My Commission Expires: 12/20/22



EXHIBIT "C"
ANNUAL BASE RENT SCHEDULE

I. Annual Base Rent for Lease Years 1 – 25

PERIOD	ANNUAL BASE RENT	MONTHLY RENT
1 – 5	\$867,618.00	\$72,301.50
6 - 10	\$954,380.00	\$79,531.66
11 – 15	\$1,049,818.00	\$87,484.83
16 – 20	\$1,154,800.00	\$96,233.33
21 - 25	\$1,270,280.00	\$105,856.66

II. Reset of annual Base Rent as of the Commencement of Lease Year 26 and annual Base Rent for Lease Years 26 -30.

Effective of the first day of Lease Year 26, the annual Base Rent shall be adjusted to the amount equal to six percent (6%) of the Prevailing Market Value of the Property, as determined by Rider No. 1 of this Exhibit "C"; provided, however, in no event shall the annual Base Rent for Lease Year 26 be more than 122.5% (or \$1,571,971.00) of the annual Base Rent for Lease Year 25 or less than 97.5% (or \$1,222,644,000.00) of the annual Base Rent for Lease Year 25. The annual Base Rent, as adjusted by this paragraph, shall remain in effect until the last day of Lease Year 30.

III. Annual Base Rent for Lease Years 31 – 50

Effective as of the first day of Lease Year 31, 36, 41 and 46, the annual Base Rent shall increase to the amount which is 110% of the annual Base Rent for the immediately preceding Lease Year.

Rider No. 1
Appraisal Procedures

The "Prevailing Market Rate" (as hereinafter defined) of the Property as of the commencement of the 26th Lease Year shall be determined as follows:

A. The term "**Prevailing Market Rate**" means the amount that a seller under no compulsion to sell, and a buyer under no compulsion to purchase, would agree as the fair market value of the Property (without taking into consideration the value of any of the buildings, structures or other improvements on the Property) as of the commencement of the twenty-sixth (26th) Lease Year. The Prevailing Market Rate shall be based upon sales of unencumbered property recently entered into in the area of the Property ("**Comparison Transactions**"). The determination of Prevailing Market Rate shall take into consideration the location of the Property, and other factors in each of the Comparable Transactions affecting their value.

B. Tenant shall, not later than the first day of the twenty-fifth (25th) Lease Year, deliver to the Town a good faith written proposal of the Prevailing Market Rate for the Property. Within 60 days after receipt of Tenant's proposal, the Town shall deliver written notice to Tenant that (i) the Town accepts Tenant's proposal or (ii) the Town rejects Tenant's proposal. If the Town does not give Tenant a timely written notice in response to Tenant's proposal, Tenant's proposal of Prevailing Market Rate shall be deemed rejected by the Town.

C. If the Town timely rejects or is deemed to have rejected Tenant's proposal, the Town and Tenant shall first negotiate in good faith in an attempt to agree upon the Prevailing Market Rate. If the Town and the Tenant are unable to agree on the Prevailing Market Rate within thirty (30) days following the sixty (60) period set forth in Subsection B. above (the "**Negotiation Period**"), then within ninety (90) days after expiration of the Negotiation Period, the parties shall meet and concurrently deliver to each other their respective written estimates of the Prevailing Market Rate, supported by the reasons therefore (respectively, "**Town's Determination**" and "**Tenant's Determination**" and each, irrespective of whether Town's Determination or Tenant's Determination, a "**Determination**" and together the "**Determinations**"). If either party fails to deliver its Determination in a timely manner, then the Prevailing Market Rate shall be the amount specified by the other party. If the higher of such Determinations is not more than one hundred five percent (105%) of the lower of such Determinations, then the Prevailing Market Rate shall be the average of the two Determinations. If the Prevailing Market Rate is not resolved by exchange of the Determinations, the Prevailing Market Rate shall be determined as follows, each party being bound to its Determination and such Determinations constituting the only two choices available to the Prevailing Market Rate Panel (as hereinafter defined).

