LAND DISPOSITION AGREEMENT

THIS LAND DISPOSITION AGREEMENT (this "**Agreement**"), is made effective for all purposes as of the 29 day of January, 2009, between (i) DISTRICT OF COLUMBIA, a municipal corporation, acting by and through the Office of the Deputy Mayor for Planning and Economic Development, ("**District**"), and (ii) BLUE SKYE DEVELOPMENT LLC, a District of Columbia limited liability company (the "**Developer**").

RECITALS:

R-1. District owns the improved real property located at 6425 14th Street, N.W., in Washington, D.C., known for tax and assessment purposes as Lot 0184 in Square 2786 (the "**Property**").

R-2. District desires to convey the Property to Developer to be developed in accordance with this Agreement.

R-3. The disposition of the Property to Developer was approved on December 16, 2008 by the Council of the District of Columbia pursuant to the 6425 14TH STREET, N.W. DISPOSITION APPROVAL RESOLUTION OF 2008, Resolution 17-904, subject to the certain terms and conditions contained therein and herein incorporated ("**Resolution**").

R-4. The Property has a unique and special importance to District. Accordingly, this Agreement makes particular provision to assure the excellence and integrity of the design and construction of the Project necessary and appropriate for a first class, urban development serving District residents and the public at large.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties hereto, District and Developer do hereby agree as follows, to wit:

ARTICLE I
DEFINITIONS

For the purposes of this Agreement, the following capitalized terms shall have the meanings ascribed to them below and, unless the context clearly indicates otherwise, shall include the plural as well as the singular:

"Affiliate" means with respect to any Person ("first Person") (i) any other Person directly or indirectly controlling, controlled by, or under common control with such first Person, (ii) any officer, director, partner, shareholder, manager, member or trustee of such first Person, or (iii) any officer, director, general partner, manager, member or trustee of any Person described in clauses (i) or (ii) of this sentence. As used in this definition, the terms "controlling", "controlled by", or "under common control with" shall mean the possession, directly or indirectly, of the power to direct, or cause the direction of, the management and policies of a Person, whether through ownership of voting securities, membership interests or partnership interests, by contract or otherwise, or the power to elect at least fifty percent (50%) of the directors, managers, partners or Persons exercising similar authority with respect to the subject Person.

"Affordability Covenant" is that certain Affordable Housing Covenant between District and Developer in the form attached hereto as Exhibit C, to be recorded in the Land Records against the Property in connection with Closing.

"**Affordable Housing Plan**" is defined in Section 4.6.2.

"**Affordable Unit**" means each unit to be developed, sold, and used for residential purposes in accordance with the requirements of the Affordability Covenant.

"**Agreement**" means this Land Disposition Agreement.

"Applicable Law" means all applicable District of Columbia and federal laws, codes, regulations, and orders, including, without limitation, Environmental Laws, laws relating to historic preservation, laws relating to accessibility for persons with disabilities, and, if applicable, the Davis-Bacon Act.

"Approved Plans and Specifications" is defined in Section 4.2.1.

"Architect" means PGN Architects, or another architect of record, licensed to practice architecture in the District of Columbia, which has been selected by Developer for the Project and approved by District.

"Business Days" means Monday through Friday, inclusive, other than holidays recognized by the District of Columbia government.

"CBEs" is defined in Section 7.7.

"CBE Agreement" is that agreement, in customary form, between Developer and DSLBD governing certain obligations of Developer under D.C. Law 16-33 with respect to the Project.

"**CDBG**" is defined in Section 7.5.

"**CDBG Funds**" is defined in Section 6.2.1.

"**Certificate of Final Completion**" shall have the meaning as defined in the Construction and Use Covenant.

"Closing" is the consummation of the purchase and sale of the Property as contemplated by this Agreement and the recording of the Deed.

"**Closing Date**" shall mean the date on which Closing occurs.

"Commencement of Construction" means Developer has (i) executed a construction contract with its general contractor; (ii) given such general contractor a notice to proceed under said construction contract; (iii) caused such general contractor to mobilize on the Property

equipment necessary for work on the Project, and (iv) obtained the Permits (through building permit) and commenced work on the Project pursuant to the Approved Plans and Specifications. For purposes of this Agreement, the term "**Commencement of Construction**" does not mean site exploration, borings to determine foundation conditions, or other pre-construction monitoring or testing to establish background information related to the suitability of the Property for development of the Improvements thereon or the investigations of environmental conditions.

"**Community Participation Plan**" is defined in Section 4.6.1.

"**Construction and Use Covenant**" is that certain Construction and Use Covenant between District and Developer, in the form attached hereto as Exhibit D, to be recorded in the Land Records against the Property in connection with Closing.

"**DDOE**" means the District of Columbia Department of the Environment.

"**Debt Financing**" shall mean the financing to be obtained by Developer from an Institutional Lender to fund the costs set forth in the Project Budget (including, without limitation, costs of issuance relating to any bond financings issued by the District or other governmental agency and including New Market Tax Credit Funds), other than the Equity Investment.

"Deed" means the special warranty deed conveying the Property to Developer at Closing in the form of Exhibit B attached hereto and incorporated herein by reference.

