

TC CONTRACT #4500000450

GROUND LEASE
BETWEEN
TRAVIS COUNTY, TEXAS
AND
LO/PPC OP GUADALUPE, LLC

GROUND LEASE

This Ground Lease (this “**Lease**”) is executed to be effective as of July 12, 2017 (the “**Commencement Date**”), between Travis County, Texas (“**Landlord**”), and LO/PPC OP Guadalupe, LLC, a Delaware limited liability company (“**Tenant**”).

Recitals

A. Landlord, as landlord, desires to lease to Tenant, as tenant, that certain real property described on **Exhibit A** attached hereto located in Austin, Travis County, Texas (the “**Land**”).

B. Landlord and Tenant desire to enter into this Lease to set forth certain terms and conditions of the lease of the Property (as hereinafter defined) and other agreements as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Lease, and other good and valuable consideration, the receipt and sufficiency of which are hereby confirmed, the parties enter into this Lease upon the terms and conditions herein set forth.

ARTICLE I DEFINITIONS

1.1 **Defined Terms**. In addition to the terms set forth above and elsewhere in this Lease, the following terms will have the following meanings:

“**Act**” as defined in Section 16.1.

“**Affiliate**” means any Person controlling, controlled by or under common control with any other Person. For the purposes of this definition, the term “control” when used with respect to any Person means the power to direct the management or policies of such Person, directly or indirectly, whether through the ownership of voting securities, by law, regulation, contract or otherwise, and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“**Bankruptcy Code**” means Title 11 U.S.C. § 101 *et seq.*, and the rules and regulations adopted and promulgated pursuant thereto (as the same may be amended from time to time).

“**Bankruptcy Event**” means (a) a petition for relief under applicable bankruptcy law is filed by Tenant, (b) an involuntary petition for relief is filed against Tenant under any applicable bankruptcy law and such petition is not dismissed within sixty (60) days after the filing thereof, or (c) an order for relief naming Tenant is entered under any applicable bankruptcy law, or any composition, rearrangement, extension, reorganization or other relief of debtors now or hereafter existing is requested or consented to by Tenant. A Bankruptcy Event may exist even if an Event of Default cannot be declared because of a Bankruptcy Event.

“**Base Rent**” is defined in Section 3.3.

“**Business Day**” means any day other than a Saturday, Sunday, federally-mandated bank holiday, or the day after Thanksgiving.

“**Casualty**” as defined in Section 13.1.

“**City**” means the City of Austin, Texas.

"Claims" as defined in Section 10.6.

"Commencement Date" as defined in the introductory paragraph hereof.

"Commercial Space" means all space in the Improvements intended to be used for for-rent office, retail or other commercial purposes, including hotel use.

"Completion of Construction" means the day on which all of the following have been satisfied: (a) the applicable Improvements have been substantially completed in accordance with the final project documents approved by the City (excluding interior buildout and storefront for Commercial Space and interior buildout for Residential Units); and (b) all Governmental Authorities having jurisdiction have issued temporary or final certificates of occupancy for the shell Improvements.

"Compliant Master Unit Owner" as defined in Section 16.3(e).

"Condemnation" as defined in Section 13.2(a).

"Condominium Association" means the non-profit corporation created pursuant to the Condominium Declaration.

"Condominium Declaration" means the Condominium Declaration to be executed by Landlord, as owner of the Property, and Tenant, as "Declarant" thereunder, in accordance with the Act and to be notarized and recorded in the Official Public Records of Travis County, Texas.

"Construction Financing" as defined in Section 15.2.

"Default" as defined in Section 17.1.

"Delinquency Interest Rate" means a per annum rate of interest equal to the lesser of (a) twelve percent (12%) or (b) the then highest lawful contract rate which Tenant is authorized to pay, and Landlord is authorized to charge, under the laws of the State of Texas with respect to the relevant obligation.

"End User" means a Person (not an Affiliate of Tenant) that occupies (a) Commercial Space primarily to conduct its business with the general public (as opposed to a Person that holds Commercial Space to lease to other Persons) or (b) Residential Units as their dwelling (as opposed to a Person that holds Residential Units to lease to other Persons).

"Entitlements" mean plats, zoning, site development permits, building permits and any other permits and approvals (or any modifications of the foregoing) from the City and any other Governmental Authorities or other Persons under Legal Requirements that are required in connection with the development of the Project as reflected in the final project documents approved by the City.

"Environmental Claim" means, but is not limited to, any claim, demand, action, cause of action, suit, loss, cost, damage, fine, penalty, expense, liability, judgment, forfeitures, proceeding, or injury, threatened, sought, brought, or imposed, that seeks to impose costs or liabilities for: (a) pollution or contamination of the air, surface water, groundwater or soil with Hazardous Materials; (b) solid, gaseous, or liquid waste generation, handling, treatment, storage, disposal, or transportation of Hazardous Materials; (c) exposure to Hazardous Materials; (d) the generation, handling, treatment, transportation, manufacture, processing, distribution in commerce, use, storage or disposal of Hazardous Materials; (e) injury to or death of any Persons directly or indirectly connected with Hazardous Materials and directly or indirectly related to the Property; (f) destruction or contamination of any property directly or indirectly in

connection with Hazardous Materials; (g) any and all penalties directly or indirectly connected with Hazardous Materials; (h) the costs of removal of any and all Hazardous Materials from all or any portion of the Property; (i) costs required to take necessary precautions to protect against the release of Hazardous Materials at, on, in, about, under, within, near or in connection with the Property in or into the air, soil, surface water, groundwater, or soil vapor, any public domain, or any surrounding areas; (j) costs incurred to comply, in connection with all or any portion of the Property, with all Legal Requirements with respect to Hazardous Materials; (k) the costs of site investigation, response, and remediation of any and all Hazardous Materials at, on, about, under, within, near or in all or any portion of the Property; or (l) any asserted or actual breach or violation of any requirements of Legal Requirements with respect to Hazardous Materials.

“Environmental Costs” mean all liabilities (including strict liabilities), losses, costs, damages (including consequential, special, treble, speculative and indirect damages), expenses, claims, attorneys’ fees, experts’ fees, consultants’ fees and disbursements of any kind or of any nature whatsoever arising from or related to an Environmental Claim. For the purposes of this definition, such losses, costs and damages will include, without limitation, remedial, removal, response, abatement, cleanup, legal, investigative and monitoring costs and related costs, expenses, actual losses, damages, penalties, fines, obligations, defenses, judgments, suits, forfeitures, proceedings and disbursements.

“Escrow Agent” as defined in Section 13.1(d).

“Event of Default” as defined in Section 17.1.

“Fee Estate” means Landlord’s interest in the Property and this Lease.

“Fee Estate Percentage” as defined in Section 13.3(b).

“Fee Mortgage” means a deed of trust or mortgage executed by Landlord covering the fee title to the tract or parcel of land comprising the Property.

“Fee Mortgagee” means holder of a Fee Mortgage.

“Financing” as defined in Section 15.2.

“Force Majeure” as defined in Section 19.20.

“Governmental Authority” means any and all courts, boards, agencies, commissions, offices or authorities of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city, quasi-governmental or otherwise) whether now or hereafter in existence.

“Hazardous Materials” mean any substance that is now or hereafter defined or listed in, or otherwise classified pursuant to, any Legal Requirements or common law, as “hazardous substance,” “hazardous material,” “hazardous waste,” “acutely hazardous,” “extremely hazardous waste,” “infectious waste,” “toxic substance,” “toxic pollutant” or any other formulation intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, or toxicity, including any petroleum, natural gas, natural gas liquids, liquified natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas) or derivatives thereof. **“Hazardous Materials”** also include, without limitation, those substances listed in the United States Department of Transportation Table (49 CFR 172.101, as amended).

“Improvements” mean any structures or improvements now or hereafter erected or situated on the Land, including, without limitation, the foundations and footings thereof and any and all fixtures, equipment and machinery of every kind and nature whatsoever owned by Tenant and now or hereafter affixed or attached thereto, or now or hereafter used or procured for use in connection with Tenant’s operation, use or occupancy thereof, and all appurtenances thereto.

“Indemnitee” as defined in Section 10.6.

“Indemnity Proceedings” as defined in Section 10.7.

“Joint Obligations” as defined in Section 16.3(d).

“Landlord's Permitted Discretion” as defined in Section 19.15.

“Landlord Representative” as defined in Section 11.1.

“Lease Year” means (a) the period that commences with the Rent Commencement Date and terminates on December 31, 2018, and (b) thereafter, each successive twelve (12) full calendar month period commencing on January 1 and ending on December 31 of the applicable calendar year (but if this Lease is terminated early pursuant to the terms hereof, then the last Lease Year will end on the date of termination of this Lease).

“Leasehold Estate” means Tenant’s interest in the Property, this Lease, the Master Units (if any) and Subleases.

“Leasehold Estate Percentage” as defined in Section 13.3(b).

“Leasehold Financing Documents” as defined in Section 15.3.

“Leasehold Mortgage” means any mortgage, deed of trust, financing lease, indenture, trust agreement, reimbursement agreement, certificate of participation, collateral assignment or other agreement or instrument creating or evidencing a security interest in, encumbrance upon, or lien against Leasehold Estate, whether as security for the repayment of a loan or the performance of an obligation in order to finance or refinance, directly or indirectly, any costs of Tenant incurred in connection with Tenant’s obligations under this Lease.

“Leasehold Mortgagee” means the mortgagee or beneficiary of any Leasehold Mortgage.

“Legal Requirements” means the Entitlements and all other applicable title encumbrances, any requirements imposed under service extension requests, zoning ordinances, and building codes, access, disabilities, health, safety, environmental, and natural resource protection laws and regulations, and all other applicable federal, state, and local laws, statutes, ordinances, rules, common law, design criteria, regulations, orders, determinations and court decisions.

“Master Unit” as defined in Section 16.1.

“Memorandum of Lease” as defined in Section 19.17.

“Modifications” as defined in Section 5.1.

“New Lease” as defined in Section 15.3(l).

“Notice of Lien” as defined in Section 17.6.

“Permanent Financing” as defined in Section 15.2.

“Permitted Condo Documents” as defined in Section 16.1.

“Person” means an individual, corporation, partnership, limited liability company, unincorporated organization, association, joint stock company, joint venture, trust, estate, real estate investment trust, Governmental Authority or other entity, whether acting in an individual, fiduciary or other capacity.

“Personal Property” means any and all furniture, equipment, apparatus and other similar personal property and any and all renewals, replacements or additions to and substitutions therefor owned by Tenant and located in, attached or affixed to and used in connection with the Improvements or the operation thereof.

“Prohibited Transferee” means a Person that (a) has or any of its Affiliates have been indicted or convicted of, or pled guilty or no contest to, a felony; (b) has or any of its Affiliates have been indicted or convicted of, or pled guilty or no contest to, any matters under The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder (including regulations administered by the Office of Foreign Assets Control “OFAC” of the U.S. Department of the Treasury and the Specially Designated Nationals List maintained by OFAC), the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) (the “Patriot Act”) and all other statutes and all orders, rules and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act or administered by OFAC (or their respective successors); and (c) has been the subject of a voluntary or involuntary (to the extent the same has not been discharged) bankruptcy proceeding.

“Project” means the construction of the Improvements on all of the Land, and obtaining Entitlements for all Improvements.

“Property” means the Land and the Improvements.

“Real Property Records” means the Official Public Records of Travis County, Texas.

“Registered Leasehold Mortgagee” as defined in Section 15.3(a).

“Rent Commencement Date” means the Commencement Date.

“Residential Units” mean the residential, for-rent multi-family units in the Improvements.

“Retainage” as defined in Section 13.1(d)(ii).

“Severable Obligations” as defined in Section 16.3(c).

“Subleases” mean all written or oral leases, subleases, rental agreements, licenses, concessions, occupancies and other agreements or arrangements granted to Subtenants for the use or occupancy of all or any portion of the Property.

“Subtenant” means any subtenant, licensee, concessionaire, occupant or user (other than Tenant) of the Property, claiming by, through or under Tenant, including the owner of a Master Unit.

"Taxes" mean all taxes (including, without limitation, gross receipts or similar taxes and any taxes payable pursuant to V.T.C.A., Tax Code, Section 171.001, et seq., as such statute may be amended or recodified from time to time, assessments, levies, imposts, excises, fees, fines, penalties and all other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, which are during the Term imposed or levied upon, assessed against or measured by (a) the Land, (b) the Improvements, (c) any Rent or other sums payable by Tenant hereunder, (d) this Lease, (e) the Leasehold Estate or (f) which arises in respect of the development, operation, occupancy, possession or use of the Property. Notwithstanding the foregoing, Taxes shall not include estate, inheritance, gross receipts, margins, franchise, transfer or income tax of Landlord, if any; provided, however, (i) if at any time during the Term of this Lease the method of taxation shall be changed such that there shall be levied, assessed or imposed on Landlord a capital levy or other tax directly on the Rents or other sums received hereunder, or upon the value of the Property or any present or future Improvements on the Land, then all such taxes, levies or charges or the part thereof so measured or based shall be considered to be Taxes, and (ii) for the avoidance of doubt, Taxes shall include gross receipts or similar taxes and any taxes payable pursuant to V.T.C.A., Tax Code, Section 171.001, et seq., as such statute may be amended or recodified from time to time, as set forth in the first sentence of this definition of **"Taxes"**.

"Tenant Party" and **"Tenant Parties"** mean, individually and collectively, Tenant, Subtenants, associations created under Permitted Condo Documents (if any), and their respective directors, managers, officers, employees, agents, attorneys, consultants, customers, visitors, guests, invitees, licensees, contractors, concessionaires, successors and assignees.

"Tenant Representative" as defined in Section 11.2.

"Term" as defined in Section 3.1.

"Transfer" means to sell, assign, convey, lease, sublease, mortgage, hypothecate or otherwise alienate or encumber.

"Transferee" means any Person to whom a Transfer is made.

"Work" as defined in Section 5.2.

1.2 Modification of Defined Terms. Unless the context clearly otherwise requires or unless otherwise expressly provided herein, the terms defined in this Lease which refer to a particular agreement, instrument or document also refer to and include all renewals, extensions, supplements, modifications, amendments and restatements of such agreement, instrument or document; provided that nothing contained in this Section 1.2 will be construed to authorize any such renewal, extension, supplement, modification, amendment or restatement.

1.3 References and Titles. All references in this Lease to exhibits, articles, paragraphs, subparagraphs, sections, subsections and other subdivisions refer to the exhibits, articles, paragraphs, subparagraphs, sections, subsections and other subdivisions of this Lease unless expressly provided otherwise. Titles appearing at the beginning of any subdivisions are for convenience only and do not constitute any part of such subdivisions and will be disregarded in construing the language contained in such subdivisions. The words "this Lease", "herein", "hereof", "hereby", "hereunder" and words of similar import refer to this Lease as a whole and not to any particular subdivision unless expressly so limited. The phrases "this paragraph" and "this subparagraph" and similar phrases refer only to the paragraphs or subparagraphs hereof in which such phrases occur. The word "or" is not exclusive, and the word "including" (in its various forms) means "including without limitation." Pronouns in masculine, feminine and neuter genders will be construed to include any other gender, and words in the singular form

will be construed to include the plural and vice versa, unless the context clearly otherwise requires. References to any constitutional, statutory or regulatory provision means such provision as it exists on the Commencement Date and any future amendments thereto or successor provisions thereof.

1.4 Nature of Lease. As the Term of this Lease will span many generations, specific references herein (such as the names of streets, laws and regulations) may cease to exist prior to the expiration or earlier termination hereof. It is the intent of Landlord and Tenant that, notwithstanding the fact that such references may no longer be correct, the spirit and intent of this Lease be given effect as close as possible with respect to the relevant affected term or provision hereof.

ARTICLE II GROUND LEASE

2.1 Lease. Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord, the Property, together with all rights, privileges, easements and appurtenances belonging to or in any way appertaining to the Property.