D. Within thirty (30) days after the parties exchange Town's and Tenant's Determinations, the parties shall each appoint a neutral and impartial licensed real estate appraiser operating under a neutral and impartial licensed real estate appraiser who shall have at least ten (10) years' experience, immediately prior to his or her appointment, as a commercial appraiser for long term leases and property sales in Palm Beach County, Florida ("**Qualified Appraiser**"). For purposes hereof, "independent" means that such person is not representing the Town or Tenant or its affiliates and has not represented either for the prior three (3) year period. If either the Town or Tenant fails to appoint a Qualified Appraiser within said thirty (30) day period, the Prevailing Market Rate shall be the Determination of the other party who timely appointed a Qualified Appraiser.

E. The Town's and Tenant's Qualified Appraiser shall work together in good faith to appoint a neutral, impartial third-party Qualified Appraiser within ten (10) days after both have been appointed, and notify both the Town and Tenant of such selection. The three Qualified Appraisers shall then work together in good faith to decide which of the two Determinations more closely reflects the Prevailing Market Rate of the Property. The Determination selected by such Qualified Appraiser(s) shall be binding upon Town and Tenant.

F. Within five (5) days following notification of the identity of the third Qualified Appraiser, the Town and Tenant shall submit copies of the Town's Determination and Tenant's Determination to the third Qualified Broker. The three Qualified Appraisers are referred to herein as the "**Prevailing Market Rate Panel**." The Prevailing Market Rate Panel, if it so elects, may conduct a hearing, at which the Town and Tenant may each make supplemental oral and/or written presentations, with an opportunity for rebuttal by the other party and for questioning by the members of the Prevailing Market Rate Panel. Within forty-five (45) days following the appointment of the third Qualified Appraiser, the Prevailing Market Rate Panel, by majority vote, shall select either the Town's Determination or Tenant's Determination as the Prevailing Market Rate of the Premises, and shall have no right to propose a middle ground or to modify either of the two proposals or the provisions of this Lease. The decision of the Prevailing Market Rate Panel shall be final and binding upon the parties, and may be enforced in accordance with the provisions of Florida law and this Lease. In the event of the failure, refusal or inability of any member of the Prevailing Market Rate Panel to act, a successor shall be appointed in the manner that applied to the selection of the member being replaced. Each party shall pay the fees and expenses of the Qualified Appraiser appointed by such party, and one-half of the fees and expenses of the third Prevailing Market Rate Panel and the expenses incident to the proceedings of the Prevailing Market Rate Panel (excluding attorneys' fees and similar expenses of the parties which shall be borne separately by each of the parties).

EXHIBIT "D"

PROHIBITED USES

In no event may any portion of the Property be used for any of the following uses (each a **"Prohibited Use"** and together **"Prohibited Uses"**), and each sublease, sublicense or any other instrument granting the right to use any portion of the Property shall expressly prohibit the following, such language being referred to as "Required Prohibited Use Language":

1. any lewd, pornographic or illegal purpose, including, but not limited to, any use involving nude or semi-nude dancing or entertainment or the production, sale, or exhibition of any obscene or pornographic books, films, images, materials, or paraphernalia;
2. Any dumping, incineration or disposing of trash (the foregoing is not intended to prohibit the placement of trash in dumpsters from which such trash is regularly removed).
3. Any massage parlor; any psychic, fortune teller, card reader or similar establishment; or any so-called "strip-club" or "gentlemen's club" or other similar operation.
4. Any casino, gambling hall, off track betting facility or gambling operation (provided this restriction shall not prohibit incidental sales of lottery tickets).
5. Any adult bookstore, pornography shop or other facility specializing in or exhibiting pornographic material (defined as stores with five percent (5%) or more of their inventory that is not available for sale or rental to children under sixteen (16) years of age where such inventory explicitly deals with or depicts human sexuality).
6. A bar or nightclub, unless a bar is an incidental part of a restaurant.
7. Any so called "head shop" or similar facility selling or otherwise providing drug-related paraphernalia.
8. A facility whose primary business is the sale of tobacco and/or tobacco-related products, including electronic cigarettes or other vapor-producing devices.
9. Any use which, while permitted by Florida law, is prohibited by the laws of the United States.
10. Any gas station, dry cleaning facility or other facility that uses hazardous chemicals, materials, or substances, and any industrial use.
11. Tenant shall promptly and diligently pursue its remedies under Florida law for any breach of the foregoing prohibited uses.