"**Developer Default**" is defined in Section 8.1.1.

"Developer Parcel" means the real property located at 1330 Missouri Avenue, N.W., in Washington, D.C., known for tax and assessment purposes as Lots 18, 19, 877, 879, 899, 2001 and 2047 in Square 2794, together with all appurtenances and improvements located thereon as of the Effective Date.

"Developer Parcel Covenant" means that certain Covenant in the form attached hereto as Exhibit J, to be recorded in the Land Records against the Developer Parcel prior to Closing on the Property.

"**Developer's Agents**" mean the Developer's agents, employees, consultants, contractors, subcontractors and representatives.

"Development and Completion Guaranty" is that guaranty, attached hereto as Exhibit F, to be executed by Guarantors, which shall bind the Guarantors to develop and otherwise construct the Project in the manner and within the time frames pursuant to the terms of this Agreement and the Construction and Use Covenant.

"Development Plan" means Developer's detailed plans for developing, constructing, financing, and conveying the Project as twenty six (26) for-sale condominium dwelling units, unless otherwise modified by Developer with the prior approval of District in its sole discretion.

"**Disapproval Notice**" is defined in Section 4.2.3.

"**Disposal Plan**" is defined in Section 2.3.1(d).

"**District Default**" is defined in Section 8.1.2.

"**DOES**" is the District of Columbia Department of Employment Services.

"**DSLBD**" is the District of Columbia Department of Small and Local Business Development.

"**Effective Date**" is the date first written above, which shall be the date of the last Party to sign this Agreement as set forth on the signature pages attached hereto, provided that all Parties shall have executed and delivered this Agreement to one another.

"Environmental Laws" means any present and future federal or District law and any amendments (whether common law, statute, rule, order, regulation or otherwise), permits and other requirements or guidelines of federal or District governmental authorities and relating to (a) the protection of health, safety, and the indoor or outdoor environment; (b) the conservation, management, or use of natural resources and wildlife; (c) the protection or use of surface water and groundwater; (d) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, release, threatened release, abatement, removal, remediation, or handling of or exposure to Hazardous Materials; or (e) pollution (including any release to air, land, surface water, and groundwater), and includes, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and subsequently amended, 42 U.S.C. § 6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. § 1251 et seq.; the Oil Pollution Act of 1990, 33 U.S.C. § 32701 et seq.; the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136-136y, the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. § 2601 et seq.; the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. § 300f et seq.; the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 et seq.; the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq.; and any similar, implementing or successor law, and any amendment, rule, regulatory order or directive issued thereunder.

"**Equity Investment**" shall mean all funding that is required for the development and construction of the Project in excess of any Debt Financing, but specifically excluding funding in the form of a mezzanine loan. Equity Investment may be made in the form of deferred development fees in an amount not to exceed the amount shown in the approved Project Funding Plan and Final Project Budget.

"**First Source Agreement**" is that agreement between the Developer and DOES, entered into in accordance with Section 7.8 herein, governing certain obligations of Developer regarding job creation and employment generated as a result of the Project.

"**Final Project Budget**" is defined in Section 9.3.2.

"**Force Majeure**" is an act or event, including, as applicable, an act of God, fire, earthquake, flood, explosion, war, invasion, terrorism, insurrection, riot, mob violence, sabotage, inability to procure or a general shortage of labor, equipment, facilities, materials, or supplies in the open market, failure or unavailability of transportation, strike, lockout, actions of labor unions, a taking by eminent domain, requisition, and laws or orders of government or of civil, military, or naval authorities enacted or adopted after the Effective Date, so long as such act or event (i) is not within the reasonable control of the Developer or its Members; (ii) is not due to the fault or negligence of Developer or its Members; (iii) is not reasonably foreseeable and avoidable by the Developer or its Members or District in the event District's claim is based on a Force Majeure Event, and (iv) directly results in a delay in performance by Developer or District, as applicable; but specifically excluding (A) shortage or unavailability of funds or financial condition of the Developer and (B) changes in market conditions such that construction of the Project as contemplated by this Agreement and the Approved Plans and Specifications is no longer practicable under the circumstances.

"**Green Building Act**" means that certain act of the District of Columbia Council enacted as D.C. Law 16-234 (effective March 8, 2007) and codified as D.C. Code § 6-1451.01, *et. seq.*

"**Guarantors**" are Blue Skye Development, LLC and any successor(s) approved by District pursuant to Section 4.5.

"**Guarantor Submissions**" shall mean the current reviewed financial statements and balance sheets, profit and loss statements, cash flow statements and other financial reports and other financial information of a proposed guarantor as District may reasonably request, together with a summary of such proposed guarantor's other guaranty obligations and the other contingent obligations of such proposed guarantor (in each case, certified by such proposed guarantor or an officer of such proposed guarantor as being true, correct and complete).