2.2 Reservation. Notwithstanding anything in this Lease to the contrary, Landlord hereby reserves the following rights:

Upon reasonable prior notice (except in case of an emergency in which event notice will be provided to the extent the circumstances permit Landlord the ability to do so and in all cases promptly after such entry occurs if no prior notice is provided), and in all events subject to the rights of Subtenants under their respective Subleases and in a manner that minimizes interference with operations at the Property and risk of damage to the Improvements or personal injury, to enter the Property for the purpose of (i) examinations or inspections of the same (but with no obligation to undertake the same); (ii) making such repairs, alterations or repair therein as permitted by Landlord pursuant to the terms of this Lease (but with no obligation to undertake the same); and Tenant shall not be entitled to any abatement of Rent by reason thereof, nor shall such entry be deemed to be an actual or constructive eviction. If an Event of Default has occurred and is continuing, any inspection prompted by, or relating to, such Event of Default will be at the sole cost and expense of Tenant.

2.3 Ownership of Improvements and Public Improvements.

(a) The Improvements will be owned by Tenant or Subtenants during the Term. Upon termination of this Lease for any reason, the Improvements will become the property of Landlord without necessity of further action by Landlord, Tenant, Subtenant, any other Tenant Parties or any other Persons claiming by, through or under Tenant or any other Tenant Parties, subject to Section 12.1 below.

(b) All Improvements which are added to the Property will immediately become the property of (and title thereto will vest in) Landlord upon the expiration or earlier termination of this Lease, but will be deemed incorporated in the Property and subject to the terms of this Lease as if originally leased hereunder.

(c) All Personal Property shall be and remain the property of Tenant or a Subtenant, and the owner thereof shall be solely liable for and shall pay when due all costs, charges, payments, penalties, or other sums due with regard to such Personal Property, including, without limitation, any Taxes on the Personal Property.

2.4 Quiet Enjoyment. So long as no Event of Default exists, Landlord covenants to Tenant that Tenant shall lawfully and quietly hold, occupy, and enjoy the Property during the Term without

hindrance or molestation by Landlord or any Person claiming by, through or under Landlord, except such portion of the Property, if any, as shall be taken under the power of eminent domain, and subject to all Legal Requirements (including, without limitation, all matters of record and any matters that would be revealed by a current survey, including visible and apparent easements, encroachments, and boundary line conflicts, if any).

ARTICLE III GROUND LEASE TERM AND RENT

3.1 **Term.** The term of this Lease shall be ninety-nine (99) years commencing on the Commencement Date and ending on July 11, 2116 (the “**Term**”), unless sooner terminated pursuant to the terms of this Lease.

3.2 **Rent.** “**Rent**” or “**rent**” shall include all amounts payable by Tenant to Landlord pursuant to this Lease, including but not limited to the “**Base Rent**”, “**Base Rent Increases**”, and “**Late Charges**” (all as hereinafter defined), and Landlord shall have the same rights and remedies to collect such monies, howsoever designated in this Lease, as “**Rent**” or “**rent**”.

3.3 **Base Rent.** On the Rent Commencement Date, Tenant shall pay Landlord in immediately available funds, initial advance rent in an amount equal to Thirteen Million Four Hundred Thousand and No/100 Dollars (\$13,400,000.00) (the “**Initial Rent**”). Commencing on the sixth (6th) anniversary of the Rent Commencement Date, Tenant shall pay “**Annual Base Rent**” (herein so called) as set forth in Section 3.4 below. As used herein, “**Initial Rent**” and “**Annual Base Rent**” are referred to collectively as “**Base Rent**”. Tenant shall pay the Annual Base Rent to Landlord in twelve (12) equal monthly installments commencing on the sixth (6th) anniversary of the Rent Commencement Date and thereafter on or before the first (1st) day of each month during the Term. Annual Base Rent for any partial month period shall be prorated and paid with the first monthly payment based on a thirty (30) day month and actual days elapsed. No invoice shall be provided nor shall any invoice be required from Landlord in order for Tenant to be obligated under this Section. A schedule for payment of rent is attached hereto as **Exhibit B**.

3.4 **Adjustment of Annual Base Rent.** Beginning on the sixth (6th) anniversary of the Rent Commencement Date and continuing for a period of five (5) years, the Annual Base Rent payable by Tenant shall be Two Million Seven Hundred Seventy-two Thousand and No/100 (\$2,772,000.00) (which equals a monthly payment amount of \$231,000). On the 11th anniversary of the Rent Commencement Date and every five (5) year anniversary thereafter, the Annual Base Rent shall increase by five percent (5%).

3.5 **Place of Payment of Rental.** All rental payments shall be made in lawful money of the United States of America and shall be paid to Landlord at Landlord’s address as set forth in Section 19.4 or to such other parties and/or to such other address as Landlord may from time to time designate in writing to Tenant.

3.6 **Additional Rent.** All amounts and sums which Tenant is obligated to pay or reimburse to Landlord pursuant to this Lease (other than Base Rent) shall be collectively referred to herein as “**Additional Rent**.” All Additional Rent shall be due and payable within ten (10) days after Landlord’s demand therefor. Additional Rent for any partial month at the beginning and the end of the Term shall be prorated on a daily basis. All amounts of Base Rent and Additional Rent payable in a given month (collectively, “**Rent**”) shall be deemed to comprise a single rental obligation of Tenant to Landlord.

3.7 **Intentionally Deleted.**

3.8 Intentionally Deleted.

3.9 Effect of Condominium on Rent. As further provided in Article XVI below, once Tenant files the Condominium Declaration, each Master Unit owner shall be solely responsible for the payment of Rent as a Several Obligation attributable to its Master Unit as set forth in and determined under the Condominium Declaration.

3.10 Net Lease. This Lease will constitute a net lease, and the obligations of Tenant hereunder are absolute and unconditional. As between Landlord and Tenant, Tenant shall pay (or cause to be paid) all expenses (including, without limitation, Taxes) arising out of the development, use, operation and/or occupancy of the Project and the Property. Accordingly, as between Landlord and Tenant, all costs, expenses (including, without limitation, Taxes) and obligations of every kind or nature whatsoever, relating to the Property and Project, which may arise or become due during the Term, shall be paid (or caused to be paid) by Tenant, and to the extent permitted by applicable law, Landlord shall be indemnified and held harmless by Tenant from and against Tenant's failure to pay (or cause to be paid) the same. Tenant shall be responsible for (or cause the Subtenants to be responsible for) all costs and expenses (including, without limitation, Taxes) of the development, ownership, maintenance, repair and operation of the Property and Project incurred or relating to the period of time during the Term. Any present or future law to the contrary notwithstanding, except as otherwise specifically provided in this Lease, this Lease shall not terminate nor shall Tenant be entitled to any abatement, reduction, set-off, counterclaim, defense or deduction with respect to any Rent, nor shall the obligations of Tenant hereunder be affected by reason of (a) any damage to or destruction of the Property, the Project or any part thereof, or by any taking of the Property, the Project or any part thereof by condemnation, (b) the prohibition, limitation or restriction of or interference with Tenant's use of all or any portion of the Property or the Project, except to the extent caused by Landlord other than in connection with Landlord's compliance with its governmental responsibilities, (c) the failure on the part of Landlord to perform or comply with any term, provision or covenant of this Lease or any other agreement to which Landlord and Tenant may be parties, but without limiting Landlord's obligations therefor, (d) the occurrence of a Bankruptcy Event, (e) any claim which Tenant has or might have against Landlord, but without limiting Tenant's right to pursue such claims or Landlord's obligations therefor, or (f) for any other cause whether similar or dissimilar to the foregoing. Except as otherwise expressly provided in this Lease, Tenant waives all rights now or hereafter conferred by statute or otherwise to quit, terminate or surrender this Lease or the Leasehold Estate in the Property or any part thereof, or to any abatement, suspension, deferment, diminution or reduction of Rent.

3.11 Late Fee; Delinquent Interest Rate.

(a) Any amount due from any Tenant Party to Landlord which is not paid within five (5) days after the due date shall bear interest at the Delinquency Interest Rate, from the date such payment is due until paid, but the payment of such interest shall not excuse or cure any default by Tenant under this Lease.

(b) In the event Tenant is late in paying any amount of Base Rent under this Lease within five (5) Business Days after the due date, then Tenant shall pay Landlord a late charge equal to two and one-half percent (2.5%) of such delinquent amount of Rent. The parties agree that the payment of late charges and the payment of interest provided for in the preceding paragraph are distinct and separate from one another.

3.12 Calculation of Charges. Tenant is knowledgeable and experienced in commercial transactions and does hereby acknowledge and agree that the provisions of this Lease for determining charges and amounts payable by Tenant are commercially reasonable and valid and constitute satisfactory methods for determining such charges and amounts as required by Section 93.012 (assessment of charges)

of the Texas Property Code. TENANT FURTHER VOLUNTARILY AND KNOWINGLY WAIVES (TO THE FULLEST EXTENT PERMITTED BY LEGAL REQUIREMENTS) ALL RIGHTS AND BENEFITS OF TENANT UNDER SUCH SECTION, AS IT NOW EXISTS OR AS IT MAY BE HEREAFTER AMENDED OR SUCCEDED.

ARTICLE IV SPECIAL REQUIREMENTS

4.1 The initial Improvements constructed by Tenant (excluding interior buildout or storefront improvements constructed by or on behalf of any Subtenant or End User, and excluding any subsequent improvements or remodels after the original vertical and horizontal construction) (the “Initial Improvements”) will be constructed in compliance with the terms set forth in this Section 4.1.

(a) Such Initial Improvements shall be constructed in compliance with the following requirements consistent with the Better Builder Program promulgated by the City of Austin:

(i) Payment of the prevailing wage, as defined by the Davis Bacon Act, or the Travis County living wage (whichever is higher at the time of construction), to construction workers;

(ii) Ensure all construction workers receive a 10-hour OSHA approved construction worker safety class and ensure all safety supervisors for any prime contractor or subcontractor receive a 30-hour OSHA approved construction worker safety class prior to commencing construction work;

(iii) All construction workers shall be covered by workers’ compensation insurance;

(iv) Provide independent monitoring of the construction site by an on-site monitor (“Monitor”) timely approved by Landlord in Landlord’s Permitted Discretion; and

(v) Use commercially reasonable efforts to ensure 30% of the Tenant’s workforce are students or graduates of local, Department of Labor-registered apprenticeship programs and bilingual craft training programs that offer hands-on instruction at no cost to the worker.

(b) Tenant will cause its prime contractors and subcontractors to provide such documents as reasonably required to evidence compliance with the foregoing to the Monitor and Tenant. Tenant will collaborate with the Monitor to ensure that the prime contractors and subcontractors fully and faithfully comply with the foregoing requirements.

(c) Tenant will require Monitor to provide monthly reports to Tenant assessing compliance with the foregoing requirements and describing any violations of the requirements set forth in Section 4.1(a) and noting whether such violation has been cured. Tenant shall provide a copy of such monthly reports received from Monitor to Landlord within one week of Tenant’s receipt.

(d) Any breach of this Section 4.1 shall be governed by the terms of this Section 4.1(d), it being agreed and acknowledged that Article XVII shall not apply to any such breach hereunder. In the event Tenant fails to comply with the terms and conditions of this

Section 4.1, Landlord shall give Tenant notice of such breach and Tenant shall commence such cure within fifteen (15) days of such notice and thereafter use diligent efforts to complete such cure within thirty (30) days following the date of such notice. In the event Tenant fails to timely cure such breach under this Section 4.1, Landlord's sole and exclusive remedies for such breach shall be to (i) institute an action for specific performance, including but not limited to requiring Tenant to pay directly to construction workers any payments due and/or (ii) pursue a claim against Tenant for actual damages, which shall include payment of Landlord's costs of enforcement and liquidated damages paid to construction workers in the amount of an additional fifty percent (50%) of the amount due under (i) above. Landlord acknowledges and agrees that Landlord shall have no right to terminate this Lease or exercise any other remedies except those specifically set forth in this Section 4.1(d) for a breach of this Section 4.1.

(e) For purposes of this Section 4.1, "construction workers" shall mean any individuals completing construction work for an hourly wage, whether on a contract basis or as employees, for any prime contractor (i.e., an individual or entity that entered into an agreement with Tenant) or for any subcontractor (i.e., any individual or entity that entered into an agreement with the prime contractor) engaged to perform any construction work for the Initial Improvements.

(f) This Section 4.1 and the obligations set forth herein shall expire and terminate and be of no further force or effect upon Tenant's receipt of the Shell Certificate of Occupancy for the Initial Improvements.

4.2 To the extent the Tenant elects to participate in the City's Downtown Density Bonus Program, then ten percent (10%) of any Residential Units constructed shall comply with the on-site affordable housing requirements of such Downtown Density Bonus Program.

4.3 Tenant agrees to donate a total of \$700,000 to the Austin Parks Foundation for either the ongoing capital raise or operating costs related to Republic Square Park, with such donation to be made in two payments of \$350,000 each with the first such payment payable on the sixth anniversary of the Rent Commencement Date and the second payment payable on the seventh anniversary of the Rent Commencement Date, unless otherwise agreed in a separate agreement between Tenant and the Austin Parks Foundation.

ARTICLE V MODIFICATIONS; WORK

5.1 Modifications. Tenant, at its sole cost and expense, at any time and from time to time without the consent of Landlord may make modifications, alterations, renovations, improvements and additions to the completed Improvements or any part thereof and substitutions and replacements therefor (collectively, "**Modifications**"), provided that the Modifications are performed in accordance with the Legal Requirements. Notwithstanding the foregoing, after the Completion of Construction, Tenant shall not, without obtaining Landlord's prior written approval, in Landlord's Permitted Discretion, make any Modifications to the exterior of the Improvements that adversely affect the appearance of the overall Project, including, without limitation, the elevations of the Improvements, but excluding retail storefronts and related signage.

5.2 Work. The Project, all Modifications and any and all other Improvements constructed on the Land at any time during the Term and any and all alterations, rebuilding, restoration, renovations, repairs, refurbishments, or other work with regard to the Project, Modifications or any other

Improvements (collectively, “**Work**”) will be performed in accordance with the Legal Requirements. Tenant shall require that all contracts for Work provide that the Contractor does not have, and will not assert or claim, any lien against the Fee Estate, and any lien with respect to the Work shall be subordinate and inferior to the right, title and interest of Landlord in and to the Leasehold Estate (including, without limitation, the reversion of ownership of the Improvements to Landlord upon expiration or earlier termination of this Lease).