EXHIBIT E

FORM OF LETTER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER _____

LETTER OF CREDIT AMOUNT	ISSUE DATE	EXPIRY DATE
EIGHT HUNDRED SIXTY-SEVEN THOUSAND SIX HUNDRED EIGHTEEN AND 00/100 DOLLARS (\$867,618.00)_____		

BENEFICIARY:
TOWN OF PALM BEACH, FLORIDA
360 SOUTH COUNTRY ROAD
PALM BEACH, FL 33480
ATTN: TOWN MANAGER

APPLICANT:
AHS RESIDENTIAL, LLC
12895 S.W. 132 ST. SUITE 202
MIAMI, FL 33186
ATTN.: GENERAL COUNSEL

Subject to the Banks reasonable policies and procedures the letter of credit shall contain the following language which shall remain unamended by any such reasonable policies and procedures:

FUNDS HEREUNDER ARE AVAILABLE TO YOU AGAINST PRESENTATION OF YOUR SIGHT DRAFT(S), DRAWN ON US, MENTIONING THEREON OUR LETTER OF CREDIT NUMBER _____. NO OTHER DOCUMENTATION SHALL BE REQUIRED TO DRAW ON THIS LETTER OF CREDIT. THE SIGHT DRAFT(S) SHALL BE IN THE FORM OF ANNEX 1 ATTACHED HERETO AND MADE A PART HEREOF.

DRAWINGS HEREUNDER MAY BE MADE BY PRESENTATION OF BENEFICIARY'S SIGHT DRAFT(S) TO THE OFFICE IN PERSON, BY MAIL, BY MESSENGER, BY OVERNIGHT COURIER OR BY ANY OTHER MEANS. ALTERNATIVELY, PRESENTATION OF BENEFICIARY'S DRAFT(S) MAY BE MADE BY FAX TRANSMISSION TO [TEL. NUMBER], OR SUCH OTHER FAX NUMBER IDENTIFIED BY [____], NIA. IN A WRITTEN NOTICE GIVEN TO YOU BY RECEIPTED OVERNIGHT COURIER ("NEXT BUSINESS DAY DELIVERY") OR BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUIRED.

IF THE REQUISITE DOCUMENTS ARE PRESENTED BY FAX OR BY ANY OF THE OTHER MEANS PROVIDED FOR ABOVE AT THE OFFICE BEFORE THE THEN EXPIRATION OF THIS LETTER OF CREDIT, WE WILL HONOR THE DRAFT(S) DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT UPON PRESENTATION, AND PAYMENT WILL BE EFFECTED THE SAME DAY IF PRESENTATION IS MADE BEFORE 10:00 AM NEW YORK CITY TIME THAT DAY. IF PRESENTATION IS MADE AFTER 10:00 AM NEW YORK CITY TIME, THEN PAYMENT WILL BE AFFECTED BEFORE THE CLOSE OF BUSINESS OF THE FOLLOWING DAY.

AS USED HEREIN "BUSINESS DAY" SHALL MEAN ANY DAY OTHER THAN A SATURDAY OR SUNDAY OR A DAY ON WHICH BANKING INSTITUTIONS IN FLORIDA ARE AUTHORIZED OR REQUIRED TO CLOSE BY LAW.