"**Hazardous Materials**" means (a) asbestos and any asbestos containing material; (b) any substance that is then defined or listed in, or otherwise classified pursuant to, any Environmental Law or any other Applicable Law as a "hazardous substance," "hazardous material," "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, toxicity, reproductive toxicity or Toxicity Characteristic Leaching Procedure (TCLP) toxicity; (c) any petroleum and drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal resources; and (d) any petroleum product, polychlorinated biphenyls, urea formaldehyde, radon gas, radioactive material (including any source, special nuclear or by-product material), medical waste, chlorofluorocarbon, lead or

lead-based product and any other substance the presence of which is detrimental to the Property or hazardous to health or the environment.

"**HUD**" is the United States Department of Housing and Urban Development.

"**Improvements**" mean landscaping, hardscape, and improvements to be constructed or placed on the Property in accordance with the Development Plan and Approved Plans and Specifications; provided, however, that in no event shall trade fixtures, furniture, operating equipment (in contrast to building equipment), stock in trade, inventory, or other personal property used in connection with the conduct of any business within the Improvements be deemed included in the term "Improvements" as used in this Agreement.

"**Institutional Lender**" means a Person that is not an Affiliate of Developer or a Prohibited Person and is (i) a commercial bank, savings and loan association, trust company or national banking association, acting for its own account in whole or in part; (ii) a finance company principally engaged in the origination of commercial mortgage loans; (iii) an insurance company, acting for its own account in whole or in part; (iv) a public employees' pension or retirement system, or any other governmental agency supervising the investment of public funds; (v) a pension, retirement, or profit-sharing, or commingled trust or fund for which any bank, trust company, national banking association or investment adviser registered under the Investment Advisors Act of 1940, as amended, is acting as trustee or agent; (vi) a publicly traded real estate investment trust; (vii) the District or such other governmental agency; (viii) a charitable organization regularly engaged in making loans secured by real estate, or (ix) any other lender regularly engaged in making loans secured by real estate or interests in entities owning real estate.

"Land Records" means the property records maintained by the Recorder of Deeds for the District of Columbia.

"**Letters of Credit**" is defined in Section 2.2.

"**Member"** means any Person with an ownership interest in Developer.

"**Mortgage**" means a mortgage, deed of trust, mortgage deed, or such other classes of documents as are commonly given to secure advances on real estate and leasehold estates under the laws of the District of Columbia.

"**Outside Closing Date**" is defined in Section 6.1.1.

"Party" when used in the singular, shall mean either District or Developer; when used in the plural, shall mean both District and Developer.

"**Permits**" means all site, building, construction, and other permits, approvals, licenses, and rights required to be obtained from the District of Columbia government or other authority having jurisdiction over the Property (including, without limitation, the federal government, WMATA, and any utility company, as the case may be) necessary to commence and complete

construction, operation, and maintenance of the Project in accordance with the Development Plan and this Agreement.

"**Permitted Exceptions**" has the meaning given it in Section 2.4.2.

"**Person**" means any individual, corporation, limited liability company, trust, partnership, association, or other entity.

"**Progress Meetings**" is defined in Section 4.4.

"**Prohibited Person**" shall mean any of the following Persons:

(A) Any Person (or any Person whose operations are directed or controlled by a Person) who has been convicted of or has pleaded guilty in a criminal proceeding for a felony or who is an on-going target of a grand jury investigation convened pursuant to Applicable Law concerning organized crime; or

(B) Any Person organized in or controlled from a country, the effects of the activities with respect to which are regulated or controlled pursuant to the following United States laws and the regulations or executive orders promulgated thereunder: (x) the Trading with the Enemy Act of 1917, 50 U.S.C. App. §1, et seq., as amended (which countries are, as of the Effective Date hereof, North Korea and Cuba); (y) the International Emergency Economic Powers Act of 1976, 50 U.S.C. §1701, et seq., as amended; and (z) the Anti-Terrorism and Arms Export Amendments Act of 1989, codified at Section 6(j) of the Export Administration Act of 1979, 50 U.S.C. App. § 2405(j), as amended (which countries are, as of the Effective Date hereof, Iran, Sudan and Syria); or

(C) Any Person who has engaged in any dealings or transactions (i) in contravention of the applicable money laundering laws or regulations or conventions or (ii) in contravention of Executive Order No. 13224 dated September 24, 2001 issued by the President of the United States (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), as may be amended or supplemented from time-to-time or any published terrorist or watch list that may exist from time to time; or

(D) Any Person who appears on or conducts any business or engages in any transaction with any person appearing on the list maintained by the U.S. Treasury Department's Office of Foreign Assets Control list located at 31 C.F.R., Chapter V, Appendix A or is a person described in Section 1 of the Anti-Terrorism Order; or

(E) Any Person suspended or debarred by HUD or by the District of Columbia government; or

(F) Any Affiliate of any of the Persons described in paragraphs (A) through (E) above.

"**Project**" means those Improvements on the Property, and the development and construction thereof in accordance with the Development Plan, this Agreement, and the Construction and Use Covenant.

"**Project Budget**" means Developer's budget for construction of the Project that includes a cost itemization prepared by Developer specifying all costs (direct and indirect) by item, including (i) the costs of all labor, materials, and services necessary for the construction of the Project and (ii) all other expenses anticipated by Developer incident to the Project (including, without limitation, anticipated interest on all financing, taxes and insurance costs) and the construction thereof, as may be modified from time to time in accordance with this Agreement.