ARTICLE VI AS-IS CONDITION OF PROPERTY

IT IS UNDERSTOOD AND AGREED THAT THE PROPERTY IS BEING LEASED HEREUNDER “AS IS”, “WHERE-IS” WITH ANY AND ALL FAULTS AND LATENT AND PATENT DEFECTS WITHOUT ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY BY LANDLORD. LANDLORD HAS NOT MADE AND DOES NOT HEREBY MAKE, AND HEREBY SPECIFICALLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR CHARACTER WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, ITS CONDITION (INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY REGARDING SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE), COMPLIANCE WITH ENVIRONMENTAL LAWS OR OTHER LAWS, OR ANY OTHER MATTER OR THING RELATING TO OR AFFECTING THE PROPERTY OR THE PROJECT, AND LANDLORD HEREBY DISCLAIMS AND RENOUNCES ANY OTHER REPRESENTATION OR WARRANTY. TENANT ACKNOWLEDGES AND AGREES THAT IT IS ENTERING INTO THIS LEASE WITHOUT RELYING UPON ANY SUCH REPRESENTATION, WARRANTY, STATEMENT OR OTHER ASSERTION, ORAL OR WRITTEN, MADE BY LANDLORD OR ANY REPRESENTATIVE OF LANDLORD OR ANY OTHER PERSON ACTING OR PURPORTING TO ACT FOR OR ON BEHALF OF LANDLORD WITH RESPECT TO THE PROPERTY OR THE PROJECT, BUT RATHER IS RELYING UPON ITS OWN EXAMINATION AND INSPECTION OF THE PROPERTY. TENANT REPRESENTS THAT IT IS A KNOWLEDGEABLE DEVELOPER OF REAL ESTATE AND THAT IT IS RELYING SOLELY ON ITS OWN EXPERTISE AND THAT OF ITS CONSULTANTS IN ENTERING INTO THIS LEASE, DEVELOPING THE PROJECT AND LEASING THE PROPERTY.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TENANT FOR ITSELF AND, TO THE MAXIMUM EXTENT PERMITTED BY LEGAL REQUIREMENTS, ON BEHALF OF THE TENANT PARTIES AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, HEREBY EXPRESSLY WAIVES, RELEASES AND RELINQUISHES ANY AND ALL CLAIMS, CAUSES OF ACTION, RIGHTS AND REMEDIES TENANT, THE TENANT PARTIES OR SUCH SUCCESSORS AND ASSIGNS MAY NOW OR HEREAFTER HAVE AGAINST LANDLORD AND THE OTHER INDEMNITEES, WHETHER KNOWN OR UNKNOWN, WITH RESPECT TO ANY PAST, PRESENT OR FUTURE PRESENCE OR EXISTENCE OF HAZARDOUS MATERIALS (EXCEPT TO THE EXTENT CAUSED BY LANDLORD OR ITS CONTRACTORS, AGENTS OR EMPLOYEES) AT, ON, IN, NEAR, UNDER OR ABOUT THE PROPERTY, OR WITH RESPECT TO ANY PAST, PRESENT OR FUTURE VIOLATIONS OF ANY LEGAL REQUIREMENTS, NOW OR HEREAFTER ENACTED, REGULATING OR GOVERNING THE USE, HANDLING, STORAGE, PRESENCE, RELEASE, MANAGEMENT OR DISPOSAL OF HAZARDOUS MATERIALS, INCLUDING, WITHOUT LIMITATION (I) ANY AND ALL RIGHTS TENANT, THE OTHER TENANT PARTIES OR SUCH SUCCESSORS AND ASSIGNS MAY NOW OR HEREAFTER HAVE TO SEEK CONTRIBUTION FROM LANDLORD UNDER SECTION 113(F) OF OR OTHERWISE UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND

LIABILITY ACT OF 1980, AS AMENDED, INCLUDING BY THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986 (42 U.S.C. §9613), AS THE SAME MAY BE FURTHER AMENDED OR REPLACED BY ANY SIMILAR LAW, RULE OR REGULATION, (II) ANY AND ALL CLAIMS, WHETHER KNOWN OR UNKNOWN, NOW OR HEREAFTER EXISTING, WITH RESPECT TO THE PROPERTY UNDER SECTION 107 OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED (42 U.S.C. §9607), AND (III) ANY AND ALL CLAIMS, WHETHER KNOWN OR UNKNOWN, AND WHETHER BASED ON STRICT LIABILITY OR OTHERWISE, UNDER OTHER APPLICABLE ENVIRONMENTAL LAWS OR BASED ON NUISANCE, TRESPASS OR ANY OTHER COMMON LAW OR STATUTORY PROVISIONS.

TENANT ACKNOWLEDGES AND AGREES THAT IT IS ENTERING INTO THIS LEASE WITHOUT RELYING UPON ANY REPRESENTATION, WARRANTY, STATEMENT OR OTHER ASSERTION, ORAL OR WRITTEN, MADE BY LANDLORD OR ANY REPRESENTATIVE OF LANDLORD OR ANY OTHER PERSON ACTING OR PURPORTING TO ACT FOR OR ON BEHALF OF LANDLORD WITH RESPECT TO THE PROPERTY BUT RATHER IS RELYING UPON ITS OWN EXAMINATION AND INSPECTION OF THE PROPERTY. TENANT HEREBY EXPRESSLY ACKNOWLEDGES THAT IT HAS BEEN AFFORDED EVERY OPPORTUNITY TO EXAMINE AND INSPECT, AND HAS THOROUGHLY INSPECTED AND EXAMINED THE PROPERTY TO THE EXTENT DEEMED NECESSARY BY TENANT IN ORDER TO ENABLE TENANT TO EVALUATE THE PROPERTY. TENANT REPRESENTS THAT IT IS A KNOWLEDGEABLE DEVELOPER OF REAL ESTATE SUCH AS THE PROPERTY AND THAT IT IS RELYING SOLELY ON ITS OWN EXPERTISE AND THAT OF TENANT'S CONSULTANTS. TENANT WILL CONDUCT SUCH INSPECTIONS AND INVESTIGATIONS OF THE PROPERTY AS TENANT DEEMS NECESSARY OR APPROPRIATE, INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, THE SQUARE FOOTAGE OF THE PROPERTY, IMPROVEMENTS AND INFRASTRUCTURE, IF ANY, DEVELOPMENT RIGHTS AND EXACTIONS, EXPENSES ASSOCIATED WITH THE PROPERTY, TAXES, ASSESSMENTS, BONDS, PERMISSIBLE USES, TITLE EXCEPTIONS, WATER OR WATER RIGHTS, TOPOGRAPHY, UTILITIES, SUBDIVISION AND ZONING OF THE PROPERTY, SOIL CONDITIONS AND THE ADEQUACY OF THE SOIL FOR ANY PARTICULAR FOUNDATION SYSTEM, SUBSOIL, THE PURPOSES FOR WHICH THE PROPERTY TO BE USED, DRAINAGE, BUILDING LAWS, RULES OR REGULATIONS, HAZARDOUS MATERIALS OR ANY OTHER MATTERS AFFECTING OR RELATING TO THE PROPERTY, AND WILL RELY UPON SAME AND WILL ASSUME THE RISK OF ANY ADVERSE MATTERS, INCLUDING, BUT NOT LIMITED TO, ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS THAT MAY NOT HAVE BEEN REVEALED BY TENANT'S INSPECTIONS AND INVESTIGATIONS. TENANT HEREBY WAIVES AND RELINQUISHES ALL RIGHTS AND PRIVILEGES ARISING OUT OF, OR WITH RESPECT OR IN RELATION TO, ANY REPRESENTATIONS, WARRANTIES OR COVENANTS, WHETHER EXPRESS OR IMPLIED (UNLESS EXPRESSLY PROVIDED IN THIS LEASE), THAT MAY HAVE BEEN MADE OR GIVEN, OR THAT MAY HAVE BEEN DEEMED TO HAVE BEEN MADE OR GIVEN, BY LANDLORD. TENANT HEREBY ASSUMES ALL RISK AND LIABILITY, INCLUDING, WITHOUT LIMITATION, UNDER APPLICABLE ENVIRONMENTAL LAWS (AND AGREES THAT LANDLORD WILL NOT BE LIABLE, INCLUDING, WITHOUT LIMITATION, NOT STRICTLY LIABLE, FOR ANY SPECIAL, DIRECT, INDIRECT, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR OTHER DAMAGES) RESULTING OR ARISING FROM OR RELATING TO THE OWNERSHIP, USE, CONDITION, LOCATION, MAINTENANCE, REPAIR, OR OPERATION OF THE PROPERTY.

THE TERMS AND CONDITIONS OF THIS ARTICLE VI WILL EXPRESSLY SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE. TENANT FURTHER ACKNOWLEDGES AND AGREES THAT THE PROVISIONS OF THIS ARTICLE VI WERE A MATERIAL FACTOR IN LANDLORD'S DETERMINATION OF THE CONSIDERATION FOR ENTERING INTO THIS LEASE.

**ARTICLE VII
OPERATION, REPAIR, AND MAINTENANCE**

7.1 Operations.

(a) Tenant shall obey, perform and comply in all respects with any and all applicable Legal Requirements existing at any time during the Term in any way affecting the Property, or the use or condition thereof. Tenant shall not knowingly (with knowledge to be deemed upon the earlier of obtaining actual knowledge, or earlier if knowledge could have been obtained using reasonable diligence) permit or suffer the Property to be used or improved in any manner which violates applicable Legal Requirements. Tenant shall at its own expense, or the expense of a Subtenant, obtain any and all licenses, easements, permits, and other agreements necessary for its use of the Property (including, without limitation, Entitlements for the Project). Landlord will join in the applications for any such licenses, easements, permits, agreements, or otherwise as necessary to comply with the Legal Requirements where the signature of Landlord as owner of the Land is required, provided Tenant or a Subtenant pays all costs and expenses of Landlord associated therewith and Landlord incurs no liability or obligations with respect thereto (or if any liability or obligation is so imposed upon Landlord, then provided Tenant indemnifies Landlord for same).

(b) Tenant shall not occupy or use the Property in any manner that will constitute waste or nuisance, or permit any portion of the Property to be occupied or used for any purpose which is unlawful or extra hazardous on account of fire, nor permit anything to be done that will in any way invalidate insurance on the Property.

(c) Without limiting the generality of the foregoing but except as set forth in the final project documents approved by the City, Tenant shall not, and shall not knowingly (with knowledge to be deemed upon the earlier of obtaining actual knowledge, or earlier if knowledge could have been obtained using reasonable diligence) permit others to: (i) use or occupy the Property or any part thereof for any unlawful purpose or in such a manner as to: (A) violate any certificate of occupancy, certificate of compliance, certificate or policy of insurance, permit, license or franchise affecting the Property; or (B) constitute a public nuisance or waste; or (ii) impair Landlord's title to the Property or any portion thereof or create a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Property or any portion thereof.

7.2 Maintenance and Repair.

(a) Tenant, at its sole cost and expense, shall maintain, repair and replace, or cause to be maintained, repaired and replaced, the Property in good condition, repair and working order, and make all necessary repairs thereto and replacements thereof, of every kind and nature whatsoever, whether interior or exterior, ordinary or extraordinary, structural or nonstructural or foreseen or unforeseen, in good order, condition and repair.

(b) Landlord shall under no circumstances be required to build any improvements or install any equipment on the Property, make any repairs, replacements, alterations or renewals of any nature to the Property, nor may Tenant require Landlord to make any expenditure whatsoever in

connection with this Lease or maintain the Property in any way. Landlord shall not be required to maintain, repair or rebuild all or any part of the Property, and Tenant waives any right which might arise by virtue of this Lease or pursuant to Legal Requirements to (i) require Landlord to maintain, repair or rebuild all or any part of the Property or (ii) make repairs to the Property at the expense of Landlord pursuant to the terms of any Legal Requirement, contract, agreement, covenant, condition or restriction.

7.3 Utilities and Services. Tenant shall, at its sole cost and expenses, contract and pay (prior to delinquency) all charges for, or cause the Tenant Parties or Subtenants to contract and pay (prior to delinquency) all charges for, all utilities and services furnished to, or used by, the Property, including, as applicable, without limitation, gas, electricity, water, sewer, heat and air conditioning, telephone, communications services and garbage collection and all charges and deposits for any of the foregoing. Landlord will not be obligated to furnish any utilities or services to the Property and will not be liable for the failure of any such utilities or services to be provided or for any loss of or injury to property, however occurring, through or in connection with or incidental to the failure to furnish any such utilities or services. Landlord shall, at Tenant's or Subtenant's sole cost and expense, reasonably assist Tenant in obtaining easements for utilities and services necessary to develop the Project. In furtherance of the foregoing, Landlord shall, at Tenant's or Subtenant's sole cost and expense, execute easements in form and substance acceptable to Landlord in Landlord's Permitted Discretion which are required to be executed by the owner of the Property to aid in obtaining utilities for the Project. Landlord hereby agrees and acknowledges that the standard form easements promulgated by the City, as revised to address issues particular to the Project, are acceptable to Landlord and Landlord hereby consents to same.

7.4 Mechanic's Liens. Tenant shall use commercially reasonable efforts to not suffer or permit any mechanic's or other liens to be filed against the Property (or any portion thereof), nor against Tenant's Leasehold Estate, by reason of work, labor, services or materials supplied or claimed to have been supplied to or for the benefit of Tenant or any other Tenant Parties or anyone holding any interest in the Property or any part thereof by, through or under Tenant or any other Tenant Parties. Upon completion of any such work, Tenant shall, if requested by Landlord, deliver to Landlord final lien waivers from all contractors, subcontractors and materialmen who performed such work, if in Tenant's possession or control as to subcontractors and materialmen. If any such lien is at any time filed, Tenant shall within thirty (30) days after the earlier of Tenant obtaining knowledge of such lien or the filing thereof (or such earlier time period as may be necessary to prevent the forfeiture of the Property or any portion thereof or the imposition of a civil or criminal fine with respect thereto), cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Tenant fails to cause such lien to be discharged within the period aforesaid, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and any amounts so paid, including expenses and interest, shall be paid by Tenant to Landlord on demand together with interest at the Delinquency Interest Rate. All work performed, materials furnished, or obligations incurred by or at the request of any Tenant Party shall be deemed authorized and ordered by the applicable Tenant Party only and nothing contained in this Lease shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvements, alteration to or repair of the Property or any part thereof, nor as giving any Tenant Party a right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any liens against Landlord's Fee Estate. To the extent permitted by applicable law, **Tenant shall defend, indemnify, reimburse and hold Landlord, the Indemnitees and the Property harmless from and against all Claims in any way arising from or relating to the failure by any Tenant Party to pay for any work performed, materials furnished, or obligations incurred by or at the request of a Tenant Party. This indemnity provision shall survive the expiration or earlier termination of this Lease.**

ARTICLE VIII HAZARDOUS MATERIALS

8.1 Prohibition. Neither Tenant nor any Tenant Parties may cause or permit the use, treatment, generation, storage, disposal, spill, leakage, release, or production on, under or about or transportation to the Property of any Hazardous Materials, except in minor quantities required for Tenant's or the Tenant Parties' uses of the Property and operation thereon but in such event only to the extent that the Hazardous Materials are acquired, kept, stored, maintained, transported and disposed of in strict accordance with all Legal Requirements.

8.2 Other Rights. Nothing contained in this Lease will prevent or in any way diminish or interfere with any rights or remedies, including, without limitation, the right to contribution, which Landlord or Tenant may have against the other party under any Legal Requirements, all such rights being hereby expressly reserved.

8.3 Notice of Actions. Tenant shall give Landlord immediate written notice of the receipt of any notice or discovery of any information regarding any actual, alleged or potential Environmental Claim relating to the Property, and shall deliver to Landlord copies of any and all orders, notices, permits, reports, and other communications, documents and instruments which Tenant receives pertaining to such Environmental Claim.

8.4 Assumption of Liability. Tenant shall be solely and completely responsible for responding to, defending against and complying with any administrative order, request or demand relating to potential or actual contamination on the Property or release of any Hazardous Material from the Property into any adjoining property or the air, soil, surface water or ground water, whether such order, request, demand or claim names Landlord, Tenant or both, or refers to the Property in any way. The responsibility conferred under this Section 8.4 includes, but is not limited to, responding to such orders, requests, demands and claims on behalf of Landlord and defending against any assertion of Landlord's financial responsibility or individual duty to perform thereunder.

8.5 Indemnification. To the extent permitted by applicable law, Tenant shall indemnify, save harmless and defend Landlord and the Indemnitees from and against any and all Claims (including, without limitation, third party claims for personal injury or real or personal property damage and diminution in value of the Property and sums paid in settlement of claims, attorneys' fees, consultant fees, expert fees and any fees and expenses incurred in enforcing this indemnity) of any kind or of any nature whatsoever incurred by, sought from or asserted directly or indirectly against Landlord or the Indemnitees during or after the Term as a result of (a) the presence of any Hazardous Material on, in or under the Property or any release of any Hazardous Material into the air, soil, surface water or ground water, which Hazardous Material was brought, kept or used in or about the Property at any time during the Term, regardless of whether brought, kept or used by Tenant or any Tenant Parties, or (b) as a result of any breach by Tenant of its obligations under this Article VIII. The foregoing indemnity shall include, without limitation, (i) the costs of removal of any and all Hazardous Materials from the Property; (ii) all additional costs required to take necessary precautions to protect against the release of Hazardous Materials on, in, under or affecting the Property, into the air, any body of water, any other public domain or any surrounding areas; and (iii) any costs incurred to comply with all Legal Requirements.

ARTICLE IX TAXES

9.1 Taxes.

(a) At all applicable times during the Term when Taxes are assessed, Tenant shall pay or cause to be paid, not later than ten (10) days prior to delinquency, all Taxes directly to the appropriate Person.

(b) Tenant shall not be responsible for payment of taxes, if any, on the Landlord's fee simple estate.

(c) Tenant shall prepare and file all reports and returns required by Legal Requirements with respect to any Tax and shall furnish copies thereof to Landlord upon written request. Tenant shall promptly forward to Landlord, upon written request, copies of any bill or assessment respecting any Tax. Tenant shall also furnish and deliver to Landlord receipts evidencing the payment of any Tax as required by this Lease. Tenant acknowledges that Landlord is, and may continue to be throughout the Term, exempt from Taxes and therefore any Tax for the Lease Year in which this Lease commences or terminates shall not be prorated and Tenant shall be solely responsible for the same. If Tenant fails to pay any Tax when due, Landlord, without declaring an Event of Default hereunder, may, but shall not be obligated to, pay any such Tax and any amount so paid by Landlord, together with all costs and expenses incurred by Landlord in connection therewith, shall constitute Rent hereunder and shall be paid by Tenant to Landlord on demand with interest at the Delinquency Interest Rate. Tenant's obligation to pay Taxes which accrue during the Term shall survive the expiration or earlier termination of this Lease.