WE HEREBY AGREE TO HONOR EACH DRAFT DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT IF PRESENTED, AS SPECIFIED, AT OUR OFFICE ON OR BEFORE THE THEN EXPIRATION DATE. WE HEREBY FURTHER AGREE THAT ALL DRAFTS PRESENTED UNDER THIS LETTER OF CREDIT SHALL BE PAID NOTWITHSTANDING ANY CLAIM BY ANY PERSON THAT THE SUM DEMANDED IS NOT DUE OR THAT SAID DRAFT(S) ARE NOT TO BE HONORED FOR ANY OTHER REASON. IN ADDITION, BENEFICIARY'S RIGHTS AND ABILITY TO DRAW ON THIS LETTER OF CREDIT, TO RECEIVE ALL OR PORTIONS OF THE PROCEEDS HEREOF AND TO USE, APPLY, OR RETAIN THE WHOLE OR ANY PART OF SUCH PROCEEDS, SHALL NOT TAKE INTO ACCOUNT, OR OTHERWISE BE AFFECTED BY, ANY OF THE MODIFICATIONS, REDUCTIONS OR OTHER LIMITATIONS OF OR ON THE APPLICANT'S OBLIGATIONS OR LIABILITIES RESULTING FROM THE VOLUNTARY OR INVOLUNTARY LIQUIDATION, DISSOLUTION, SALE OR OTHER DISPOSITION OF ALL OR SUBSTANTIALLY ALL THE ASSETS, MARSHALING OF ASSETS AND LIABILITIES, RECEIVERSHIP, INSOLVENCY, BANKRUPTCY, ASSIGNMENT FOR THE BENEFIT OF CREDITORS, REORGANIZATION, ARRANGEMENT OR READJUSTMENT OF, OR OTHER SIMILAR PROCEEDING AFFECTING THE APPLICANT, OR THE APPLICANT'S PREDECESSORS, OR THE APPLICANT'S SUCCESSORS OR ASSIGNS, OR ANY OF THEIR ASSETS OR THE DISAFFIRMANCE, REJECTION OR POSTPONEMENT IN ANY SUCH PROCEEDING OF ANY OF APPLICANT'S OBLIGATIONS OR UNDERTAKINGS.

SHOULD YOU HAVE OCCASION TO COMMUNICATE WITH US REGARDING THIS LETTER OF CREDIT, PLEASE DIRECT YOUR CORRESPONDENCE TO OUR OFFICE, MAKING SPECIFIC MENTION OF THE LETTER OF CREDIT NUMBER INDICATED ABOVE.

THIS LETTER OF CREDIT IS TRANSFERABLE IN ITS ENTIRETY UPON PRESENTATION TO US OF A SIGNED TRANSFER CERTIFICATE IN THE FORM OF EXHIBIT ____ ACCOMPANIED BY THIS LETTER OF CREDIT IN WHICH THE BENEFICIARY IRREVOCABLY TRANSFERS ALL OF ITS RIGHTS HEREUNDER, WHEREUPON WE AGREE TO EITHER ISSUE A SUBSTITUTE LETTER OF CREDIT OR ENDORSE SUCH TRANSFER ON THE REVERSE OF THIS LETTER OF CREDIT. TRANSFER CHARGES ARE FOR THE ACCOUNT OF THE APPLICANT.

This irrevocable standby Letter of Credit sets forth in full the terms of our undertaking, which is independent of and shall not in any way be modified, amended, amplified or incorporated by reference to any document, contract or agreement referenced herein other than the stipulated ICC rules and governing laws. Our obligations under this irrevocable standby Letter of Credit are not subject to any claim or defense by reason of the invalidity, illegality, or inability to enforce any of the terms of the Lease.