"**Project Drawings**" are the detailed architectural drawings and specifications that are prepared for all aspects of the Project and that are used to obtain Permits, detailed cost estimates, to solicit and receive construction bids, and to direct the actual construction of the Improvements. The Project Drawings shall include a description of (i) all interior and exterior finishes of each Residential Unit, and (ii) the appliances and equipment to be included therein.

"**Project Funding Plan**" has the meaning given it in Section 9.1.

"**Property**" means all right, title, and interest of District in and to the real property located at 6425 14th Street, N.W., in Washington, D.C., known for tax and assessment purposes as Lot 0184 in Square 2786 as more particularly described on Exhibit A, attached hereto and incorporated herein by reference, together with all appurtenances and improvements located thereon as of the Effective Date.

"**Purchase Price**" means the price Developer shall pay for the acquisition of the Property pursuant to Section 2.1.2 hereof.

"**Residential Unit**" is any unit constructed as part of the Project to be developed, sold, and used for residential purposes.

"**Resolution**" is defined in the Recitals.

"**Schedule of Performance**" means that schedule of performance, attached hereto as Exhibit G and incorporated herein, setting forth the timelines for milestones in the design, development, construction, and completion of the Project (including a construction timeline in customary form) together with the dates for submission of documentation required under this Agreement, which schedule shall be attached to the Development Plan and to the Construction and Use Covenant.

"**Scheduled Closing Date**" is defined in Section 6.1.1.

"**Second Notice**" means that notice given by Developer to District in accordance with Sections 4.2.2 and 4.3 herein. Any Second Notice shall (a) be labeled, in bold, 18 point font, as a "SECOND AND FINAL NOTICE"; (b) shall contain the following statement: "A FAILURE TO RESPOND TO THIS NOTICE WITHIN TEN DAYS SHALL CONSTITUTE APPROVAL OF THE PROJECT DRAWINGS OR [FILL IN APPLICABLE ITEM] ORIGINALLY SUBMITTED ON [DATE OF DELIVERY OF SUCH PROJECT DRAWINGS OR OTHER

ITEM]"; (c) be delivered in the manner prescribed in Section 12.1, in an envelope conspicuously labeled "SECOND AND FINAL NOTICE".

"Settlement Agent" means Answer Title, 10 G Street, N.E., Suite 410, Washington, D.C., as agent for the title company selected by Developer and mutually acceptable to Developer and District.

"Settlement Statement" is the statement prepared by the Settlement Agent setting forth the sources and uses of all acquisition funds associated with Closing.

"**Studies**" is defined in Section 2.3.1.

"**Statement of Minimum Terms**" is that document containing a statement of the minimum terms to be included in this Agreement signed by the Developer on August 14, 2008.

"**Title Objections**" is defined in Section 2.4.1.

"**Title Objection Date**" is defined in Section 2.4.1.

"**UST Act**" is defined in Section 2.3.3.

"**UST Regulations**" is defined in Section 2.3.3.

ARTICLE 2
CONVEYANCE; PURCHASE PRICE; CONDITION OF PROPERTY

2.1 SALE; PURCHASE PRICE

2.1.1 Subject to and in accordance with the terms of this Agreement, District shall sell to Developer and Developer shall purchase from District, all of District's right, title, and interest in and to the Property.

2.1.2 The Purchase Price shall be Two Hundred Seventy Thousand Dollars ($270,000). Developer shall pay the Purchase Price at Closing by cash, certified check or wired funds.

2.1.3 As further consideration for the sale of the District's right, title and interest in and to the Property, Developer shall record (or cause to be recorded) the Developer Parcel Covenant on the Developer Parcel at the time of Closing and shall develop the Developer Parcel in accordance with terms of the Developer Parcel Covenant. In accordance with the terms of the Developer Parcel Covenant, Developer shall provide, or cause to be provided, a development and completion guaranty for the development of the Developer Parcel by the Guarantors or by an alternative guarantor(s) approved by the District in its sole discretion.

2.2 LETTERS OF CREDIT

2.2.1 Project Letters of Credit. Upon the Parties' execution of that certain Statement of Minimum Terms, Developer delivered to District a letter of credit in the amount of Twenty Five

Thousand Dollars ($25,000.00) ("**Initial Letter of Credit**"). Upon the execution of this Agreement, Developer delivered to District an additional letter of credit in the total amount of Twelve Thousand Five Hundred Dollars ($12,500.00) and prior to Closing, Developer shall deliver an additional letter of credit, in the form attached hereto as Exhibit E, in the total amount of Twelve Thousand Five Hundred Dollars ($12,500.00) (collectively, the "**Letters of Credit**"). The Letters of Credit are not payment on account of and shall not be credited against the Purchase Price; rather, the Letters of Credit shall be used as security to ensure Developer's compliance with this Agreement and the Construction and Use Covenant. The Letters of Credit may be drawn on by District in accordance with the terms of Section 8.2 hereof and in accordance with the terms of Section 5.2 of the Construction and Use Covenant. The Letters of Credit shall be returned to Developer upon issuance of a Certificate of Final Completion for the Project.