(d) To the extent permitted by applicable law, Tenant shall protect, indemnify, defend and hold harmless Landlord and the Indemnitees from and against all Claims for Tenant's failure to timely and fully pay any and all such Taxes, together with any interest, penalties or other sums thereby imposed, and from any sale or other proceeding to enforce payment thereof.

9.2 Tenant's Right to Contest Taxes. Tenant shall have the right to contest in good faith the amount or validity of any Tax by appropriate proceedings which operate to prevent or stay the collection of the Tax so contested. Upon the termination of such proceeding, Tenant shall deliver to Landlord proof of the amount of the Tax as finally determined and thereupon Tenant shall pay such Tax. **Landlord shall not be subjected to any liability for the payment of any costs or expenses in connection with any proceedings and to the extent permitted by applicable law, Tenant will indemnify, defend and hold Landlord and the Indemnitees harmless from any such costs and expenses.**

ARTICLE X INSURANCE AND INDEMNITY

10.1 Insurance. Tenant or the Tenant Parties shall, throughout the Term and at their sole cost and expense, provide and keep in force, with responsible insurance companies licensed to do business in Texas, the following insurance: property insurance on the Improvements and Personal Property on a cause of loss-special form (formerly known as "all risk" insurance) insuring against loss by fire and all of the risks and perils usually covered by a so called "all risk" of physical loss endorsement to a policy of fire insurance, including but, not limited to, vandalism and malicious mischief, in an amount equal to not less than 100% of the full replacement value thereof without co-insurance. The policy will contain an agreed value endorsement and a laws and ordinances endorsement. Such insurance will name Landlord as an additional insured or as loss payee, as its interests may appear.

(b) Workers' Compensation and Employers' Liability Insurance coverage with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Art. 401) (if applicable) and minimum policy limits for employers liability of \$1,000,000.00 bodily injury for each

accident, \$1,000,000 bodily injury by disease policy limit and \$1,000,000.00 bodily injury by disease each employee.

(c) Automobile Liability Insurance for all owned, non-owned, and hired motor vehicles, which will be utilized with respect to the Property in a minimum amount of \$1,000,000.00, combined single limit.

(d) Commercial General Liability policy with a minimum limit of \$1,000,000.00 per occurrence for bodily injury and/or property damage, products and completed operations with a minimum aggregate of \$2,000,000.00 and blanket contractual coverage, independent contractors' coverage and explosion, collapse and underground (X, C & U) coverage.

10.2 Policy Requirements.

(a) Insurance coverage is to be written by companies duly authorized to do business in the State of Texas at the time the policies are issued and will be written by companies with an A.M. Best rating of A/VIII or better or otherwise acceptable to Landlord in Landlord's Permitted Discretion. Additionally, all policies will contain a provision in favor of Landlord waiving subrogation or other rights of recovery against Landlord, to the extent available under Legal Requirements, and will be endorsed to provide Landlord with a thirty (30) day notice of cancellation except for non-payment for which only ten (10) days' notice will be required. Landlord and its Fee Mortgagees (and its Affiliates and property managers as to liability insurance only) will be an additional insured or loss payee as their interests may appear on the policies required by this Lease, as applicable, to the extent the applicable policy will allow such status. All policies will provide primary coverage as applicable, with any insurance maintained by Landlord being excess and non-contributing. Tenant will cause to be submitted a certificate of insurance to Landlord providing evidence of insurance coverage required by this Lease. Tenant will be responsible for (i) overseeing its contractors and consultants with respect to such contractors' and consultants' obtaining and maintaining the insurance required hereunder and (ii) obtaining and keeping copies of such contractors' and consultants' insurance certificates evidencing the insurance coverages required hereunder and providing copies thereof to Landlord upon receipt of written request.

(b) The certificate of insurance and all endorsements (e.g., additional insured), waivers (e.g., waiver of subrogation), and notices of cancellation shall indicate Landlord's notice address, or such other address as Landlord may notify Tenant in writing.

(c) Tenant or the Tenant Parties, as applicable, shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in the insurance policies to be carried hereunder by the Tenant or the Tenant Parties. All deductibles or self-insured retentions shall be disclosed on the certificate of insurance. No policy will have a deductible in excess of a commercially reasonable deductible amount. Self-insurance is only allowed with the written approval of Landlord in Landlord's Permitted Discretion.

(d) Tenant shall provide, or cause to be provided, to Landlord certificates of insurance evidencing all insurance required to be carried hereunder, (i) prior to the commencement of construction of the Project and (ii) at least ten (10) days prior to the expiration or renewal of any such insurance policy. All such certificates of insurance will be on an ACORD Form 27 (or any equivalent successor form); provided, however, with the prior review and approval of Landlord, an ACORD Form 25-S (or any equivalent successor form) may be used for commercial general liability insurance if (1) Landlord has been provided with a certified copy of all insurance policies, including all required endorsements and (2) there is attached to the Certificate of Insurance a valid and binding Revised Cancellation Endorsement specifying the requirement of the carriers to give thirty (30) days' advanced

notice of cancellation or material change in the policies and the words “endeavor to” and “but failure to mail such notice will impose no obligation or liability of any kind upon the company, its agents or representatives” will be deleted from the cancellation provision of the certificate; provided, however, that the foregoing shall not be required to the extent prohibited by Legal Requirements. Landlord is authorized to contact the issuing insurance agency and the insurance carriers to confirm the existence of the coverages. Furthermore, if requested in writing by Landlord, Tenant will cause to be provided to Landlord a copy of any or all insurance policies or endorsements required by this Lease.

10.3 Failure to Carry Insurance. If Tenant does not keep or cause to be kept insurance required in this Lease in full force and effect, and such failure continues for ten (10) days after written notice from Landlord, Landlord may, at its option (but with no obligation to do so), take out and/or pay the premiums on the insurance needed to fulfill the obligations under the provisions of this Article X. Upon demand from Landlord, Tenant shall reimburse Landlord the full amount of any amounts (including insurance premiums) paid by Landlord pursuant to this Section 10.3, with interest at the Delinquency Interest Rate.

10.4 Waiver of Subrogation. To the full extent permitted by Legal Requirements, Landlord and Tenant each waive all rights of recovery against the other (and any officers, directors, partners, employees, agents and representatives of the other), and agree to release the other from liability, for loss or damage to the extent such loss or damage is covered by valid and collectible property insurance in effect covering the party seeking recovery at the time of such loss or damage (or would have been covered by the insurance required to be maintained under this Lease by the party seeking recovery if such party had obtained such insurance), WHETHER OR NOT SUCH DAMAGE OR LOSS MAY BE ATTRIBUTABLE TO THE NEGLIGENCE OF EITHER PARTY OR THEIR OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND REPRESENTATIVES. If the release of either party, as set forth above, should contravene any law with respect to exculpatory agreements, the liability of the party in question shall be deemed not released but shall be secondary to the liability of the other’s insurer. FOR THE PURPOSE OF THE FOREGOING WAIVER, THE AMOUNT OF ANY DEDUCTIBLE OR SELF-INSURED RETENTION APPLICABLE TO ANY LOSS OR DAMAGE SHALL BE DEEMED COVERED BY, AND RECOVERABLE BY THE INSURED UNDER THE INSURANCE POLICY OR SELF-INSURANCE PROGRAM TO WHICH SUCH DEDUCTIBLE RELATES. IT IS THE EXPRESS INTENT OF LANDLORD AND TENANT THAT THE WAIVER OF SUBROGATION CONTAINED IN THIS SECTION 10.4 APPLY TO ALL MATTERS DESCRIBED HEREIN, INCLUDING, WITHOUT LIMITATION, ANY OF THE SAME THAT ARE CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF LANDLORD OR TENANT (OR THEIR RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND REPRESENTATIVES).

10.5 No Limitation of Tenant Liability. The insurance coverages required under this Lease are required minimums and are not intended to limit the responsibility of Tenant. If Tenant fails to maintain, or fails to cause to be maintained, any insurance required hereunder, Tenant will be liable for all Claims suffered or incurred by any Indemnitees which would have been covered by such insurance.

10.6 Indemnity. To the extent permitted by applicable law, Tenant assumes liability for, and shall indemnify, protect, save and keep harmless Landlord, Landlord’s Affiliates and their respective officers, directors, shareholders, members, managers, partners, contractors, employees and agents (each an “**Indemnitee**”), from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs and expenses, including, without limitation, reasonable legal expenses (collectively, “**Claims**”), of whatsoever kind and nature, imposed on, incurred by or asserted against any Indemnitee, in any way arising out of (a) Tenant’s performance of its obligations under this Lease, (b) any injury to or the death of any person or damage to any property occurring on the Property, (c) Tenant’s acts or

omissions, (d) the development, construction, use, management, ownership, possession, delivery, lease, sublease, operation or condition of the Property (including, without limitation, latent or other defects, whether or not discoverable by Tenant or any other Person) and (e) the violation by Tenant of any term, condition or covenant of this Lease or of any contract, agreement, restriction, or Legal Requirement affecting the Property, EVEN IF CAUSED BY THE NEGLIGENCE OR ALLEGED NEGLIGENCE OF AN INDEMNITEE OR IF AN INDEMNITEE WOULD OTHERWISE BE STRICTLY LIABLE UNDER LEGAL REQUIREMENTS. TENANT ACKNOWLEDGES AND AGREES THAT PURSUANT TO THE PROVISIONS OF THIS SECTION 10.6, TENANT AGREES TO INDEMNIFY THE INDEMNITEES EVEN IF THE INDEMNITEES ARE NEGLIGENT, BUT NOT TO THE EXTENT THE CLAIMS ARISE OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE APPLICABLE INDEMNITEE. The provisions of this Section 10.6 will survive the expiration or earlier termination of this Lease. For the avoidance of doubt, with respect to any Default by Tenant, the intention of the parties is that, as between Landlord and Tenant, Landlord's remedies against Tenant as a result of such Event of Default shall be the remedies set forth in Section 17.2 below and not a claim for indemnity under this Section 10.6 (except to the extent that there are third-party Claims arising out of such Default by Tenant, in which case Landlord is entitled to a claim for indemnity under this Section 10.6).

10.7 Indemnity Procedures. With respect to all the indemnity obligations in this Lease for which Tenant is obligated to indemnify an Indemnitee under this Lease, if an Indemnitee notifies Tenant of any claim, demand, action, administrative or legal proceeding, investigation or allegation (collectively, "**Indemnity Proceedings**"), Tenant shall assume on behalf of the Indemnitee and conduct with due diligence and in good faith the investigation and defense thereof and the response thereto with counsel reasonably satisfactory to the Indemnitee; provided, that the Indemnitee shall have the right to be represented by advisory counsel of its own selection and at its own expense; and provided further, that if any Indemnity Proceeding involves both Tenant and the Indemnitee and the Indemnitee shall have been advised in writing by reputable counsel that there may be legal defenses available to it which are inconsistent with those available to Tenant, then the Indemnitee shall have the right to select separate counsel to participate in the investigation and defense of and response to such Indemnity Proceeding on its own behalf, and Tenant shall pay or reimburse the Indemnitee for all reasonable attorneys' fees incurred by the Indemnitee because of the selection of such separate counsel. If any Indemnity Proceeding arises, and Tenant fails to assume promptly (and in any event within twenty (20) days after being notified of the Indemnity Proceeding) the defense of the Indemnitee, then the Indemnitee may contest (or settle, with the prior consent of Tenant, which consent will not be unreasonably withheld, conditioned or delayed) the Indemnity Proceeding at Tenant's expense using counsel selected by the Indemnitee; provided, that after any such failure by Tenant which continues for ninety (90) days or more no such contest need be made or continued by the Indemnitee and settlement or full payment of any Indemnity Proceeding may be made by the Indemnitee without Tenant's consent and without releasing Tenant from any obligations to the Indemnitee under this Lease if, in the advice of counsel to the Indemnitee, the settlement or payment is advisable. If the applicable Claim is covered by insurance maintained by Tenant pursuant to this Lease, then (i) Landlord agrees to reasonably cooperate with the requirements of the applicable insurance company whose insurance relates to the Claim, and (ii) if Landlord retains its own counsel pursuant to the above, then Tenant's obligation to reimburse Landlord for reasonable legal fees and costs incurred by Landlord because of the selection of such separate counsel shall only be to the extent covered by such insurance. The provisions of this Section 10.7 will survive the expiration or earlier termination of this Lease.

ARTICLE XI REPRESENTATIVES; DISPUTE RESOLUTION

11.1 Landlord Representative. Landlord shall designate in writing to Tenant the name of the individual (the “**Landlord Representative**”) who will have full authority to execute any and all instruments requiring Landlord’s signature and to act on behalf of Landlord with respect to all matters arising out of this Lease. As of the Commencement Date, the Landlord Representative is:

Bonnie Floyd (or successor)
Travis County Purchasing Agent
700 Lavaca Street
Austin, Texas 78701

Landlord shall have the right, from time to time, to change the Person who is the Landlord Representative by giving Tenant written notice thereof. The Landlord Representative shall represent the interests of Landlord, be responsible for overseeing all aspects of the Project, and work closely with the Tenant Representative, on behalf of Landlord. Actions by the Landlord Representative on behalf of Landlord shall be done in his or her business judgment unless express standards or parameters therefor are included in this Lease, in which case, actions taken by the Landlord Representative shall be in accordance with such express standards or parameters. Any consent, approval, decision or determination hereunder by the Landlord Representative shall be binding on Landlord; provided, however, that the Landlord Representative shall not have any right to modify, amend or terminate this Lease.

11.2 Tenant Representative. Tenant shall designate in writing to Landlord the name of the individual (the “**Tenant Representative**”) who will have full authority to execute any and all instruments requiring Tenant’s signature and to act on behalf of Tenant with respect to all matters arising out of this Lease. As of the Commencement Date, the Tenant Representative is:

Seth Johnston
c/o Lincoln Property Company
201 W. 5th Street, Suite 1200
Austin, Texas 78701

11.3 Tenant shall have the right, from time to time, to change the Person who is the Tenant Representative by giving Landlord written notice thereof. The Tenant Representative shall represent the interests of Tenant, be responsible for overseeing all aspects of the Project, and work closely with the Landlord Representative, on behalf of Tenant. Actions by the Tenant Representative on behalf of Tenant shall be done in his or her business judgment unless express standards or parameters therefor are included in this Lease, in which case, actions taken by the Tenant Representative shall be in accordance with such express standards or parameters. Any consent, approval, decision or determination hereunder by the Tenant Representative shall be binding on Tenant; provided, however, that the Tenant Representative shall not have any right to modify, amend or terminate this Lease.

ARTICLE XII

SURRENDER; HOLDOVER

12.1 Surrender. No act by Landlord will be an acceptance of a surrender of the Property, and no agreement to accept a surrender of the Property will be valid unless it is in writing and signed by Landlord. At the end of the Term or the termination of Tenant’s right to possess the Property, Tenant shall: (a) deliver to Landlord the Property with all Improvements located thereon in good repair and condition, reasonable wear and tear excepted (subject however to Tenant’s maintenance obligations), and (b) deliver to Landlord all keys to the Property. Tenant, at its sole cost and expense, shall promptly remove all Personal Property owned by Tenant from the Property. Additionally, Tenant, without notice from Landlord, shall remove all Hazardous Materials if required under Legal Requirements and all

additions, alterations, improvements, machinery and movable and nonmovable fixtures relating to the use, testing or storage of Hazardous Materials in compliance with all Legal Requirements prior to the expiration of the Term. All items required to be removed hereunder and not so removed will, at the option of Landlord, be deemed abandoned by Tenant and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord without notice to Tenant and without any obligation to account for such items, and Tenant shall pay for the expenses and costs incurred by Landlord in connection therewith. On or before the expiration or earlier termination of this Lease, Tenant shall cause any Leasehold Mortgages to be fully released and discharged.