ANNEX 1

FORM OF SIGHT DRAFT

Sight Draft for Payment Drawn

Letter of Credit # _____

Date:

To: [Issuer with address]

PAY AT SIGHT TO THE ORDER OF TOWN OF PALM BEACH, FLORIDA IN THE SUM
OF _____ AND 00/100 DOLLARS (\$_____)

SIGNATURE OF THE TOWN OF PALM BEACH, FLORIDA

DRAWN UNDER IRREVOCABLE LETTER OF CREDIT DATED _____, 20__ AND
ASSIGNED LETTER OF CREDIT NUMBER _____ (THE "LETTER OF CREDIT"). THE
UNDERSIGNED HEREBY CERTIFIES THAT IT IS ENTITLED TO DRAW UPON THE
LETTER OF CREDIT IN IN THE AMOUNT OF [\$AMOUNT OF OVERDUE RENT] [IN ITS
FULL AMOUNT BY REASON OF FAILURE TO RENEW AS REQUIRED] PURSUANT TO
THAT CERTAIN GROUND LEASE BETWEEN APPLICANT AND THE
BENEFICIARY".ACCORDANCE

SAID FUNDS SHOULD BE MADE AVAILABLE TO THE UNDERSIGNED IN
IMMEDIATELY AVAILABLE FUNDS IN ACCORDANCE WITH THE FOLLOWING
PAYMENT TERMS: [INSERT PAYMENT INSTRUCTIONS]."

PLEASE DIRECT ANY CORRESPONDENCE INCLUDING DRAWING OR INQUIRY QUOTING
OUR REFERENCE NUMBER TO:

[ADDRESS AND TELEPHONE NUMBER FOR INQUIRIES TO BE INSERTED]

EXHIBIT F

COMPLETION GUARANTY

(Original Executed Completion Guaranty is Attached)

COMPLETION GUARANTY

This COMPLETION GUARANTY (this "**Guaranty**"), is made as of the ____ day of _____, 2019, by AHS Residential, LLC, a Florida limited liability company (the "**Guarantor**"), to and in favor of the Town of Palm Beach a political subdivision of the State of Florida ("**Town**").

WHEREAS, the Town and CRE FUND AT OKEECHOBEE BOULEVARD LLC, a Florida limited liability company (the "**Tenant**"), are entering into that certain Ground Lease Agreement dated _____, 2019 (the "**Ground Lease**") regarding the Premises All capitalized and other terms not defined herein shall have the meanings ascribed to them in the Ground Lease; and

WHEREAS, Guarantor owns a majority of the membership interest in Tenant and is willing to guaranty the obligations set forth in this Guaranty; and

WHEREAS, as a specific and material inducement to the Town to enter into the Ground Lease with Tenant, Guarantor has agreed to execute and deliver this Guaranty, and, by this Guaranty, to guarantee the completion of the Initial Leasehold Improvements, as set forth in the Ground Lease.

NOW, THEREFORE, in consideration of the Premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor, intending to be legally bound, hereby guarantees as follows:

1. Guarantor hereby absolutely, unconditionally and irrevocably guarantees to the Town the full and timely completion of construction of the Initial Leasehold Improvements as defined in the Ground Lease, including, without limitation, the full and timely payment of all contractors, subcontractors, materialmen, engineers, architects and other persons or entities who have rendered or will render and/or furnish services or materials that are or become a part of the Initial Leasehold Improvements, all in accordance with the terms and conditions of the Ground Lease (collectively, the "**Guaranteed Obligations**").

2. Guarantor hereby covenants and agrees that if Tenant fails to perform the Guaranteed Obligations (or any part thereof), Guarantor shall, upon written demand from the Town, at Guarantor's sole cost and expense, perform any such Guaranteed Obligations.

3. Prior exercising any remedies against Guarantor under this Guaranty for the performance of the Guaranteed Obligations, the Town shall provide Guarantor notice of any default by Tenant under the Ground Lease.

4. This Guaranty is a direct guaranty and independent of any security or remedies which the Town has under any laws. The Town may proceed against Guarantor at any time and shall not be obligated, in order to enforce the Guaranteed Obligations, first to institute suit or exhaust its remedies against Tenant or resort to any security for the Ground Lease and/or the Guaranteed Obligations.