2.2.2 Developer Parcel Letter of Credit. In addition to the Letters of Credit to be delivered and returned in connection with the Project, Developer shall also deliver a letter of credit, in the form attached hereto as Exhibit E, in connection with the development of the Developer Parcel as provided in the Developer Parcel Covenant.

2.3 CONDITION OF PROPERTY

2.3.1 Feasibility Studies; Access to Property.

(a) Developer hereby acknowledges that, prior to the Effective Date, it has had the right to perform Studies (as hereinafter defined) on the District Property using experts of its own choosing and to access the District Property for the purposes of performing Studies; provided, however, that Developer has not performed its ALTA survey of the Property and the ALTA survey shall be performed in accordance with Section 2.4.1 below. From time to time prior to Closing, provided this Agreement is in full force and effect and Developer is not then in default hereunder beyond any applicable notice and cure period (with the exception of any default of the provisions of Section 2.3.1(c)(ii) and (iii), for which Developer's right to enter the property for the purposes described herein shall terminate immediately upon default), Developer and Developer's Agents shall have the right to enter the Property for purposes of conducting surveys, soil tests, environmental studies, engineering tests, and such other tests, studies, and investigations (hereinafter "**Studies**") as Developer deems necessary or desirable to evaluate the Property; provided, Developer's Agents shall not conduct any invasive Studies without the prior written consent of District and, if approved, shall permit a representative of District to accompany Developer or Developer's Agents during the conduct of any such invasive Studies.

(b) Developer and Developer's Agents are solely responsible for obtaining any necessary licenses and permits for the Studies and any work associated therewith, including transportation and disposal of materials. In addition, Developer and Developer's Agents shall be obligated to comply with all Applicable Law and the provisions of this Agreement during their entry on the Property and while conducting any Studies.

(c) Prior to entering on the Property, Developer shall provide District (i) written notice (which may be by email), including a written description of the intended Studies, (ii)

evidence of insurance, as required under the terms of this Agreement, and (iii) copies of any required licenses and notices in accordance with Section 2.3.1(b).

(d) In the event Developer or Developer's Agents disturbs, removes or discovers any materials or waste from the Property while conducting the Studies, or otherwise during its entry on the Property, which are determined to be Hazardous Materials as defined herein, Developer shall notify District and DDOE within three (3) Business Days after its discovery of such Hazardous Materials. Thereafter, within ten (10) Business Days after its discovery of such Hazardous Materials, Developer shall submit a written notice of a proposed plan for disposal (the "**Disposal Plan**") to District and DDOE. The Disposal Plan shall contain all identifying information as to the type and condition of the Hazardous Materials or waste discovered and a detailed account of the proposed removal and disposal of the Hazardous Materials, including the name and location of the hazardous waste disposal site. DDOE may conduct an independent investigation of the Property, including but not limited to, soil sampling and other environmental testing as may be deemed necessary. Upon completion of DDOE's investigation, District and/or the DDOE shall notify Developer of its findings and shall notify Developer by written notice of its approval or disapproval of the proposed Disposal Plan. In the event DDOE disapproves the proposed Disposal Plan, Developer shall resubmit a revised Disposal Plan to District and DDOE. Developer shall seek the advice and counsel of DDOE prior to any resubmission of a proposed Disposal Plan. Upon review of the revised Disposal Plan, District or DDOE shall notify Developer of its decision. Upon approval of the Disposal Plan, Developer shall remove and dispose of all Hazardous Materials in accordance with the approved Disposal Plan and all Applicable Law; provided, however, Developer shall not be required to begin its removal and disposal of Hazardous Materials not already disturbed or removed until after Closing. Within seven (7) Business Days after the disposal of any Hazardous Materials or waste, Developer shall provide District such written evidence and receipts confirming the proper disposal of all Hazardous Materials or waste removed from the Property. Notwithstanding the foregoing, Developer may, at its option, terminate this Agreement within sixty (60) days after approval of the Disposal Plan by written notice to District if the cost of the removal and disposal of all Hazardous Materials in accordance with the approved Disposal Plan and all Applicable Law exceeds Eighty Thousand Dollars ($80,000.00), whereupon District shall release the Letters of Credit to Developer and the Parties shall be released from any further liability or obligation hereunder, except as expressly provided otherwise herein.

(e) Developer shall not have the right to object to any condition that may be discovered, offset any amounts from the Purchase Price, or to terminate this Agreement as a result of such Studies, except as expressly provided above in Subsection 2.3.1(d).

(f) Developer hereby indemnifies and holds District harmless and shall defend District (with counsel reasonably satisfactory to District) as provided in Section 11.2 below.

(g) Developer covenants and agrees that Developer shall keep confidential all information obtained by Developer as to the condition of the Property; provided, however, that (i) Developer may disclose such information to its Members, officers, directors, attorneys, consultants, Settlement Agent, and potential lenders and investors so long as Developer directs such parties to maintain such information as confidential and (ii) Developer may disclose such

information as it may be legally compelled so to do. The foregoing obligation of confidentiality shall not be applicable to any information which is a matter of public record or, by its nature, necessarily available to the general public. This provision shall survive Closing or the earlier termination of this Agreement.

