

EXHIBIT 6A
LCRA 5/26/21

LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY OF KANSAS CITY, MISSOURI,
As Lessor,

AND

MARTIN CITY PARTNERS, LLC ,
As Lessee

LEASE AGREEMENT

Dated as of *[Closing Month]* 1, 2021

Relating to:

\$39,100,000
Land Clearance for Redevelopment Authority
of Kansas City, Missouri
Taxable Industrial Revenue Bond
(Martin City Partners, LLC Multifamily Project)
Series 2021

The interest of Land Clearance for Redevelopment Authority of Kansas City, Missouri (the “Authority”), in this Lease Agreement has been pledged and assigned to *[TRUSTEE]*, Kansas City, Missouri, as Trustee under the Trust Indenture dated as of *[Closing Month]* 1, 2021, between the Authority and the Trustee.

LEASE AGREEMENT

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS

Section 1.1.	Definitions of Words and Terms	2
Section 1.2.	Rules of Interpretation	4

ARTICLE II

REPRESENTATIONS

Section 2.1.	Representations by the Authority	5
Section 2.2.	Representations by the Company	5

ARTICLE III

GRANTING PROVISIONS

Section 3.1.	Granting of Leasehold Estate	6
Section 3.2.	Lease Term	6
Section 3.3.	Possession and Use of the Project	7

ARTICLE IV

ACQUISITION, IMPROVEMENT AND CONSTRUCTION OF THE PROJECT

Section 4.1.	Issuance of the Bond.....	7
Section 4.2.	Acquisition, Improvement and Construction of the Project; Title to the Premises.....	8
Section 4.3.	Project Costs.....	8
Section 4.4.	Payment for Project Costs	9
Section 4.5.	Establishment of Completion Date.....	9
Section 4.6.	Surplus or Deficiency in Project Fund	9
Section 4.7.	Project Property of Authority	10
Section 4.8.	Personal Property.....	10

ARTICLE V

RENT PROVISIONS

Section 5.1.	Basic Rent.....	10
Section 5.2.	Additional Rent	11
Section 5.3.	Obligations of Company Absolute and Unconditional	11
Section 5.4.	Prepayment of Basic Rent	12

Section 5.5.	Redemption of Bonds	12
Section 5.6.	Tax Exemption and PILOTS	12

ARTICLE VI

MAINTENANCE, TAXES AND UTILITIES

Section 6.1.	Maintenance and Repairs.....	13
Section 6.2.	Taxes, Assessments and Other Governmental Charges	13
Section 6.3.	Utilities	14

ARTICLE VII

INSURANCE

Section 7.1.	Casualty Insurance.....	14
Section 7.2.	Commercial General Liability Insurance.....	14
Section 7.3.	Blanket Insurance Policies.....	15
Section 7.4.	Title Insurance	15
Section 7.5.	Lender Insurance Requirements	15

ARTICLE VIII

ALTERATION OF THE PROJECT

Section 8.1.	Additions, Modifications and Improvements of the Project.....	15
Section 8.2.	Permits and Authorizations.....	16
Section 8.3.	Mechanics' Liens	16
Section 8.4.	Additional Improvements on the Project Site.....	Error! Bookmark not defined.

ARTICLE IX

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 9.1.	Damage or Destruction.....	16
Section 9.2.	Condemnation.....	19
Section 9.3.	Bondowner Approval.....	20

ARTICLE X

SPECIAL COVENANTS

Section 10.1.	No Warranty of Condition or Suitability by the Authority; Exculpation and Indemnification.....	20
Section 10.2.	Surrender of Possession.....	20
Section 10.3.	Authority's Right of Access to the Project.....	21
Section 10.4.	Permitted Encumbrances; Leasehold Mortgages.....	21
Section 10.5.	Indemnification of Authority and Trustee	23
Section 10.6.	Depreciation, Investment Tax Credit and Other Tax Benefits	23
Section 10.7.	Company to Maintain its Existence.....	23
Section 10.8.	Security Interests	24
Section 10.9.	Environmental Matters	24

Section 10.10.	Affirmative Action.....	25
Section 10.11.	Americans with Disabilities Act	25
Section 10.12.	Obligations under Indenture	25

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE PROJECT

Section 11.1.	Option to Purchase the Project	25
Section 11.2.	Conveyance of the Project.....	26
Section 11.3.	Relative Position of Option and Indenture	26
Section 11.4.	Obligation to Purchase the Project	26
Section 11.5.	Option of Authority to Transfer	26
Section 11.6.	Closing.....	27