12.2 Holding Over. If Tenant fails to vacate the Property and deliver the same to Landlord at expiration or earlier termination of the Term in accordance with this Lease, then Tenant shall be a tenant at sufferance and, in addition to all other damages and remedies to which Landlord may be entitled for such holding over, Tenant shall otherwise continue to be subject to all of Tenant's obligations under this Lease. The provisions of this Section 12.2 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law or a consent by Landlord to any holding over by Tenant; and Landlord expressly reserves the right to require Tenant to surrender possession of the Property upon the expiration of the Term or upon the earlier termination hereof and to assert any remedy in law or equity to evict Tenant and/or collect damages in connection with such holding over. If Tenant fails to surrender the Property upon the termination or expiration of this Lease in accordance with this Lease, in addition to any other liabilities to Landlord accruing therefrom, to the extent permitted by applicable law, Tenant shall protect, defend, indemnify and hold the Indemnitees harmless from all Claims resulting from such failure, including any claims made by any succeeding lessees founded upon such failure to surrender, and any lost profits to Landlord resulting therefrom, provided that Landlord has given Tenant at least thirty (30) days advance written notice of any potential Claims and Tenant fails to surrender the Property within such thirty (30) day period.

ARTICLE XIII

CASUALTY AND CONDEMNATION

13.1 Damage or Destruction.

(a) Tenant shall give Landlord immediate (from the time that Tenant becomes, or should have with reasonable diligence become, aware of same) written notice if any portion of the Property is damaged or destroyed by fire, casualty, or other cause ("**Casualty**"). Tenant shall appear in any proceeding or action to defend, negotiate, prosecute, or adjust any claim for any insurance payment on account of any Casualty and shall take all appropriate action in connection with any such Casualty. No settlement of any such proceeding or action made by Tenant without Landlord's prior written consent will be binding on Landlord's interest as named insured or loss payee (as the case may be) under the applicable policy. In the event of a Casualty, whether partial or total, and whether or not such Casualty is covered by insurance, Tenant shall repair, restore, and rebuild the Property to substantially the same or better condition as existed immediately prior to such Casualty, all in accordance with Legal Requirements. Tenant shall be solely responsible for and shall pay the balance, if any, of the costs to so restore the Property. As between Tenant and a Leasehold Mortgagee, all insurance proceeds payable to Tenant pursuant to this Article XIII shall be disbursed by Tenant in accordance with and pursuant to the terms of any applicable Leasehold Mortgage. However, if a Casualty occurs prior to the Completion of Construction and there is still outstanding Construction Financing, then with respect to such Casualty, insurance proceeds, in an amount satisfactory to Tenant and Landlord, shall be set aside in an amount sufficient to raze the Improvements on the Property (including, without limitation, any building foundations) and clear the Property of all debris, level and clear all areas, landscape the Property in a manner reasonably required by Landlord (to include at a minimum sod or such other basic ground cover as Landlord may require) and leave all such areas in a neat and safe condition if rebuilding does not occur

and to be used for rebuilding if rebuilding does occur. For the avoidance of doubt, the immediately preceding sentence shall no longer be applicable after Completion of Construction and after the Construction Financing has been fully paid.

(b) Notwithstanding the foregoing, if a Casualty occurs during the last five (5) Lease Years of the Term, Tenant shall have the following options:

(i) Tenant may elect not to repair and restore the Property, but instead terminate this Lease by giving written notice of termination to Landlord within ninety (90) days after the date of the Casualty. If Tenant elects to so terminate this Lease, Tenant shall, at Tenant's expense, raze the Improvements and level, clear, clean, and otherwise put the Land in good order and in a safe condition, in which event Landlord shall first deduct therefrom all expenses actually incurred by Landlord in settling or adjusting the claim, including attorneys' fees, and then make the remaining insurance proceeds available to reimburse Tenant for the cost of such work, with the balance of the remaining insurance proceeds being distributed to the Leasehold Mortgagees for application on the Leasehold Mortgages, and then the balance of the proceeds are to be distributed to Landlord.

(ii) If Tenant does not elect to terminate this Lease as provided herein and repairs and restores the Property, the Term shall be extended for a period equal to the time reasonably required for Tenant to so repair and restore the Property.

Notwithstanding the foregoing, Tenant may not terminate this Lease pursuant to this Section 13.1(b) without first obtaining the consent of any Leasehold Mortgagee.

(c) If Tenant is required or elects to repair or restore the Property after a Casualty, the insurance proceeds, after deduction therefrom of all reasonable expenses actually incurred in settling or adjusting the claim, including attorneys' fees, will be made available to Tenant for the repair and restoration of the Property on and subject to the following terms and conditions:

(i) Landlord shall not be deemed to waive any claims to proceeds arising out of an Event of Default.

(ii) Tenant furnishes to Landlord an estimate of the cost to fully restore the Property, and the insurance proceeds available to Tenant hereunder, plus any additional amount supplied by Tenant from other sources (which additional amount will be escrowed with the funds described in Section 13.1(d)(i) below and used prior to the insurance proceeds) are sufficient to pay all of the costs of such restoration.

(iii) Prior to commencement of construction of the restoration work, Tenant obtains all necessary Entitlements from all Governmental Authorities with respect to the restoration work.

(iv) Tenant has furnished Landlord a copy of the construction contracts for such restoration complying with the applicable provisions of this Lease.

(d) If the conditions set forth in Section 13.1(c) are satisfied, then (I) if the insurance proceeds are less than \$100,000.00, they shall be paid to Tenant to be used in accordance with this Article XIII and (II) if the insurance proceeds are \$100,000 or greater, then Landlord and Tenant shall execute an escrow agreement with a third party approved by Landlord and Tenant (the "**Escrow Agent**") (Landlord

and Tenant hereby agreeing that a Leasehold Mortgagee may be the Escrow Agent), which shall contain the following provisions:

(i) Landlord and Tenant shall cause the insurance company to deposit with the Escrow Agent the available insurance proceeds and Tenant shall deposit with the Escrow Agent the amount of the estimated costs in excess of the available insurance proceeds (unless Tenant has made arrangements acceptable to Landlord for the financing and funding of such amount as provided above).

(ii) The Escrow Agent shall disburse such funds, within twenty (20) days after written request of Tenant and provided the Escrow Agent does not receive written objection by Landlord to any or all of such requested disbursement within said twenty (20) day period, but not more frequently than once each calendar month, upon delivery by Tenant to the Escrow Agent (with a copy to Landlord) of draw requests for the amount of the restoration costs then incurred by Tenant (together with bills paid affidavits, waivers and releases of liens) and a certificate from Tenant's architect certifying that the work for which such reimbursement is requested has been completed in accordance with the plans approved by Landlord; provided an amount equal to 10% of such costs (the "**Retainage**") shall be retained from each reimbursement payment. The Retainage shall be paid to Tenant thirty-five (35) days after the date of the completion of the restoration, as evidenced by an affidavit of completion executed by Tenant, Tenant's architect and the general contractor, subject to Tenant's delivery to Landlord and the Escrow Agent of a final certificate of occupancy issued by the applicable Governmental Authority and all bills paid affidavits and waivers and releases of liens from the general contractor and, if in Tenant's possession or control, all subcontractors furnishing labor or materials.

(iii) Any and all insurance proceeds remaining after deduction of all reasonable expenses incurred by Landlord and Tenant in settling or adjusting the claim (including attorneys' fees) in excess of the cost of such repairs and restoration of the Property or clearance shall be paid to Tenant.

13.2 Condemnation.

(a) Tenant shall appear in any proceeding or action to defend, negotiate, prosecute, or adjust any claim for any award or compensation on account of any actual or threatened condemnation or eminent domain proceedings or other action by any Person having the power of eminent domain or condemnation (each, a "**Condemnation**") and shall take all appropriate action in connection with any such Condemnation; provided, however, that Landlord shall have the right to participate in the same and neither party shall settle or resolve any such proceeding without the other party's prior written consent in its sole discretion.

(b) During the Term, if title to and possession of all of the Property is taken by Condemnation, then this Lease shall terminate on the day of the earlier to occur of the vesting of legal title to the Property in the entity exercising the power of Condemnation or the taking of actual physical possession of the Property by the entity exercising such power. After such termination, both Landlord and Tenant are released from all obligations under this Lease; except for the provisions of this Lease that expressly survive termination of this Lease. Any compensation or damages awarded or payable under this Section 13.2(b) will be distributed as provided in Section 13.3 below.

(c) If a Condemnation of less than all of the Property occurs, then in that event, this Lease will not terminate and all Condemnation awards payable as a result of said Condemnation will be distributed as provided in Section 13.3 below.

(d) If the whole or any portion of the Property shall be taken for temporary use or occupancy, (i) the Term shall not be reduced, (ii) Tenant shall continue to satisfy all monetary obligations under this Lease, (iii) except to the extent Tenant is prevented from so doing pursuant to the terms of the order of the condemning authority, Tenant shall continue to perform and observe all non-monetary obligations under this Lease, and (iv) Tenant shall be entitled to receive the entire award therefor unless the period of temporary use or occupancy shall extend beyond the expiration of the Term, in which case such award shall be apportioned between Landlord and Tenant in the same ratio that the part of the period for which such compensation is made falling before the day of expiration and that part falling after, bear to such entire period.

13.3 Distribution of Proceeds. In any Condemnation proceeding, the parties will request that the condemning authority grant separate awards for value of the Fee Estate taken and the Leasehold Estate taken.

(a) If the condemning authority grants separate awards, then Landlord shall be entitled to the award for the value of the Fee Estate and Tenant shall be entitled to the award for the value of the Leasehold Estate (but without duplication).

(b) If the condemning authority refuses to grant separate awards, then the parties shall have the Property that is being taken appraised and valued as if the condemnation had not occurred. Such appraisal process will determine the percentage of any award that should be attributed to the Fee Estate (the “**Fee Estate Percentage**”) and the percentage of any award that should be attributed to the Leasehold Estate (the “**Leasehold Estate Percentage**”) (and the aggregate of such percentages must equal one hundred percent [100%]). Landlord shall be entitled to the Fee Estate Percentage of any award and Tenant shall be entitled to the Leasehold Estate Percentage of the award which shall be disbursed by Tenant in accordance with and pursuant to the terms of any applicable Leasehold Mortgage.

(c) If this Lease is not terminated as a result of the Condemnation as expressly permitted above, any Condemnation proceeds received by either Landlord or Tenant, shall first be used to restore the Improvements to an architecturally whole unit, and, to the extent possible given the nature of the Condemnation, to substantially the same or better condition as existed immediately prior to such taking, and second in the proportions as provided in clauses (a) and (b) of Section 13.3. With respect to such restoration, there shall be no Landlord approval or consent rights on development that is partially subject to such Condemnation, which shall be subject only to Legal Requirements. Any Condemnation proceeds shall be held and disbursed in the same manner as proceeds from a Casualty as set forth in Sections 13.2(c) and 13.2(d) above, if applicable. As between Tenant and its Leasehold Mortgagees or Subtenants, all condemnation proceeds that belong to Tenant pursuant to this Article XIII shall be disbursed in accordance with the terms of the Leasehold Mortgage.

(d) If Landlord or Tenant receives notice of any proposed or pending Condemnation proceeding affecting the Property, the party receiving such notice shall promptly notify the other party, the Fee Mortgagee (if it shall have given to such party notice of the address of such Fee Mortgagee), and any Registered Leasehold Mortgagee.

ARTICLE XIV TRANSFERS

14.1 Tenant Transfers. Except as otherwise expressly provided in this Lease, Tenant or Subtenant may not Transfer its rights and/or obligations under this Lease and/or with respect to the Property, including but not limited to Master Condominium Units created under Article XVI, without the written consent of Landlord, in Landlord's Permitted Discretion.

14.2 Permitted Transfers. Notwithstanding the foregoing, Tenant or Subtenant shall be permitted to Transfer its rights and/or obligations under this Lease to (each a "**Permitted Transfer**") (i) an Affiliate, (ii) any corporation, limited partnership, limited liability partnership, limited liability company or other business entity in which or with which Tenant or Subtenant, or its corporate successors or assigns, is merged or consolidated, in accordance with applicable statutory provisions governing merger and consolidation of business entities, so long as (a) Tenant's or Subtenant's (as applicable) obligations hereunder are assumed by the entity surviving such merger or created by such consolidation; and (b) the Tangible Net Worth of the surviving or created entity is not less than the Tangible Net Worth of Tenant or Subtenant, as applicable, as of the date hereof; or (iii) any corporation, limited partnership, limited liability partnership, limited liability company or other business entity acquiring all or substantially all of Tenant's or Subtenant's assets, so long as (a) Tenant's or Subtenant's (as applicable) obligations hereunder are assumed by the entity acquiring such assets; and (b) such entity's Tangible Net Worth after such acquisition is not less than the Tangible Net Worth of Tenant or Subtenant as of the date hereof. Tenant shall promptly notify Landlord of any such Permitted Transfer. The occurrence of a Permitted Transfer shall not waive Landlord's rights as to any subsequent Transfers. "**Tangible Net Worth**" means the excess of total assets over total liabilities, in each case as determined in accordance with generally accepted accounting principles consistently applied ("**GAAP**"), excluding, however, from the determination of total assets all assets which would be classified as intangible assets under GAAP including goodwill, licenses, patents, trademarks, trade names, copyrights, and franchises. Any subsequent Transfer by a Permitted Transferee shall be subject to the terms of this Section.

14.3 Subletting to End Users.

(a) Tenant may at any time and from time to time without Landlord's consent enter into Subleases of the Residential Units and individual Commercial Spaces.

(b) Tenant agrees for the benefit of Landlord that each Sublease shall provide that: (i) it is subject and subordinate to the terms and provisions of this Lease; and (ii) in the event of termination of this Lease for any reason, including, without limitation, a voluntary surrender by Tenant, or in the event of any reentry or repossession of the Property by Landlord, Landlord may, at its option but with no obligation, take over all of the right, title and interest of Tenant, as sublessor, under such Sublease, in which case the Subtenant shall attorn to Landlord, but that nevertheless Landlord shall not (1) be liable for any previous act or omission of Tenant under such Sublease, (2) be subject to any counterclaim, defense or offset previously accrued in favor of the Subtenant against Tenant, (3) be bound by any security or advance rental deposit made by such Subtenant which is not delivered or paid over to Landlord and with respect to which such Subtenant shall look solely to Tenant for refund or reimbursement, or (4) be obligated to perform any work in the subleased space or to prepare it for occupancy, and in connection with such attornment, the Subtenant shall execute and deliver to Landlord any instruments Landlord may request to evidence and confirm such attornment.

(c) Tenant shall provide a copy to Landlord of any direct Sublease from Tenant to a Subtenant (but expressly excluding any Subleases, whether direct or indirect, to End Users) to Landlord.

(d) If Tenant is not in default of this Lease beyond any applicable notice and cure period, Landlord shall, within thirty (30) days of receipt of written request, provide a non-disturbance and

attornment agreement (a “**Recognition Agreement**”) to Subtenants and End Users in the form attached hereto as **Exhibit C** or such other mutually agreeable form.

14.4 Assignments after Bankruptcy. If, pursuant to the federal Bankruptcy Code or any other present or future federal or state insolvency, bankruptcy or similar law, Tenant (or its successor in interest hereunder) is permitted to assign this Lease in disregard of the restrictions contained in this Article XIV (or if this Lease shall be assumed by a trustee for such person), the trustee or assignee shall cure any Event of Default under this Lease and shall provide adequate assurance of future performance by the trustee or assignee as required pursuant to Section 365 of the Bankruptcy Code. If all Events of Defaults are not cured and such adequate assurance is not provided within the later of (i) the applicable deadlines provided for in Section 365(d)(4) of the Bankruptcy Code or (ii) sixty (60) days after there has been an order for relief under the federal Bankruptcy Code or any other present or future federal or state insolvency, bankruptcy or similar law, then this Lease shall be deemed rejected, Tenant or any other Person in possession (except Subtenants and End Users having a Recognition Agreement from Landlord, provided such Subtenant or End User is not the Person in bankruptcy) shall immediately vacate the Property, and Landlord shall be entitled to retain any Rent, together with any security deposit previously received from Tenant, and shall have no further liability to Tenant or any person claiming through Tenant or any trustee.