5. The exercise by the Town of any right or remedy hereunder or under any other instrument, or at law or in equity, shall not preclude the concurrent or subsequent exercise by the Town of any other right or remedy. No termination of the Ground Lease or recovery of the Premises shall deprive the Town of any of its rights and remedies against Guarantor under this Guaranty for the Guaranteed Obligations. Notwithstanding the foregoing, in any event the Town

shall be entitled to only one recovery of the Guaranteed Obligations from Tenant or Guarantor, or both collectively.

6. This Guaranty is, and shall be deemed to be a contract entered into under and pursuant to the laws of the State of Florida, and shall be in all respects governed, construed, applied and enforced in accordance with the laws of said State; and no defense granted or allowed by the laws of any other state or country shall be interposed in any action or proceeding hereon unless such defense is also given or allowed by the laws of the State of Florida. Guarantor hereby agrees to submit to personal jurisdiction of the State of Florida, County of Palm Beach, in any action or proceeding arising out of this Guaranty and, in furtherance of such agreement, Guarantor hereby agrees and consents that, without limiting any other methods of obtaining jurisdiction, personal jurisdiction over Guarantor in any such action or proceeding may be obtained within or without the jurisdiction of any court located in the State of Florida.

7. By execution of this Guaranty, Guarantor consents to process being served in any suit or proceeding of the nature referred to in this Guaranty by the hand delivery or mailing (via registered or certified mail, postage prepaid) of a copy of same to Guarantor at the address for notice to Tenant as set forth in the Ground Lease. Guarantor expressly agrees that such service shall be deemed in every respect effective service of process upon Guarantor in any suit, action or proceeding arising out of this Guaranty, and be taken and held to be valid personal service upon and personal delivery to Guarantor.

8. Guarantor, and the Town by acceptance hereof, hereby knowingly, voluntarily and intentionally waive the right any may have to a trial by jury in respect of any litigation based hereon or arising out of, under or in connection with this Guaranty.

9. Guarantor shall, on demand, reimburse the Town for all expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the Town in enforcing this Guaranty or any provisions thereof.

10. Notwithstanding anything to the contrary contained in this Guaranty or the Lease, this Guaranty shall terminate automatically without any further documentation on the date on which Tenant achieves Substantial Completion of the Initial Leasehold Improvements and evidence thereof is delivered to the Town as required under the Ground Lease.

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO COMPLETION GUARANTY]

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first above written.

GUARANTOR:

AHS Residential, LLC, a Florida limited liability company

By: 

Ernesto Lopes, Executive Manager

EXHIBIT G

PAYMENT GUARANTY AND GUARANTY OF CONTINUING OBLIGATIONS

(Original Executed Payment Guaranty and Guaranty of Continuing Obligations is Attached)

PAYMENT GUARANTY AND GUARANTY OF CONTINUING OBLIGATIONS

This Payment Guaranty (this "**Guaranty**") is made as of the ____ day of _____, 2019, by AHS Residential, LLC, a Florida limited liability company (the "**Guarantor**"), to and in favor of the Town of Palm Beach a political subdivision of the State of Florida ("**Town**").

WHEREAS, the Town and CRE Fund at Okeechobee Boulevard, LLC, a Florida limited liability company (the "**Tenant**"), are entering into that certain Ground Lease Agreement dated _____, 2019 (the "**Ground Lease**") under which the Town leases the Premises to Tenant, and the Tenant leases the Premises from the Town, all on the terms and conditions set forth in the Ground Lease. All capitalized and other terms not defined herein shall have the meanings ascribed to them in the Ground Lease; and

WHEREAS, Guarantor owns a majority of the membership interest in Tenant and is willing to guaranty the obligations set forth in this Guaranty; and

WHEREAS, as a specific and material inducement to the Town to enter into the Ground Lease with Tenant, Guarantor has agreed to execute and deliver this Guaranty, and, by this Guaranty, to guarantee Tenant's obligations to pay Base Rent and Additional Rent during the first two (2) Lease Years of the Initial Term, as set forth in the Ground Lease.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby conclusively acknowledged and in order to induce the Town to enter into the Ground Lease, Guarantor hereby covenants and agrees as follows:

1. Guarantor hereby guarantees, absolutely and unconditionally, to the Town and the Town's successors and assigns, as a direct obligor and not a surety, the full and timely payment, at the times set forth in the Ground Lease for such payment, of Base Rent and Additional Rent, provided for in the Ground Lease to be paid by Tenant for all time periods (the "**Guaranteed Payment Obligations**") until two (2) years from the later of (i) the Date of Beneficial Occupancy and (ii) the Stabilization Date ("**Guaranty Termination Date**"), provided, however, that the Town agrees to enforce or exhaust its remedies for the Guaranteed Payment Obligations against Tenant by drawing on the Letter of Credit before proceeding to enforce this Guaranty against Guarantor.

2. With respect to obligations accruing under the Lease until the Guaranty Termination Date, Guarantor hereby covenants and agrees to and with the Town that, in the event of a Tenant Default for the nonpayment of the Guaranteed Payment Obligations, Guarantor will forthwith pay such Guaranteed Obligations to the Town.

3. In addition to the Guaranteed Payment Obligations, Guarantor shall indemnify, defend, and save harmless the Town and Town Representatives from and against any and all loss, damage, claim, demand, liability, and expense (including reasonable and documented attorneys' fees at trial and all appellate levels) resulting from claims by third parties and based on any claim, suit, demand or proceeding brought by a third party against the Town with respect to any injury or damage occurring in or about the Premises or any part thereof or any violation or alleged violation of legal requirements under the Ground Lease (the "**Continuing Guaranty Provisions**"); provided, however, (i) Guarantor shall not be responsible for any loss, damage, claim, demand, liability, or expense to the extent attributable to the gross negligence or willful

misconduct of the Town or any Town Representative, although the simple negligence of Town shall be included in the foregoing indemnity, and (ii) Guarantor shall not be responsible for loss, damage, claim, demand, liability or expense for such matters to the extent occurring after the first to occur of (a) an assignment to a Permitted Assignee or Permitted Transferee (as provided in Section 18.02 of this Lease); (b) the release of Guarantor after an assignment of the Lease if permitted under Section 18.08 of the Lease, or (c) the termination of this Lease for reason other than Tenant's default or insolvency. Guarantor shall have the right to assume the defense of any claim covered by this indemnity on behalf of both itself and the Town and Town Representatives, provided that the attorneys selected by Guarantor to handle the defense are reasonably satisfactory to Town and the representation will not result in a conflict of interest for the attorneys. Further, Guarantor may not settle any claim covered by this section without the prior written consent of Town. This indemnity shall not be construed to restrict, limit, or modify Tenant's insurance obligations under this Lease.

4. Subject to the recourse limitations in Section 1 above, this Guaranty shall be enforceable against the Guarantor without the necessity for any suit or proceedings on the Town's part of any kind or nature whatsoever against Tenant, and without the necessity of any notice to Guarantor of non-payment, non-performance or non-observance or any notice or acceptance of this Guaranty or any other notice or demand to which Guarantor might otherwise be entitled, all of which Guarantor hereby expressly waive. Other than as stated herein with respect to the Letter of Credit, the Town shall not be obligated to proceed against Tenant, or against any other security held by the Town, prior to making demand upon or seeking redress against Guarantor.

5. So long as the Guaranteed Obligations are not increased, extended or modified in any manner, whether or not Guarantor shall have had notice or knowledge or any of the following events, this Guaranty shall not be terminated and the effectiveness of this Guaranty shall not in any way be limited, modified or otherwise affected or impaired by reason of:

- a. any amendment, modification, extension or renewal of the Ground Lease, or any other modification, compromise, settlement, adjustment or extension of the Tenant's obligations or liabilities under the Ground Lease; or
- b. any assignment, conveyance, extinguishment, merger or other transfer, voluntary or involuntary (whether by operation of law or otherwise), of all or any part of the interest of the Town in the Ground Lease or the Premises.