ARTICLE XII

DEFAULTS AND REMEDIES

Section 12.1.	Events of Default.....	27
Section 12.2.	Remedies on Default	29
Section 12.3.	Survival of Obligations.....	29
Section 12.4.	Performance of the Company's Obligations by the Authority	29
Section 12.5.	Rights and Remedies Cumulative.....	30
Section 12.6.	Waiver of Breach; Inaction Not a Waiver.....	30
Section 12.7.	Notice of Defaults Under Section 12.1; Opportunity of Company to Cure Defaults	30
Section 12.8.	Trustee's Exercise of the Authority's Remedies	30
Section 12.9.	Recovery of Attorneys' Fees	30

ARTICLE XIII

ASSIGNMENT AND SUBLEASE

Section 13.1.	Assignment; Sublease.....	31
Section 13.2.	Assignment of Revenues by Authority	32
Section 13.3.	Restrictions on Sale or Encumbrance of Project by Authority	32

ARTICLE XIV

AMENDMENTS, CHANGES AND MODIFICATIONS

Section 14.1.	Amendments, Changes and Modifications	32
---------------	---	----

ARTICLE XV

MISCELLANEOUS PROVISIONS

Section 15.1.	Notices	32
Section 15.2.	Authority Shall Not Unreasonably Withhold Consents and Approvals.....	32
Section 15.3.	Net Lease	32
Section 15.4.	No Pecuniary Liability.....	33

Section 15.5.	Electronic Storage	33
Section 15.6.	Governing Law	33
Section 15.7.	Binding Effect.....	33
Section 15.8.	Severability.....	33
Section 15.9.	Execution in Counterparts	33
Section 15.10.	Holdover.....	33
Section 15.11.	Incorporation	33
Section 15.12.	Recordation of Lease	33

Signature and Seals.....	S-1
--------------------------	-----

Exhibit A - Property

Exhibit B - Project Improvements

Exhibit C - Form of Requisition Certificate

LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of *[Closing Month]* 1, 2021 (the “Lease”), between **LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY OF KANSAS CITY, MISSOURI**, a public body corporate and politic duly organized and existing under the laws of the State of Missouri and the ordinances of the City of Kansas City, Missouri (the “Authority”), as lessor, and **MARTIN CITY PARTNERS, LLC**, a Missouri limited liability company (the “Company”), as lessee;

WITNESSETH:

RECITALS:

WHEREAS, the Authority is governed by Sections 99.300 to 99.715, RSMo, as amended (the “Act”), and is exercising the powers granted by the Act by virtue of Committee Substitute for Ordinance No. 16120, duly passed by the City Council (the “City Council”) of the City of Kansas City, Missouri (“City”) on November 21, 1952; and

WHEREAS, under the Act, the Authority has the power to enter into this Lease; and

WHEREAS, the Authority adopted the Martin City Neighborhood Urban Renewal Plan (the “Urban Renewal Plan”) for the Martin City Neighborhood Urban Renewal Area (the “Urban Renewal Area”). The Premises are located within the Urban Renewal Area. The City Council has approved the Urban Renewal Plan and determined that the portion of the City located within the Urban Renewal Area is blighted. Authority acquired the Premises for the purpose of furthering the redevelopment contemplated in the Urban Renewal Plan and for the elimination of the blighting conditions found to exist in the Premises; and

WHEREAS, the Authority designated the Company as the developer of the Project by Resolution No. 12-5-20 dated December 9, 2020, and as described in greater detail in the Redevelopment Contract; and

WHEREAS, as contemplated in the Redevelopment Contract, the Authority acquired the Property from the Company for the purpose of facilitating Company’s development of the Project on behalf of the Authority. The Property, the planned Project Improvements and all other related improvements now or hereafter located or constructed upon the Property are collectively referred to as the “Premises”; and

WHEREAS, to assist in the development of certain improvements within the Urban Renewal Area and thereby reduce the likelihood of recurrence of blight within the Urban Renewal Area, the Authority is providing assistance to Company with respect to the construction of the Project by acquiring the Premises and leasing the Premises to the Company; and

WHEREAS, pursuant to the Act, the governing body of the Authority adopted Resolution No. ___ dated ____, 2021, authorizing the issuance of the Bonds, for the purpose of acquisition, construction, and renovation of the Property located at 13501 Holmes Road in Kansas City, Missouri, and authorizing the Authority to lease the Premises to the Company; and