(h) Any access to the Property by Developer pursuant to this Section shall additionally be subject to all of Developer's insurance obligations contained in Article 11 (to the extent applicable) and Developer shall restore the Property after such tests are completed if Developer does not proceed to Closing for any reason other than District Default.

2.3.2 Soil Characteristics. District hereby states that, to the best of its knowledge, the soil on the Property has been described by the Soil Conservation Service of the United States Department of Agriculture in the Soil Survey of the District of Columbia and as shown on the Soil Maps as UsC—Urban Land Manor Complex. Developer acknowledges that, for further soil information, Developer may contact a soil testing laboratory, the D.C. Department of Environmental Services or the Soil Conservation Service. The foregoing is set forth pursuant to requirements contained in D.C. Official Code § 42-608(b) and does not constitute a representation or warranty by District.

2.3.3 Underground Storage Tanks. In accordance with the requirements of Section 3(g) of the D.C. Underground Storage Tank Management Act of 1990, as amended by the District of Columbia Underground Storage Tank Management Act of 1990 Amendment Act of 1992 (D.C. Code § 8-113.01, *et seq.*) (collectively, the "**UST Act**") and the applicable D.C. Underground Storage Tank Regulations, 20 DCMR Chapter 56 (the "**UST Regulations**"), District hereby represents and warrants to Developer that it is unaware of any "underground storage tanks" (as defined in the UST Act) located on the Property or previously removed from the Property during District's ownership. Information pertaining to underground storage tanks and underground storage tank removals of which the D.C. Government has received notification is on file with the District Department of the Environment, Underground Storage Tank Branch, 51 N Street, N.E., Third Floor, Washington, D.C., 20002, telephone (202) 535-2525. District's knowledge for purposes of this Section shall mean and be limited to the actual knowledge of the Deputy Mayor for Planning and Economic Development. The foregoing is set forth pursuant to requirements contained in the UST Act and UST Regulations.

2.3.4 AS-IS. DISTRICT SHALL CONVEY THE PROPERTY TO DEVELOPER IN "AS IS", "WHERE IS" CONDITION DETERMINED AS OF THE EFFECTIVE DATE, WITH ALL FAULTS AS OF THE EFFECTIVE DATE AND, EXCEPT AS SET OUT IN SECTIONS 2.7 and 3.1 AND THE SPECIAL WARRANTY OF TITLE IN THE DEED, DISTRICT MAKES NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE PROPERTY OR ANY IMPROVEMENTS THEREON, AS TO THE SUITABILITY OR FITNESS OF THE PROPERTY OR ANY IMPROVEMENTS THEREON, AS TO ANY LAW, OR ANY OTHER MATTER AFFECTING THE USE, VALUE, OCCUPANCY, OR ENJOYMENT OF THE PROPERTY, OR AS TO ANY OTHER MATTER WHATSOEVER. DISTRICT SHALL HAVE NO RESPONSIBILITY TO PREPARE THE PROPERTY IN ANY WAY FOR DEVELOPMENT AT ANY TIME.

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DEVELOPER ACKNOWLEDGES THAT NEITHER DISTRICT NOR ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF DISTRICT HAS MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY OR ANY IMPROVEMENTS THEREON EXCEPT AS SET FORTH IN SECTIONS 2.7 AND 3.1 AND THE SPECIAL WARRANTY OF TITLE IN THE DEED. THE PROVISIONS HEREOF SHALL SURVIVE CLOSING OR THE EARLIER TERMINATION OF THIS AGREEMENT. Notwithstanding the foregoing, if the condition of the Property at Closing is materially different than the condition of the Property on the Effective Date (unless such material difference is a result of an act or omission of Developer), then Developer may, at its option, terminate this Agreement by written notice to District, whereupon District shall release the Letters of Credit to Developer and thereafter the Parties shall be released from any further liability or obligation hereunder, except as expressly provided otherwise herein.

2.4 TITLE

2.4.1 Beginning on the Effective Date and continuing for a period of sixty (60) days thereafter ("**Title Objection Date**"), Developer shall have the opportunity to obtain a title insurance commitment for an owner's policy of title insurance and an ALTA survey of the Property. On or before the Title Objection Date, Developer shall provide District with a copy of such title insurance commitment (including any documents referred to in such title insurance commitment) and ALTA survey along with written notice to District of any title or survey matter or matters, encumbrance or exception discovered or disclosed by the title insurance commitment or ALTA survey affecting the Property that are not acceptable to Developer ("**Title Objections**"). Within ten (10) days of receiving written notice of any Title Objections, District shall provide Developer written notice of any Title Objections that it is willing to cure prior to Closing, as determined in its sole and absolute discretion. If District does not provide Developer with written notice that it is willing to cure all Title Objections, Developer may, at its option, terminate this Agreement by written notice to District given no later than five (5) days after (i) the date District provides notice that it is unwilling to cure all Title Objections or (ii) the expiration of the period during which District had the opportunity to deliver notice of its willingness to cure all Title Objections, whereupon District shall release the Letters of Credit to Developer and thereafter the Parties shall be released from any further liability or obligation hereunder, except as expressly provided otherwise herein. Except to the extent that Developer notifies District of any Title Objections prior to the Title Objection Date, each item reflected in the title insurance commitment and the ALTA survey shall have been deemed to be a Permitted Exception for all purposes under this Agreement.