6. No delay on the part of the Town in exercising any right hereunder or failure to exercise the same shall operate as a waiver of such rights. No notice to or demand on Guarantor shall be deemed to be a waiver of the obligation of Guarantor or of the right of the Town to take further action without notice or demand as provided herein. In no event shall any modification or waiver of the provisions of this Guaranty be effective unless in writing and signed by the Town, nor shall any such waiver be applicable except in the specific instance for which given.

7. Each reference herein to Guarantor shall be deemed to include the successors and assigns of Guarantor, all of whom shall be bound by the provisions of this Guaranty. This Guaranty and each and every one of the provisions hereof shall inure to the benefit of Town, and to Town's successors and assigns.

8. This Guaranty is, and shall be deemed to be a contract entered into under and pursuant to the laws of the State of Florida, and shall be in all respects governed, construed, applied and enforced in accordance with the laws of said State; and no defense granted or allowed by the laws of any other state or country shall be interposed in any action or proceeding hereon unless such defense is also given or allowed by the laws of the State of Florida. Guarantor hereby agrees to submit to personal jurisdiction of the State of Florida, County of Palm Beach, in any action or proceeding arising out of this Guaranty and, in furtherance of such agreement, Guarantor hereby agrees and consents that, without limiting any other methods of obtaining jurisdiction, personal jurisdiction over Guarantor in any such action or proceeding may be obtained within or without the jurisdiction of any court located in the State of Florida.

9. By execution of this Guaranty, Guarantor consents to process being served in any suit or proceeding of the nature referred to in this Guaranty by the hand delivery or mailing (via registered or certified mail, postage prepaid) of a copy of same to Guarantor at the address for notice to Tenant as set forth in the Ground Lease. Guarantor expressly agrees that such service shall be deemed in every respect effective service of process upon Guarantor in any suit, action or proceeding arising out of this Guaranty, and be taken and held to be valid personal service upon and personal delivery to Guarantor.

10. Guarantor, and the Town by acceptance hereof, hereby knowingly, voluntarily and intentionally waive the right any may have to a trial by jury in respect of any litigation based hereon or arising out of, under or in connection with this Guaranty.

11. Guarantor shall, on demand, reimburse the Town for all expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the Town in enforcing this Guaranty or any provisions thereof.

12. Notwithstanding anything to the contrary contained in this Guaranty or the Lease, Guarantor's obligations with respect to the Guaranteed Payment Obligations shall terminate automatically without any further documentation on the Guaranty Termination Date, provided Tenant has performed the Guaranteed Payment Obligations. Provided that no Guaranteed Payment Obligations then remain subject to payment or are unsatisfied, Guarantor's obligations for the Continuing Guaranty Provisions shall, with respect to obligations under the Lease accruing thereafter, terminate upon the first to occur of (a) an assignment to a Permitted Assignee or Permitted Transferee (as provided in Section 18.02 of the Lease) (and the execution of a substitute guaranty to the extent required therein); (b) the termination of the Lease for any reason other than Tenant's default or insolvency or (c) the release of Guarantor after an assignment of the Lease permitted under Section 18.06 of the Lease (and the execution of a substitute guaranty to the extent required therein).

[EXECUTION PAGE FOLLOWS]

[SIGNATURE PAGE TO PAYMENT GUARANTY AND GUARANTY OF CONTINUING OBLIGATIONS]

IN WITNESS WHEREOF, Guarantor have duly executed this Guaranty as of the _____ day of _____, 2019.

GUARANTOR:

AHS Residential, LLC, a Florida limited liability company

By: _____
Ernesto Lopes, Executive Manager

STATE OF FLORIDA)
)
COUNTY OF MIAMI DADE)

On this 03 day of Sep, 2019 personally appeared Ernesto Lopes as _____ of AHS Residential, LLC, a Florida limited company, who is well known to me or who produced _____ as identification and who executed the foregoing instrument in behalf of such entity.

Miriam Casuso
NOTARY PUBLIC, STATE OF FLORIDA AT LARGE

My commission expires: 12/30/22