WHEREAS, pursuant to such Resolution, the Authority is authorized to enter into a Trust Indenture of even date herewith (the “Indenture”), with *[TRUSTEE]*, Kansas City, Missouri, as Trustee (the “Trustee”), for the purpose of issuing and securing the Bonds, as therein provided, and to enter into this Lease with the Company under which the Authority will cause the Company to acquire, improve and

construct the Project and will lease the Project to the Company in consideration of rental payments by the Company which will be sufficient to pay the principal of and interest on the Bond; and

WHEREAS, pursuant to the foregoing, the Authority desires to lease the Project to the Company and the Company desires to lease the Project from the Authority, for the rentals and upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the Authority and the Company do hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. In addition to any words and terms defined elsewhere in this Lease and the words and terms defined in Section 101 of the Indenture which definitions are hereby incorporated herein by reference, and terms defined, the following words and terms as used in this Lease shall have the following meanings:

“Additional Rent” means the additional rental described in **Section 5.2** of this Lease.

“Basic Rent” means the rental described in **Section 5.1** of this Lease.

“Bonds” means the Taxable Industrial Revenue Bonds in a principal amount not to exceed \$39,100,000 issued by the Authority pursuant to the Indenture.

“Bondowner” or **“Owner”** means the registered owner of any Bond as recorded on the books for registration and transfer of the Bonds.

“Deed of Trust” means any deed of trust executed by the Company or the Authority in favor of any lender covering the Premises.

“Event of Default” means any Event of Default as described in **Section 12.1** of this Lease.

“Environmental Law” means any applicable federal, state or local law, regulation, order, decree, permit, authorization, opinion, common law relating to: (i) the protection, investigation or restoration of the environment, health, safety, or natural resources; (ii) the handling, use, presence, disposal, release, or threatened release of any Hazardous Substance; (iii) noise, odor, wetlands, pollution, or contamination; or (iv) standards of conduct concerning protection of human health (including, without limitation, employee health and safety), in each case as amended and as now or hereafter in effect.

“Force Majeure Conditions” means a condition by reason of which the construction of the Project Improvements or completion of the Project is prevented or materially impeded through no fault of the Company, due to acts of God, extreme and extraordinary weather conditions, strikes, lockouts, labor troubles, inability to procure materials, failure of power, extreme and extraordinary governmental delay, riots, or other events or circumstances beyond such party's control; provided, however that the Company has given written notice to the Authority of the existence of the condition reasonably promptly after first becoming aware of the condition; further provided, however that in no event shall the existence of any Force Majeure Condition extend the due date for payment of any installment of Basic Rent or Additional Rent.

“Full Insurable Value” means the actual replacement cost of the Project less physical depreciation as determined in accordance with generally accepted accounting principles.

“Funding Agreement” means the Funding Agreement dated December 31, 2020, between the Authority and the Company, as may be amended from time to time, pursuant to which the Company agreed to pay costs and expenses, including attorney’s fees, incurred by the Authority in connection with the Project and the transactions contemplated by this Lease and the Redevelopment Contract.

“Hazardous Substance” means any material or substance that is: (A) oil or other petroleum products, (B) “hazardous wastes,” as defined by the Resource Conservation and Recovery Act, as amended, (RCRA), 42 U.S.C. § 6901 *et seq.*, or similar state or local law, ordinance, regulation, or order, (C) “hazardous substances,” as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, (CERCLA), 42 U.S.C. § 9601 *et seq.*, or similar state or local law, ordinance, regulation, or order, (D) “hazardous materials,” as defined by the Hazardous Materials Transportation Act, as amended, (MAT), 49 U.S.C. § 1802, or similar state or local law, ordinance, regulation, or order, (E) radioactive materials subject to the Atomic Energy Act, as amended, (AEA), 42 U.S.C. § 2014 *et seq.*, or similar state or local law, ordinance, regulation, or order, and (F) any other pollutant, contaminant, chemical, substance whose presence creates or could create a hazard to health or the environment or a violation of any Applicable Law or any federal, state, or local Environmental Law.

“Indenture” means the Trust Indenture, dated as of *[Closing Month]* 1, 2021, between the Authority and the Trustee, as from time to time amended and supplemented in accordance with the provisions thereof.