14.5 Landlord Transfers. Landlord shall have the right, at any time and from time to time, to Transfer its rights and/or obligations under this Lease and/or with respect to the Property without the consent of Tenant, as Landlord, in its sole judgment, deems it appropriate without any liability to Tenant, and Tenant shall attorn to any party to which Landlord Transfers its rights and obligations hereunder. If Landlord desires to assign this Lease and to the extent such assignment requires a bidding process, Tenant shall not be prohibited from participating in such bidding process (unless such participation is prohibited by Legal Requirements).

ARTICLE XV FINANCING

15.1 General. Tenant and its Subtenants shall be permitted to encumber, with a Leasehold Mortgage, its Leasehold Estate (or a subleasehold estate) in the Property and/or its interest in this Lease, in accordance with, subject to and which shall be governed by the provisions of this Article XV below.

15.2 Financings. Tenant and its Subtenants shall have the right and power, but not the obligation, to enter into financings secured by its interest in the Leasehold Estate, its interest in this Lease, and the right, title and interest of Tenant in and to the Improvements to do all of the following: (a) finance development of the Project or any portion thereof (“**Construction Financing**”), and (b) obtain (i) interim, take-out or permanent or other financing for the purposes of repaying such Construction Financing, and/or (ii) any other financing for acquiring an interest in, holding (including refinancing) or operating all or any portion of the Leasehold Estate (“**Permanent Financing**”). Such Construction Financing and Permanent Financing are sometimes hereinafter individually or collectively referred to as “**Financing**”. Any such Financing may be evidenced by one or more promissory notes and may be (but shall not be required to be) secured by one or more Leasehold Mortgages. If any Financing is secured by a Leasehold Mortgage, the Leasehold Mortgage shall be subject to all of the terms and conditions set forth in this Section 15.2 and Section 15.3 below. Landlord and Tenant specifically agree that Landlord is not and shall not be obligated to, and does not hereby, subordinate its Fee Estate (including, without limitation, its rights or ownership interests and any reversionary rights of Landlord after the expiration or earlier termination of this Lease) in the Property or in this Lease to any Financing; and none of the Rent provided for in this Lease is or shall be subordinate to any Financing, and Landlord and Tenant agree that such

Rent shall be due and payable by Tenant throughout the Term regardless of any Financing. Further, in no event will any Financing or any Leasehold Mortgage extend beyond the expiration of the Term.

15.3 Leasehold Mortgages. Tenant and its Subtenants may, with notice to Landlord, encumber the Leasehold Estate by a Leasehold Mortgage to secure any Financing permitted pursuant to Section 15.2 above, but each such Leasehold Mortgage and all other related loan documents entered into as part of such Leasehold Mortgage, and any amendments, modifications and supplements thereof (collectively, "**Leasehold Financing Documents**") shall be subject to each and all of the covenants, conditions, obligations and restrictions set forth in this Lease, none of the covenants, conditions, obligations and restrictions are or shall be waived by Landlord by reason of the rights given to Tenant under this Section 15.3. The execution and delivery of any Leasehold Mortgage, in and of itself, shall not be deemed to constitute a Transfer of this Lease nor shall the holder of any Leasehold Mortgage, as such, be deemed a Transferee of this Lease so as to require such Leasehold Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions on the part of Tenant to be performed hereunder. Landlord and Tenant further agree to the following:

(a) Tenant shall register each Leasehold Mortgagee by providing Landlord with written notice that includes a copy of the Leasehold Mortgage and stating the name and address of the Leasehold Mortgagee (each Leasehold Mortgagee for which such notice has been sent is herein referred to as a "**Registered Leasehold Mortgagee**"); provided further, that any such Registered Leasehold Mortgagee may be acting as an agent for a syndicate of multiple lenders providing the Financing secured by the applicable Leasehold Mortgage.

(b) Landlord shall send to any Registered Leasehold Mortgagee a copy of any notice or other communication from Landlord to Tenant of an Event of Default or a potential termination of this Lease as to all or the applicable portion of the Leasehold Estate at the time of giving such notice or communication to Tenant, and no termination of this Lease as to all or the applicable portion of the Leasehold Estate predicated on the giving of any notice shall be effective unless Landlord gives to such Registered Leasehold Mortgagee written notice or a copy of its written notice to Tenant of such Event of Default or termination, as the case may be. In no event will Landlord be obligated to furnish copies of any such notices to more than one individual as to any one Registered Leasehold Mortgagee regardless of the number of owners of interests in such Registered Leasehold Mortgage.

(c) Tenant shall promptly provide to Landlord a copy of any notice delivered by any Leasehold Mortgagee of Tenant's or Subtenant's default or the Leasehold Mortgagee's intent to exercise a remedy in connection with any Tenant default under a Leasehold Mortgage or any documents executed in connection therewith. Any separate agreement between Landlord and a Leasehold Mortgage shall contain a provision requiring the Leasehold Mortgagee to provide copies of any such notices directly to Landlord.

(d) In the event of any Default by Tenant under the provisions of this Lease, each Registered Leasehold Mortgagee shall have, after the giving of written notice by Landlord, the same periods as are given Tenant for remedying such default or causing it to be remedied. In such event, each Leasehold Mortgagee, without prejudice to its rights against Tenant, shall have the right (but not the obligation) to cure such default within the applicable grace periods (if any) provided for herein, together with an additional sixty (60) days beyond the later to occur of (i) the period of cure granted to Tenant hereunder, and (ii) the date notice of such default is received by the applicable Registered Leasehold Mortgagee; provided, however, if such Default by Tenant is not susceptible of cure by the applicable Leasehold Mortgagee within such 60-day period and the Registered Leasehold Mortgagee commences the cure within such 60-day period and thereafter diligently pursues such cure, then the Registered Leasehold Mortgagee shall have such additional time as is reasonably necessary to cure such Default by Tenant, but

in no event longer than a total of one hundred eighty (180) days. In the event a Registered Leasehold Mortgagee performs on behalf of Tenant in accordance with the foregoing provisions, Landlord shall accept such performance on the part of such Registered Leasehold Mortgagee as though the same had been done or performed by Tenant, and for such purpose Landlord and Tenant hereby authorize such Registered Leasehold Mortgagee to enter upon the Property and to exercise any of such Registered Leasehold Mortgagee's (and Tenant's) rights and powers under this Lease and, subject to the provisions of this Lease, under the applicable Leasehold Mortgage (provided in the case of any entry upon the Property, the Registered Leasehold Mortgagee will be liable for any Claims made against Landlord or the other Indemnitees caused by such Leasehold Mortgagee's acts or omissions in connection therewith). In addition, in those instances that require any Leasehold Mortgagee to be in possession of the Property to cure any default by Tenant, the time allowed any Registered Leasehold Mortgagee to cure any default by Tenant shall be deemed extended to include the reasonable period of time required by any Registered Leasehold Mortgagee to obtain such possession with the exercise of due diligence (including, without limitation, foreclosure or deed-in-lieu of foreclosure under a Leasehold Mortgage), and in those instances in which any Leasehold Mortgagee is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Tenant from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof, the time herein allowed any Registered Leasehold Mortgagee to prosecute such foreclosure or other proceeding shall be extended for the period of such prohibition, provided that, in either such instance, such Registered Leasehold Mortgagee shall have fully cured any default in the payment of Rent or any other monetary obligation of Tenant under this Lease and shall continue to make payments of Rent and any other monetary payments to Landlord in accordance with the terms and within the time frames set forth in this Lease that is not cured within the applicable cure period hereunder; provided further, however, in no event shall any Landlord Mortgagee ever be required to cure or commence to cure any default that is personal to Tenant (e.g., bankruptcy). Nothing contained in this Section 15.3(d), however, shall be construed to extend this Lease beyond the Term.

(e) In the event of a default under a Leasehold Mortgage, such Leasehold Mortgagee may exercise with respect to the Property any right, power or remedy under the Leasehold Mortgage that is not in conflict with the provisions of this Lease. Landlord acknowledges that, pursuant to the terms of Section 14.1(a)(iii), an Affiliate of a Leasehold Mortgagee may take title to all or any relevant portion of the Leasehold Estate in a foreclosure action in lieu of the named Leasehold Mortgagee so long as the same is done in accordance with this Article XV.

(f) This Lease may be assigned, without the consent of, but with concurrent written notice to Landlord, to any Leasehold Mortgagee (or its designee that does not constitute a Prohibited Transferee, but without regard to clause (a) in the definition of Prohibited Transferee), pursuant to foreclosure or similar proceedings, or pursuant to an assignment or other transfer of this Lease to such Leasehold Mortgagee (or its designee that does not constitute a Prohibited Transferee, but without regard to clause (a) in the definition of Prohibited Transferee) in lieu thereof; thereafter, Transfers shall be subject to the provisions of Article XIV hereof.

(g) No amendment or modification of this Lease will be binding against a Registered Leasehold Mortgagee that existed and was registered at the time of such amendment or modification if the Registered Leasehold Mortgagee takes title to the Leasehold Estate pursuant Section 15.3(f) above unless such Registered Leasehold Mortgagee consented in writing to such amendment or modification.

(h) If at any time there shall be more than one Registered Leasehold Mortgagee covering the same portion of the Project, the holder of the Leasehold Mortgage prior in time shall be vested with the rights under Section 15.3 hereof (other than the provisions for receipt of notices as provided herein) to the exclusion of the other Registered Leasehold Mortgagees or any other Leasehold

Mortgages, the holders of which would not qualify as Registered Leasehold Mortgagees with respect to that portion of the Project; provided, however, as between Registered Leasehold Mortgagees (but not to be binding on Landlord), the terms of an intercreditor agreement between such Registered Leasehold Mortgagees may establish a different priority. The rights of any Leasehold Mortgagee regarding insurance and condemnation proceeds are and will remain subject to the rights of Landlord under this Lease.

(i) Notices from Landlord to a Registered Leasehold Mortgagee shall be mailed to the address provided to Landlord pursuant to Section 15.3(a) hereof, and those from Leasehold Mortgagee to Landlord shall be mailed to the address designated under this Lease. Such notices shall be given in the manner prescribed in Section 19.4 hereof and shall in all respects be governed by the provisions of that Section.

(j) Landlord will not subordinate its Fee Estate to the lien of any Leasehold Mortgage. Leasehold Mortgagees shall have no lien, security interest or other interest in the Fee Estate. Leasehold Mortgagees shall not acquire any lien, security interest or other interest in the Fee Estate in connection with any foreclosure action or acceptance of a deed in lieu thereof from Tenant. Landlord shall not be liable for the payment of the sum secured by any Leasehold Mortgage, nor for any expenses in connection with the same, and neither the Leasehold Mortgage nor any Leasehold Financing Document shall contain any covenant or other obligation on Landlord's part to pay such debt, or any part thereof, or to take any action or be responsible for any obligation of any kind whatsoever with respect to such debt. Furthermore, no Leasehold Mortgagee shall seek a judgment against Landlord for the payment of such debt or to take any action or be responsible for any obligation of any kind whatsoever based upon such Leasehold Mortgage or any Leasehold Financing Document.

(k) If Tenant's interest hereunder is terminated because of a rejection of this Lease by a trustee or debtor-in-possession in bankruptcy (and provided one or more unsatisfied Registered Leasehold Mortgages in favor of one or more Leasehold Mortgagees then are of record), upon written request of any such Leasehold Mortgagee delivered to Landlord within sixty (60) days following such rejection, Landlord will execute and deliver a new agreement with such Leasehold Mortgagee or its designee that does not constitute a Prohibited Transferee for the remainder of the Term with the same agreements, covenants, representations, warranties and conditions (except for any requirements that have been fulfilled by Tenant prior to termination and any requirements that are personal to Tenant) as were contained herein and covering the portion of the Project covered by the Leasehold Mortgage of such Registered Leasehold Mortgagee; provided, however, that such Leasehold Mortgagee or its designee must immediately cure any monetary default of Tenant hereunder and shall diligently pursue the cure to completion of any non-monetary default which is reasonably curable by Leasehold Mortgagee and not personal to Tenant.

(l) If this Lease is terminated for any reason, including, but not limited to any termination following a failure to cure a Default or in the event of the rejection or disaffirmance of this Lease pursuant to bankruptcy laws or other laws affecting creditors' rights, then upon the most senior (as to the applicable portion of the Project) Registered Leasehold Mortgagee's written request to Landlord within sixty (60) days after such termination, Landlord and such Registered Leasehold Mortgagee shall mutually execute and deliver a new lease (the "**New Lease**") for the remainder of the Lease Term covering the portion of the Project covered by the Leasehold Mortgage of such Registered Leasehold Mortgagee, at the then-current Rent and upon the terms, covenants, agreements, provisions, conditions and limitations herein contained reasonably allocated and applicable to such portion of the Project, provided, that:

(i) the notice from such Registered Leasehold Mortgagee must be accompanied by a copy of the New Lease, duly executed and acknowledged by such Registered Leasehold Mortgagee;

(ii) such Registered Leasehold Mortgagee shall pay or cause to be paid to Landlord at the time of the execution and delivery of such New Lease, any and all sums which would at the time of execution and delivery thereof be due pursuant to this Lease which are reasonably allocated and applicable to such portion of the Project but for such termination and, in addition thereto, upon presentation by the Landlord of documentation thereof, actual expenses, including reasonable attorneys' fees, which Landlord shall have incurred by reason of such termination and the execution and delivery of the New Lease which have not otherwise been received by Landlord;

(iii) such Registered Leasehold Mortgagee shall have remedied at or before the execution of such New Lease any Default by Tenant to the extent that the Leasehold Mortgage can reasonably remedy such prior Default and such Default is reasonably allocated and applicable to such portion of the Project. Landlord agrees that the tenant under such New Lease shall have the same right, title and interest in and to such portion of the Project thereon as the Tenant has under this Lease. The applicable Registered Leasehold Mortgagee shall be liable to perform all obligations imposed on the Tenant by such New Lease during, or which arise on account of, the period such Leasehold Mortgagee has title to the leasehold estate and said Leasehold Mortgagee shall remain liable for such obligations which arose during, or on account of, such period even after such period expires. Notwithstanding anything to the contrary contained herein, in no event shall any Leasehold Mortgagee be liable for any act or omission occurring during any period prior or, provided that Tenant's leasehold estate is thereafter assigned in compliance with the terms and conditions of such New Lease, subsequent to the time during which such Leasehold Mortgagee has title to the leasehold estate, except those outstanding defaults which the Leasehold Mortgagee is required to cure under this subsection which can be reasonably remedied by such Registered Leasehold Mortgagee;

(iv) upon the execution and delivery of such New Lease in accordance with the provisions of this Section 15.3(l), all Subleases which theretofore have been assigned and transferred to Landlord with respect to such portion of the Project covered by such New Lease shall thereupon be assigned and transferred without recourse by Landlord to the tenant under such New Lease, subject to the terms of any subordination and nondisturbance agreement previously executed between the Leasehold Mortgagee and the Subtenant under such Sublease;

(v) should any applicable Registered Leasehold Mortgagee fail to make the written request for a New Lease within the foregoing sixty (60) day period, such Registered Leasehold Mortgagee's right to request a New Lease shall terminate and be of no further force and effect; and

(vi) no Registered Leasehold Mortgagee that is subordinate to the applicable lien priority of another Registered Leasehold Mortgagee shall have the right to request a New Lease pursuant to this Section 15.3(l).

(m) No Leasehold Mortgagee shall become personally liable for the performance or observance of any covenants or conditions to be performed or observed by Tenant under this Lease unless and until such Leasehold Mortgagee expressly elects to become the owner of the Tenant's interest

hereunder upon the exercise of any remedy provided for in any Leasehold Mortgage or enters into a New Lease with Landlord pursuant to Section 15.3(l). Thereafter, such Leasehold Mortgagee shall be liable for the performance and observance of such covenants and conditions applicable to the period during which such Leasehold Mortgagee owns such interest or is the Tenant under this Lease.

15.4 Landlord Financing. Landlord shall have the absolute right at any time to encumber Landlord's interest in the Property (or any part thereof) in any way, including, but not limited to, by any mortgage or deed of trust, in Landlord's sole discretion. If Landlord encumbers its interest in the Property with a mortgage or deed of trust as provided in this Section 15.4, Tenant shall, provided Landlord or the holder of such mortgage or deed of trust shall have delivered to Tenant prior written notice of the address of any such holder, provide concurrent copies of any written notices of default sent to Landlord hereunder to the holder of such mortgage or deed of trust. Any Fee Mortgage hereafter covering Landlord's interest in the Fee Estate shall be subject to this Lease. Landlord shall obtain from each Fee Mortgagee a Subordination, Non-Disturbance, Attornment Agreement in favor of Tenant and any Master Unit owner on a form and in substance reasonably acceptable to Tenant and Master Unit Owner, as applicable. No holder of such a mortgage or deed of trust shall be or become liable to Tenant as an assignee of this Lease until such time as such holder, by foreclosure or other procedures, shall acquire the rights and interests of Landlord under this Lease, and upon such holder's assigning such rights and interests to another Person, such holder shall have no further such liability thereafter arising under this Lease.