2.4.2 At Closing, District shall convey good, marketable and insurable title to the Property and subject only to the Permitted Exceptions. The **"Permitted Exceptions"** shall be the following collectively: (i) all title matters, encumbrances or exceptions of record as of the Effective Date; (ii) encroachments, overlaps, boundary disputes, or other matters which would be disclosed by an accurate survey or an inspection of the Property as of the Effective Date; (iii) any documents described in this Agreement that are to be recorded in the Land Records pursuant to the terms of this Agreement; (iv) defects or exceptions to title to the extent such defects or exceptions are created by Developer or Developer's Agents or created as a result of or in connection with the use of or activities on the Property or any portion thereof by Developer or Developer's Agents; (v) all building, zoning, and other Applicable Law affecting the Property as

of the Effective Date; and (vi) any easements, rights-of-way, exceptions, and other matters of record as of the Effective Date.

2.4.3 From and after the Effective Date through Closing, District represents, warrants, and covenants that it has not and will not take any action that would cause a change to the condition of title to the Property existing as of the Effective Date, except as expressly permitted by this Agreement.

2.5 RISK OF LOSS

All risk of material loss prior to Closing with respect to any and all existing improvements on the Property (except for loss caused by acts or omissions of Developer) shall be borne by District. In the event of a casualty, District shall not be required to rebuild any improvements; provided, however, that if the District (i) elects not to restore the improvements after a material loss (such election to be made within ten (10) days after the casualty) or (ii) does not restore the improvements by the Closing Date after a material loss, then Developer shall have the right, at its option, to terminate this Agreement by written notice to the District, whereupon the District shall return the Letters of Credit to Developer and thereafter the Parties shall be released from any and all obligations hereunder except those that expressly survive termination. If District elects to restore the Property after a material loss, it shall be restored to substantially the condition existing on the Effective Date of this Agreement. The foregoing is not intended and shall not be construed to impose any liability on Developer for personal injury or property damage incurred by District or any third party prior to Closing except as otherwise set forth herein to the contrary as contained in Developer's indemnification obligations contained in Section 2.3.1 and Article 11 hereof.

2.6 CONDEMNATION

2.6.1 Notice. If, prior to Closing, any condemnation or eminent domain proceedings shall be commenced by any competent public authority against the Property, District shall promptly give Developer written notice thereof.

2.6.2 Total Taking. In the event of a taking of the entire Property prior to Closing, District shall release the Letters of Credit to Developer, whereupon this Agreement shall terminate, the Parties shall be released from any and all obligations hereunder except those that expressly survive termination, and District shall have the right to any and all condemnation proceeds.

2.6.3 Partial Taking. In the event of a partial taking prior to Closing, District and Developer shall jointly determine in good faith whether the development of the Project remains physically and economically feasible. If the Parties reasonably determine that the Project is no longer feasible, whether physically or economically, as a result of such condemnation, this Agreement shall terminate, District shall release the Letters of Credit to Developer and the Parties shall be released from any further liability or obligation hereunder, except as expressly provided otherwise herein, and District shall have the right to any and all condemnation proceeds. If the Parties jointly determine that the Project remains economically and physically feasible, the Parties shall be deemed to have elected to proceed to Closing, the condemnation

proceeds shall be paid to Developer at Closing; provided, however, that if some or all compensation has not been actually paid on or before Closing, Developer shall accept the Property without any adjustment to the Purchase Price and subject to the proceedings, in which event, District shall assign to Developer at Closing all interest of District in and to the condemnation proceeds that may otherwise be payable to District, and the amount of any condemnation proceeds actually paid to District prior to the Closing Date shall be paid to Developer at Closing. In either event, District (as the seller hereunder) shall have no liability or obligation to make any payment to Developer with respect to any such condemnation, except as expressly provided herein. In the event the Parties elect to proceed to Closing, District agrees that Developer shall have the right to participate in all negotiations with the condemning authority, and District shall not settle or compromise any claim to the condemnation proceeds without Developer's consent. In the event that within forty-five (45) days after the date of receipt by Developer of notice of such condemnation the Parties have not jointly determined, in accordance with the foregoing provisions, to elect to terminate or proceed to Closing hereunder, such failure shall be deemed the Parties' election to terminate this Agreement.

2.7 SERVICE CONTRACTS AND LEASES

District has not procured or entered into any (i) service, management, maintenance, or development contracts, or (ii) leases, licenses, easements, or other occupancy agreements affecting the Property that will survive Closing. District will not hereafter enter into any such contracts or agreements that will bind the Property or Developer as successor-in-interest with respect to the Property, without the prior written consent of Developer.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES

3.1 REPRESENTATIONS AND WARRANTIES OF DISTRICT

3.1.1 District hereby represents and warrants to Developer as follows:

(a) The execution, delivery and performance of this Agreement by District and the consummation of the transactions contemplated hereby have been approved by all necessary parties and District has the authority to dispose of the Property. Upon the due execution and delivery of this Agreement by Developer, this Agreement constitutes the valid and binding obligation of District, enforceable in accordance with its terms.