ARTICLE XVI CONDOMINIUM

16.1 Master Units. Pursuant to Section 82.056 of the Texas Uniform Condominium Act (the "**Act**"), upon Completion of Construction, Tenant may impress on the Leasehold Estate a condominium regime affecting all of the Property which authorizes the creation of not more than five (5) master units (each a "**Master Unit**") pursuant to the Condominium Declaration and other documents establishing the regime that has been approved in writing by Landlord, in Landlord's Permitted Discretion (the "**Permitted Condo Documents**").

16.2 Permitted Condo Documents. The Permitted Condo Documents will include the following:

- (a) The Condominium Declaration shall set forth, at a minimum:
 - (i) the recording data for the Lease;
 - (ii) the date on which the Lease is scheduled to expire;
 - (iii) a legally sufficient description of the Property which is subject to the Lease,
 - (iv) the Master Unit owners do not have any right to redeem the reversion held by the Landlord;
 - (v) the Master Unit owners do not have any right to remove improvements after the expiration or termination of the Lease;
 - (vi) the Master Unit owners do not have the right to renew the Lease; and

(vii) the Landlord has executed the Condominium Declaration solely as provided by Section 82.056 of the Act and shall have no responsibility for the compliance with any provision of the Condominium Declaration and have absolutely no liability or obligation regarding any provision thereof; and

(viii) a provision stating:

“Owner Assumption of Ground Lease Obligations. Each Owner, with acceptance of a deed to a Unit, shall be deemed to assume any and all obligations (including the obligations to pay rent as provided in the Ground Lease allocated to such Unit in the Condominium Declaration), liabilities, limitations, rights, waivers, benefits or burdens that are vested or that may in the future become vested in or upon the “Tenant” pursuant to the Ground Lease and that are applicable to such Unit pursuant to Section 16.3 of the Ground Lease and as otherwise provided in this Declaration (the “**Ground Lease Obligations**”). The Ground Lease Obligations shall automatically be obligations, liabilities, limitations, rights, waivers, benefits or burdens of the Owners upon the recordation of this Declaration. This Section constitutes the assumption required pursuant to Article XVI of the Ground Lease without any further action.”

(b) With respect to Landlord’s Permitted Discretion whether to approve or deny any original or amended Permitted Condo Documents allowing for-sale or separately-owned residential dwellings, factors that Landlord may consider include the risks created regarding (i) construction defect claims, (ii) severance of the lease obligations among multiple units, and (iii) any other factor reasonably bearing on Landlord’s interests.

(c) The Permitted Condo Documents are subject and subordinate to the terms and provisions of this Lease.

(d) Notwithstanding anything to the contrary contained in the Permitted Condo Documents to the contrary, the Condominium Association shall have no authority to cause the Condominium Association to take any of the following actions, or to consent to the following actions, without the prior consent of Landlord, in Landlord’s Permitted Discretion:

(i) intentionally take any action in violation of this Lease;

(ii) merge or consolidate the Condominium Association with or into any other Person;

(iii) amend or supplement the Permitted Condo Documents, other than to attach or amend the “Map” exhibit to the Condominium Declaration to conform to the constructed Improvements of the Project;

(iv) change the purpose of the Condominium Association as set forth in the Permitted Condo Documents;

(v) dissolve the Condominium Association; or

(vi) file any voluntary petition under Title 11 of the United States Code, the Bankruptcy Code, or seek the protection of any other Federal or State bankruptcy or insolvency law or debtor relief statute or consenting to the institution or continuation of

any involuntary bankruptcy proceeding or the admission in writing of the inability to pay debts generally as they become due, or make a general assignment for the benefit of creditors.

16.3 Effect of Condo Documents.

(a) The provisions of this Section 16.3 shall apply from and after the date the Condominium Declaration is filed notwithstanding any other provision of this Lease and, in light of the fact that each Master Unit owner will then hold an undivided interest in the Tenant's Leasehold Estate, such provisions are intended to clarify the rights and duties of Landlord, each Master Unit owner (and their separate Leasehold Mortgagees), and the Condominium Association.

(b) From and after the date the Condominium Declaration is filed and a Master Unit is conveyed by Tenant to a third party, all outstanding obligations of Tenant contained in this Lease shall be assigned and assumed by the Condominium Association on behalf of the Master Unit owners; provided, however, that no such assignment shall serve to release the Master Unit owners from the performance of the Several Obligations or Joint Obligations under this Lease.

(c) Notwithstanding anything to the contrary provided in this Lease, Landlord agrees that all obligations, covenants, agreements, terms or conditions contained in this Lease regarding (i) the payment of Rent, (ii) Modifications or Work affecting an individual Master Unit, (iii) obligations pursuant to Article VII of this Lease, (iv) the indemnity contained in Section 10.7 to the extent attributable to a single Master Unit, (v) the surrender or holding over of an individual Master Unit under Article XII, (vi) casualty or condemnation affecting a single Master Unit under Article XIII, (vii) transfers by Master Unit owners, (viii) violation of any Legal Requirements to the extent attributable to a single Master Unit, (ix) liability for liquidated damages under this Lease, if any, or (x) payment of Taxes shall be the several (and not joint) obligations of the Master Unit owners for all purposes of this Lease (collectively, the "**Several Obligations**").

(d) All obligations, covenants, agreements, terms or conditions contained in this Lease other than the Several Obligations shall be joint and several obligations of the Master Unit owners (collectively, the "**Joint Obligations**").

(e) It is the express intention, agreement and understanding that if there occurs any Event of Default under this Lease relating to the Several Obligations: (i) Landlord may not terminate the leasehold estate under this Lease held by a Master Unit owner (or exercise any other remedies against such Master Unit owner) that is complying with all of the covenants contained in this Lease applicable to such Master Unit owner and its Master Unit (the "**Compliant Master Unit Owner**"), and (ii) the leasehold estate appurtenant to such Compliant Master Unit owner's Master Unit shall not be affected by such Event of Default, and (iii) Landlord shall exercise all rights and remedies available under this Lease only against the Master Unit owner that is then in Default.

(f) It is the express intention, agreement and understanding that if there occurs any Event of Default under this Lease relating to the Joint Obligations: (i) Landlord may not terminate the Leasehold Estate under this Lease held by a Master Unit owner that is complying with all of the covenants contained in this Lease applicable to such Master Unit owner and its Master Unit; and (ii) Landlord shall provide the applicable Event of Default notices to the Condominium Association and the Condominium Association shall have, after the giving of such written notice by Landlord, the same periods (to run concurrently and without duplication) as are given Tenant for remedying such default or causing it to be remedied and Landlord shall accept such performance on the part of the Condominium Association as though the same had been done or performed by Tenant. Upon any failure of the

Condominium Association to remedy such default within the applicable curative period following notice provided for in this Lease, Landlord may exercise its rights and remedies available under this Lease for such default, subject to the provisions of clause (i) above and provided that any action for specific performance, injunctive relieve or other equitable remedies may only be pursued against the Master Unit owner that caused such Default.

(g) From and after the date the Condominium Declaration is filed, (i) all references in the Lease to Leasehold Mortgagee and Registered Leasehold Mortgagee shall mean each Leasehold Mortgagee and Registered Leasehold Mortgagee for the applicable Master Unit, and (ii) all references to Tenant in Article XV hereof shall mean any Master Unit owner.

ARTICLE XVII DEFAULT AND REMEDIES

17.1 Default. Each of the following events is an “**Event of Default**” (herein so called, and also sometimes referred to as “**Default**”) by Tenant under this Lease:

(a) Failure by Tenant to pay any sums of money stipulated in this Lease to be paid by Tenant and such failure continues for ten (10) days after Landlord gives written notice to Tenant of such failure.

(b) Tenant fails to obtain Landlord’s consent for a Transfer requiring Landlord’s consent, or makes a Transfer to a Prohibited Transferee.

(c) Failure by Tenant to perform or observe any of the terms, covenants, conditions, agreements and provisions of this Lease (other than as set forth in this Section 17.1) and such failure continues for a period of thirty (30) days after notice has been delivered to Tenant; provided however, that if any such failure (other than a failure involving payment of liquidated sums of money) cannot reasonably be cured within the thirty (30) day period, then such thirty (30) period will be extended if Tenant has commenced to cure such failure after the effective date of the notice and within the thirty (30) day period and proceeds in good faith, continuously, and with due diligence to remedy and correct any such failure, but in no event will such period be extended by more than an additional one hundred fifty (150) days.

(d) The initiation of any proceeding whereupon the Leasehold Estate, or any portion thereof, or this Lease is levied upon or attached if such proceeding is not vacated, discharged or bonded within sixty (60) days after the date of such levy or attachment.

(e) The entry of any decree or order for relief by a court having jurisdiction in respect of Tenant in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of Tenant or for any substantial part of the assets of Tenant, or the entry of any decree or order with respect to winding-up or liquidation of the affairs of Tenant, if any such decree or order continues unstayed and in effect for a period of sixty (60) consecutive days.

(f) The commencement by Tenant of a voluntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by Tenant to the appointment of or possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of Tenant or for any substantial part of the assets of Tenant, or any assignment made by Tenant for the benefit of creditors.

17.2 Remedies. Subject to the provisions of Section 17.1, upon the occurrence of an Event of Default, Landlord will have the option to do and perform any one or more of the following in addition to, and not in limitation of, any other remedy or right permitted it by law or in equity or by this Lease:

(a) Landlord may terminate this Lease by giving written notice thereof to Tenant, in which event Tenant shall immediately surrender the Property to Landlord and if Tenant fails so to do, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Property and (subject to Section 14.3(d)) expel or remove Tenant and any other Person who may be occupying the Property, or any part thereof, by force, if necessary, without having any civil or criminal liability therefor, and Tenant hereby agrees to pay to Landlord on demand the amount of all loss and damage which Landlord may suffer by reason of such termination, specifically including, but not limited to, any increase in insurance premiums caused by the vacancy of the Property.

(b) Enter upon the Property, without having any civil or criminal liability therefor, and, with or without such entry upon the Property, do whatever Tenant is obligated to do under the terms of this Lease, and Tenant agrees to reimburse Landlord on demand for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease with interest from the date incurred until payment at the Delinquency Interest Rate and Tenant further agrees that Landlord shall not be liable for any damages resulting to Tenant from such action, whether caused by the negligence of Landlord or otherwise.

17.3 Payment by Tenant. Tenant shall pay to Landlord, with interest from the date incurred until payment at the Delinquency Interest Rate, all costs and expenses incurred by Landlord as a result of an Event of Default, including court costs and attorneys' fees in (a) retaking or otherwise obtaining possession of the Property under this Lease, (b) removing and storing Personal Property, (c) repairing or restoring the Improvements to the condition in which Tenant is required to deliver the Improvements at the end of the Term, (d) paying or performing the underlying obligation that gave rise to the subject default and that Tenant failed to pay or perform and (e) enforcing any of Landlord's rights and remedies under this Lease, at law or in equity arising as a consequence of the Event of Default.

17.4 No Waiver. No delay or omission by either party in exercising any right or power accruing upon non-compliance or failure to perform by the other party under any of the provisions of this Lease will impair any such right or power or be construed to be a waiver thereof. A waiver by either party of any of the covenants or conditions to be performed by the other party will be in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought, and any such waiver will not be construed as a waiver of any succeeding breach or non-performance of the same or other covenants and conditions hereof.

17.5 Attorneys' Fees and Interest. If any legal action is brought by Landlord because of a breach of this Lease or to enforce any provision of this Lease, Landlord will be entitled to attorneys' fees and such other costs as may be found by the court. If Tenant fails to pay any amount under this Lease when it is due, that amount will bear interest from the date it is due until the date it is paid at the Delinquency Interest Rate

17.6 Lien. Landlord hereby reserves and Tenant hereby grants to Landlord a continuing lien in the nature of a mortgage lien on the Leasehold Estate to secure payment of all of Tenant's obligations under this Lease. If there shall occur an Event of Default, Landlord shall be entitled to record a notice of lien ("**Notice of Lien**") in the Real Property Records, which shall be limited to the Master Unit actually in Default, setting forth the amount due and payable and Landlord shall thereafter be entitled to foreclose the lien with respect to such amount as set forth in the recorded Notice of Lien, together with interest thereon

in the same manner as the foreclosure of mortgage liens under the laws of the State of Texas, and recover all such amounts, together with attorneys' fees and expenses and court costs incurred in connection with the enforcement of such lien and the collection of such unpaid amount. The lien hereinabove provided shall have priority from the date and time that a notice of lien as aforesaid is filed for record in the Real Property Records. Notwithstanding the foregoing, the above described lien shall not have priority over any Leasehold Mortgage lien on the Property recorded in the Real Property Records prior to the recording of the Notice of Lien. The landlord's lien granted to Landlord in this Section 17.6 and pursuant to the Texas Property Code will be subject and subordinate to any such Leasehold Mortgages. At Tenant's prior written request and at Tenant's sole cost and expense, Landlord will execute additional documentation acceptable to Landlord and a Leasehold Mortgagee evidencing such subordination.

ARTICLE XVIII LIMITATION OF LANDLORD'S LIABILITY

18.1 Landlord. The term "**Landlord**" is limited to mean and include only the owner at the time in question of the Fee Estate. In the event of any Transfer of the title to the Fee Estate, the Landlord herein named (and in case of any subsequent Transfers, the then transferor) shall be automatically freed and relieved from and after the date of such Transfer from all obligations on the part of Landlord contained in this Lease to be performed with respect to the period after the date of such Transfer, provided that such grantee shall assume all of the terms, covenants and conditions in this Lease contained on the part of Landlord thereafter to be performed, it being intended hereby that the covenants and obligations contained in this Lease on the part of Landlord shall be binding on Landlord, its successors and assigns, only during and in respect of their respective successive periods of ownership of the Fee Estate in the Property.

18.2 Landlord's Liability. Notwithstanding anything to the contrary provided in this Lease, neither Landlord nor Landlord's Affiliates shall have any personal liability with respect to any provisions of this Lease and, if Landlord is in breach or default with respect to its obligations or otherwise, Tenant shall look solely to Landlord's Fee Estate for the satisfaction of Tenant's remedies; provided that in no event shall Landlord's exposure ever exceed the then unencumbered fair market value of Landlord's Fee Estate and the proceeds therefrom. In no event whatsoever shall Landlord or Landlord's Affiliates be responsible for any special, indirect, treble, consequential, punitive, or exemplary damages suffered or incurred by Tenant, including, without limitation, on account of lost profits or the interruption of Tenant's business. Nothing herein, however, shall be deemed to restrict or prohibit Tenant from seeking injunctive or any other equitable relief or judgment in connection with Landlord's breach of this Lease. Further, nothing in this Section 18.2 provides Tenant with the right to offset against Rent becoming due under this Lease.

ARTICLE XIX MISCELLANEOUS

19.1 No Partnership or Joint Venture. The relationship between Landlord and Tenant at all times will remain solely that of landlord and tenant and will not be deemed a partnership or a joint venture.

19.2 Estoppel Certificates. Upon thirty (30) days' prior written notice not more than two (2) times in any Lease Year per Master Unit (or, if no Master Units or Permitted Condo Documents then exist, no more than two (2) times in any Lease Year), Landlord and Tenant each agree to sign and deliver to the other party a certificate in the form mutually acceptable to both parties. The certificate (i) may only be relied upon by the party requesting the certificate and any parties that are specifically identified by name in the request and that are either acquiring an interest in the Leasehold Estate or Master Unit

providing Financing in accordance with the terms of this Lease, (ii) may only be used to estop the responding party from claiming that the facts are other than as set forth in the certificate, and (iii) may not be relied upon by any Person, even if named in such estoppel certificate, who knows or should know that the facts are other than as set forth in such certificate.