(b) No agent, broker, or other Person acting pursuant to express or implied authority of District is entitled to any commission or finder's fee in connection with the transactions contemplated by this Agreement or will be entitled to make any claim against Developer for a commission or finder's fee. District has not dealt with any agent or broker in connection with the sale of the Property.

(c) There is no litigation, arbitration, administrative proceeding, or other similar proceeding pending (or to the best of the actual knowledge of District, threatened) against District which relates to the Property. There is no other litigation, arbitration, administrative proceeding, or other similar proceeding pending (or to

the best of the actual knowledge of District, threatened) against District which, if decided adversely to District, would impair District's ability to enter into and perform its obligations under this Agreement. For purposes of this representation, the District's actual knowledge shall mean the actual knowledge of the Director of Development and the Project Manager for the Property in the Office of the Deputy Mayor for Planning and Economic Development.

(d) The execution, delivery, and performance of this Agreement by District and the transactions contemplated hereby between District and Developer do not violate any of the terms, conditions or provisions of any judgment, order, injunction, decree, regulation, or ruling of any court or other governmental authority to which District is subject, or any agreement, contract or Applicable Law to which District is a party or to which it is subject.

(e) To the best of District's actual knowledge no Hazardous Materials have been released, deposited, stored or placed in, on, under or above the Property or improvements thereon, and to the best of District's actual knowledge no such Hazardous Materials exist in, on, under or above the Property or improvements thereon such that their existence would violate Environmental Laws. For purposes of this representation, the District's actual knowledge shall mean the actual knowledge of the Director of Development and the Project Manager for the Property in the Office of the Deputy Mayor for Planning and Economic Development.

(f) There is no pending or, to the best of the District's actual knowledge, threatened condemnation or eminent domain proceeding with respect to the Property. For purposes of this representation, the District's actual knowledge shall mean the actual knowledge of the Director of Development and the Project Manager for the Property in the Office of the Deputy Mayor for Planning and Economic Development.

3.1.2 Survival. The representations and warranties contained in Section 3.1.1 shall be true as of the Effective Date and at Closing and Developer's right to sue for a breach of such representations and warranties shall survive Closing for a period of one year. District shall have no liability or obligation hereunder for any representation or warranty that becomes untrue because of reasons beyond District's control.

3.2 REPRESENTATIONS AND WARRANTIES OF DEVELOPER

3.2.1 Developer hereby represents, and warrants to District as follows:

(a) Developer is a District of Columbia limited liability company, duly formed and validly existing and in good standing, and has full power and authority under the laws of the District of Columbia to conduct the business in which it is now engaged. Bryan Irving, George Mavrikes, and Scott Whittier are the only Members of Developer and the only Persons with an ownership interest in

Developer. Neither Members nor any Person owning directly or indirectly any interest in Developer or Members is a Prohibited Person.

(b) The execution, delivery, and performance of this Agreement by Developer and the consummation of the transactions contemplated hereby have been duly and validly authorized by Developer. Upon the due execution and delivery of this Agreement by District, this Agreement constitutes the valid and binding obligation of Developer, enforceable in accordance with its terms.

(c) The execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated hereby do not violate any of the terms, conditions, or provisions of (i) Developer's organizational documents, (ii) any judgment, order, injunction, decree, regulation, or ruling of any court or other governmental authority, or Applicable Law to which Developer is subject, or (iii) any agreement or contract to which Developer is a party or to which it is subject.

(d) No agent, broker, or other Person acting pursuant to express or implied authority of Developer is entitled to any commission or finder's fee in connection with the transactions contemplated by this Agreement or will be entitled to make any claim against District for a commission or finder's fee. Developer has not dealt with any agent or broker in connection with its purchase of the Property.

(e) There is no litigation, arbitration, administrative proceeding, or other similar proceeding pending (or to the best of the knowledge of Developer, threatened) against Developer that, if decided adversely to Developer, (i) would impair Developer's ability to enter into and perform its obligations under this Agreement or (ii) would materially adversely affect the financial condition or operations of the Developer.

(f) Developer's purchase of the Property and its other undertakings pursuant to this Agreement are for the purpose of constructing the Project in accordance with the Development Plan and Project Drawings and not for speculation in land holding.

(g) Neither Developer nor any of its Members are the subject debtor under any federal, state, or local bankruptcy or insolvency proceeding, or any other proceeding for dissolution, liquidation or winding up of its assets.

3.2.2 Survival. The representations and warranties contained in Section 3.2.1 shall be true as of the Effective Date and at Closing and District's right to sue for a breach of such representations and warranties shall survive Closing for a period of one year. Developer shall have no liability or obligation hereunder for any representation or warranty that becomes untrue because of reasons beyond Developer's control.