19.3 Time Is of the Essence. Time is of the essence for each provision of this Lease for which time is an element.

19.4 Delivery of Notices. Formal notices, demands and communications between the parties must be in writing and will be sufficiently given if, and will not be deemed given unless, delivered personally, dispatched by certified mail, postage prepaid, return receipt requested, or sent by a nationally recognized express delivery or overnight courier service, to the office of the parties shown as follows, or such other address as the parties may designate in writing from time to time:

Tenant:	Lincoln Property Commercial Company, Inc. Attn: Seth Johnston, Senior VP 201 West 5 th Street, Suite 1200 Austin, TX 78701
With copy to:	Metcalf Wolfe Stuart & Williams, LLP Attn: Nicole Castro 221 West 6 th Street, Suite 1300 Austin, TX 78701
Landlord:	Travis County, Texas Attn: County Judge Sarah Eckhardt (or successor) 700 Lavaca St. Austin, Texas 78701
With copy to:	Travis County Attorney's Office Attn: File No. 320.123 314 W. 11 th St. Austin, Texas

Such written notices, demands, and communications will be effective on the date shown on the delivery record as the date delivered (or the date on which delivery was refused) or in the case of certified mail two (2) Business Days following deposit of such instrument in the United States Mail.

19.5 Parties Bound. This Lease will be binding upon and inure to the benefit of the parties to this Lease and their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns.

19.6 Severability. If any terms or provisions of this Lease or the application of any terms or provisions of this Lease to a particular situation, are held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this Lease or the application of such terms or provisions of this Lease to other situations, will remain in full force and effect unless amended or modified by mutual consent of the parties; provided that, if the invalidation, voiding or unenforceability would deprive

either Landlord or Tenant of material benefits derived from this Lease, or make performance under this Lease unreasonably difficult, then Landlord and Tenant will meet and confer and will make good faith efforts to amend or modify this Lease in a manner that is mutually acceptable to Landlord and Tenant.

19.7 Entire Agreement; Prior Agreements Superseded. This Lease (including the Recital hereto and the Exhibits attached hereto), together with any written modifications or amendments to this Lease hereafter entered into, embodies the complete and entire agreement between the parties relative to the subject matter hereof and constitutes the sole and only agreement of the parties to this Lease and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Lease.

19.8 Amendment. No amendment, modification, or alteration of the terms of this Lease will be binding unless it is in writing, dated subsequent to the date of this Lease, and duly executed by the parties to this Lease.

19.9 Merger. There will be no merger of this Lease or of the Leasehold Estate by reason of the fact that the same Person may acquire, own or hold, directly or indirectly, in whole or in part, (a) this Lease or the Leasehold Estate or any interest in this Lease or such Leasehold Estate, or (b) any right, title or interest in the Property.

19.10 Construction of Agreement. This Lease has been reviewed and revised by legal counsel for both Tenant and Landlord, and no presumption or rule that ambiguities will be construed against the drafting party will apply to the interpretation or enforcement of this Lease.

19.11 No Third Party Beneficiaries. Landlord and Tenant hereby renounce the existence of any third party beneficiary to this Lease and agree that nothing contained herein will be construed as giving any other Person third party beneficiary status; provided, however, that Landlord's lenders and Leasehold Mortgagees are deemed third-party beneficiaries of Article XV hereof.

19.12 Counterparts. This Lease may be executed by each party on a separate signature page, and when the executed signature pages are combined, will constitute one (1) single instrument.

19.13 Time of Performance. All performance dates (including cure dates) expire at 5:00 p.m. Central Standard or Daylight Time, as then applicable, on the performance or cure date. A performance or cure date which falls on a day other than a Business Day is deemed extended to the next Business Day.

19.14 Manner of Payment. All Rent and other sums payable to Landlord must be paid in the lawful money of the United States of America at the time of payment to Landlord at Landlord's address for notices as set forth herein, or at such other address as may be designated by Landlord.

19.15 Landlord Consents and Approvals. Unless expressly stated otherwise herein (e.g., in instances where Landlord is authorized to exercise Landlord's Permitted Discretion, which shall be governed by the following provisions of this Section 19.15), Landlord's consent or approval (or similar action) shall be in Landlord's sole and absolute discretion. As used herein, "**Landlord's Permitted Discretion**" means in the reasonable discretion of Landlord.

19.16 Correction of Technical Errors. If, by reason of inadvertence, and contrary to the intention of Landlord and Tenant, errors are made in this Lease in the legal descriptions or the references thereto or within any exhibit with respect to the legal descriptions, in the boundaries of any parcel in any

map or drawing which is an exhibit, or in the typing of this Lease or any of its exhibits or any other similar matters, the parties by mutual agreement may correct such error by memorandum executed by them without the necessity of amendment of this Lease.

19.17 Memorandum. Landlord and Tenant shall execute a “**Memorandum of Lease**” (herein so called) at the same time as they execute this Lease. The Memorandum of Lease will be recorded in the Real Property Records. This Lease, and not the Memorandum of Lease, is what creates the Leasehold Estate and whether the Lease is terminated or expires is governed by the terms of this Lease. Upon the expiration or earlier termination of this Lease, Tenant agrees to execute, acknowledge and deliver to Landlord an appropriate instrument in writing releasing and reconveying to Landlord all of Tenant’s right, title and interest in and to the Property. Landlord is hereby irrevocably vested with full power and authority as attorney in fact for Tenant and in Tenant’s name, place and stead (which shall be deemed to be coupled with an interest and irrevocable), to execute such instrument releasing Tenant’s interest under this Lease following the expiration or earlier termination of this Lease; provided, however, that Landlord shall not exercise such power and authority until Tenant fails to execute such a release within thirty (30) days after Landlord’s request for the same. In no event shall this Lease be recorded in the Real Property Records without Landlord’s and Tenant’s consent, in their sole discretion.

19.18 Governing Laws. This Lease shall be construed and enforced in accordance with the laws of the State of Texas.

19.19 Venue. The obligations of the parties hereto are and will be performable in Travis County, Texas, and the exclusive venue for any action brought with respect hereto shall lie in Travis County, Texas. By executing this Lease, each party hereto expressly (a) consents and submits to personal jurisdiction consistent with the previous sentence, (b) waives, to the fullest extent permitted by applicable laws, any claim or defense that such venue is not proper or convenient, and (c) consents to the service of process in any manner authorized by Texas law.

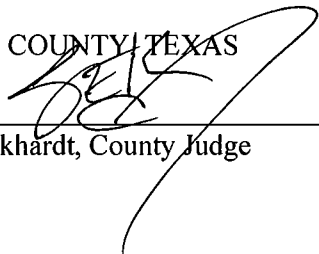
19.20 Force Majeure. Landlord and Tenant shall be excused for the period of any delay in performance of any obligations hereunder when prevented from doing so by civil disturbance, war, war like operations, invasions, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, fires or other casualty or acts of God (“**Force Majeure**”). Notwithstanding the foregoing, thing contained in this Section 19.20 shall excuse either party from paying in a timely fashion any payments due under the terms of this Lease.

19.21 Broker. Tenant represents to Landlord that Tenant has not acted by or through a broker regarding this Lease.

IN WITNESS WHEREOF, the parties have executed this Lease to be effective as of the Commencement Date.

LANDLORD:

TRAVIS COUNTY, TEXAS



Sarah Eckhardt, County Judge

TENANT:

LO/PPC OP Guadalupe, LLC,
a Delaware limited liability company

By: LO/PPC Guadalupe, LLC,
a Delaware limited liability company,
Sole Member

By: LO 308 Guadalupe LLC
a Delaware limited liability company,
Authorized Member

By: Non-Member Manager, Inc.,
a Texas corporation

By: _____

Name: _____

Title: _____

LANDLORD:

TRAVIS COUNTY, TEXAS

Sarah Eckhardt, County Judge

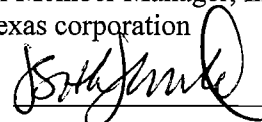
TENANT:

LO/PPC OP Guadalupe, LLC,
a Delaware limited liability company

By: LO/PPC Guadalupe, LLC,
a Delaware limited liability company,
Sole Member

By: LO 308 Guadalupe LLC
a Delaware limited liability company,
Authorized Member

By: Non-Member Manager, Inc.,
a Texas corporation

By: 

Name: J. Seth Johnston

Title: VP

EXHIBIT A

Legal Description of Land

The Old Court House and Jail Block of the ORIGINAL CITY OF AUSTIN according to the map or plat thereof dated 1839, and titled "Plan of the City of Austin" on file in the General Land Office of the State of Texas as provided by Chapter 60, Acts 41st Legislature approved March 20, 1930, being the same tract as conveyed by Special Warranty Deed dated December 29, 2010, executed by Austin Museum of Art, Inc. to Travis County, Texas, recorded under Document No. 2010195185 of the Official Public Records of Travis County, Texas.

EXHIBIT B**Ground Lease Rent Schedule – 99 Year Term – Base Rental Amount**

Time Period	Annual Basic Rental	Monthly Basic Rental
Month 1	\$13,4000,000.00	\$13,400,000.00
Months 2 - 60	\$ 0	\$ 0
Months 61 - 120	\$ 2,772,000.00	\$ 231,000.00
Months 121 - 180	\$ 2,910,600.00	\$ 242,550.00
Months 181 - 240	\$ 3,056,130.00	\$ 254,677.50
Months 241 - 300	\$ 3,208,936.50	\$ 267,411.38
Months 301 – 360	\$ 3,369,383.33	\$ 280,781.94
Months 361 - 420	\$ 3,537,852.49	\$ 294,821.04
Months 421 - 480	\$ 3,714,745.12	\$ 309,562.09
Months 481 - 540	\$ 3,900,482.37	\$ 325,040.20
Months 541 - 600	\$ 4,095,506.49	\$ 341,292.21
Months 601 – 660	\$ 4,300,281.81	\$ 358,356.82
Months 661 - 720	\$ 4,515,295.91	\$ 376,274.66
Months 721 - 780	\$ 4,741,060.70	\$ 395,088.39
Months 781 - 840	\$ 4,978,113.74	\$ 414,842.81
Months 841 - 900	\$ 5,227,019.42	\$ 435,584.95
Months 901 - 960	\$ 5,488,370.39	\$ 457,364.20
Months 961 - 1020	\$ 5,762,788.91	\$ 480,232.41
Months 1021 - 1080	\$ 6,050,928.36	\$ 504,244.03
Months 1081 - 1140	\$ 6,353,474.78	\$ 529,456.23
Months 1141 - 1188	\$ 6,671,148.52	\$ 555,929.04

EXHIBIT C

Form of Recognition Agreement

RECOGNITION AGREEMENT

(308 Guadalupe, Austin, Texas)

THIS RECOGNITION AGREEMENT (the "Agreement") is executed as of the ____ day of _____, 20__, by and between **TRAVIS COUNTY, TEXAS** ("Master Landlord"), having an address of 700 Lavaca Street, Austin, Texas 78701, _____, a _____ ("Sublandlord"), having an address of c/o Lincoln Property Company Commercial, Inc., 201 W. 5th Street, Suite 1200, Austin, Texas 78701, and _____, a _____ ("Subtenant"), having an address of _____, to be effective as of the last date of execution set forth below.

Introductory Provisions

The following provisions constitute the basis for and are a part of this Agreement:

A. Master Landlord and Sublandlord are parties to that certain Ground Lease dated _____, 2017 (the "Master Lease"), concerning the land and all improvements located at 308 Guadalupe, Austin, Texas, as described with further particularity in the Master Lease (the "Master Lease Premises"). The term of the Master Lease extends through _____, _____, (the "Master Lease Term").

B. Sublandlord and Subtenant have entered into a Lease Agreement in the form attached hereto as Exhibit A (the "Sublease") pursuant to which Subtenant is to sublet from Sublandlord a portion of the Master Lease Premises described in the Sublease (the "Sublease Premises").

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

Agreements

1. Consent to Sublease Not Required. The parties to this Agreement acknowledge that Master Landlord's consent is not required for the Sublease. Except for the express undertakings of Master Landlord set forth herein, Master Landlord has no responsibility for the terms, conditions, or enforceability of the Sublease.

2. Recognition; Nondisturbance. Master Landlord hereby recognizes the Sublease and the rights of Subtenant thereunder, and agrees that so long as Subtenant fully and timely performs its obligations in accordance with the terms and conditions of the Sublease, Subtenant's right to remain in possession of the Sublease Premises and to enjoy the Sublease Premises in accordance with the terms and conditions of the Sublease throughout the Sublease Term shall remain undisturbed by, and shall be without interference from, Master Landlord.

Master Landlord shall have no obligation to recognize any amendment to the Sublease unless Master Landlord is provided a copy of such Sublease and agrees, in writing, to recognize the terms thereof.

3. Substitution of Master Landlord/Direct Lease/Attornment by Subtenant. In the event of termination of the Master Lease as a result of Sublandlord defaulting thereunder, the Sublease shall become a direct lease between Master Landlord and Subtenant in accordance with its terms (except as hereinafter provided to the contrary, and without Master Landlord releasing Sublandlord from any liabilities arising under the Master Lease) and in such event, Subtenant shall attorn to Master Landlord, and Master Landlord shall be substituted in the place of Sublandlord in the Sublease. In such event, Subtenant shall be bound to the Master Landlord and Master Landlord shall be bound to Subtenant under all of the terms, covenants and conditions of the Sublease (except as provided in this Agreement to the contrary) for the balance of the Sublease Term then remaining. Notwithstanding anything contained in the Sublease or herein to the contrary, Master Landlord shall not be: (a) liable for any default, act or omission of Sublandlord; (b) subject to any offsets or defenses that Subtenant may have against Sublandlord; (c) bound by any rent or additional rent that Subtenant may have paid for more than the current month to Sublandlord, (d) liable for any security deposit or other security given by Subtenant to Sublandlord unless the security deposit or other security was actually delivered to Master Landlord, or (e) obligated to perform any construction that is the obligation of the Sublandlord under the Sublease. Subtenant agrees that in the event that a failure in performance of Sublandlord under the Sublease exists as of the date of such termination that is continuing in nature, Master Landlord shall be afforded a reasonable period of time after such termination to cure such failure in performance under the Sublease.

4. Notice. Any notices, consents or other communications required or permitted to be given pursuant to this Agreement must be in writing and may be given by registered or certified mail, return receipt requested, personal delivery or nationally recognized overnight delivery service addressed to the parties hereto at the respective addresses set out above, or at such other addresses as they may hereafter specify by written notice delivered in accordance herewith, and any such notice, consent or other communication shall be deemed to have been given and received on the third business day after a registered or certified letter containing such notice, consent or other communication, properly addressed with postage prepaid, return receipt requested, is deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the continental United States of America, addressed to the parties hereto at the respective addresses set forth above, or to such other substitute address and/or addressee as any party herein shall designate by written notice to the other party in accordance with the terms of this Section. Notice, consents or other communications given by personal delivery or nationally recognized overnight delivery service shall be deemed to be delivered at the time personally delivered to an employee or agent of the party to whom such notice is sent at the notice address of such party. No notice of any change of address shall be effective unless and until actually received by the party to whom such notice is sent.

5. Miscellaneous.

(a) Except as expressly provided herein, the terms and provisions of the Master Lease shall remain in full force and effect for the Master Lease Premises.

(b) Except as otherwise expressly provided herein, the Sublease shall be subject to the provisions of the Master Lease.

(c) This Agreement constitutes the entire agreement between Master Landlord and Subtenant.

(d) This Agreement shall be construed, interpreted, and enforced under the laws of the State of Texas.

(e) This Agreement is binding upon and shall inure to the benefit of the parties hereto and their respective permitted successors and assigns.

f) This Agreement may be executed in several counterparts, each of which may be deemed an original, and all of such counterparts together shall constitute one and the same Agreement. An executed copy of this Agreement transmitted by facsimile or as an attachment to an email shall have the same force and effect as delivery of an original executed counterpart.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this Agreement has been executed to be effective as of the last date of execution set forth.

MASTER LANDLORD:

TRAVIS COUNTY, TEXAS

Sarah Eckhardt, County Judge

Date: _____

SUBLANDLORD:

_____,
a _____

By: _____

Name: _____

Its: _____

Date: _____

SUBTENANT:

_____,
a _____

By: _____

Name: _____

Its: _____

Date: _____

Exhibit A

(Copy of the Sublease Attached Behind this Page)