“Leasehold Deed of Trust” means any leasehold deed of trust and security agreement executed by the Company in favor of any Lender covering the Lease on the Premises.

“Lease Term” means the period from the effective date of this Lease until the expiration thereof pursuant to **Section 3.2** of this Lease.

“Net Proceeds” means, when used with respect to any insurance or condemnation award with respect to the Project, the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all expenses (including attorneys' fees, trustee's fees and any extraordinary expenses of the Authority and the Trustee) incurred in the collection of such gross proceeds.

“Paying Agent” means the Trustee or any other bank or trust company organized under the laws of any state of the United States of America or any national banking association designated by the Indenture as Paying Agent for the Bond.

“Payment and Performance Bond” means the payment and payment performance bond(s) for the Project obtained by the Redeveloper or the Redeveloper’s contractor as required by the Redevelopment Contract and Section 107.170, RSMo, as amended.

“Permitted Encumbrances” means, as of any particular time (a) liens for ad valorem taxes and special assessments not then delinquent, (b) the Indenture, (c) this Lease and the Redevelopment Contract, (d) any Leasehold Deed of Trust, (e) any Deed of Trust (f) utility, access and other easements and rights-of-way, mineral rights, restrictions, exceptions and encumbrances that will not materially interfere with or impair the operations being conducted on the Premises or easements granted to the Authority, (g) such minor defects, irregularities, encumbrances, easements, mechanic's liens, rights-of-way and clouds on title as normally exist with respect to properties similar in character to the Project and as do not in the aggregate materially impair the property affected thereby for the purpose for which it was acquired or is held by the Authority, (h) the Subleases; (i) all encumbrances reflected in the

title insurance required to be provided pursuant to Section 7.4 hereof; and (j) any other lien, encumbrance, lease, easements, restrictions or covenants consented to in writing by the Owner of 100% of the outstanding principal amount of the Bond and the Lender, including without limitation certain deed restrictions, subdivision or condominium plats, and condominium or similar declarations.

“Plans and Specifications” means the plans and specifications prepared for and showing the Project Improvements, as amended by the Company from time to time prior to the Completion Date and as approved by the City by permit or otherwise, the same being duly certified by the Company, and on file at the principal office of the Company and which shall be available for reasonable inspection, upon reasonable prior written notice, by the Authority, the Trustee and their duly appointed representatives.

“Premises” means the Property and the Project Improvements.

“Project” means the acquisition of the Property and the development of the Project Improvements in accordance with the Urban Renewal Plan, the Redevelopment Contract and this Lease.

“Project Costs” means all costs of acquiring, improving and constructing the Project as enumerated in **Section 4.3** of this Lease.

“Project Improvements” means the property described in **Exhibit B** (as may be modified from time to time) attached hereto and by this reference made a part hereof.

“Property” means all of the real estate described in **Exhibit A** attached hereto and by this reference made a part hereof.

“Redevelopment Contract” means the Sale/Leaseback Redevelopment Contract dated _____, 2021 between the Authority and the Company, as amended from time to time.

“Subleases” means leases or subleases with one or more persons or entities in the ordinary course of the Company’s business for the various parcels or units within the Project to be used for residential or other uses commonly associated with an apartment complex comparable to the Project.

Section 1.2. Rules of Interpretation.

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including governmental entities, as well as natural persons.

(c) Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(d) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or other subdivision.

(e) The Table of Contents and the Article and Section headings of this Lease shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by the Authority. The Authority makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Authority is a public body corporate and politic duly organized under the laws of the State and ordinances of the City and has corporate power to enter into this Lease. The Board has duly authorized the negotiation, execution and delivery of this Lease.

(b) To finance the costs of the Project, the Authority proposes to issue the Bond which will be scheduled to mature as set forth in **Article II** of the Indenture and will be subject to redemption prior to maturity in accordance with the provisions of **Article III** of the Indenture.

(c) The Bond is to be issued under and secured by the Indenture, pursuant to which the Project, including all rents, revenues and receipts to be derived by the Authority from the leasing or sale of the Premises, will be pledged and assigned to the Trustee as security for payment of the principal of and interest on the Bond.

(d) Except as provided herein, the Authority will not mortgage the Premises or pledge the revenues derived therefrom for any bonds or other obligations other than the Bond except with the written consent of the Authorized Company Representative.

(e) The Authority shall, during the Lease Term, have no authority to operate the Premises as a business or in any other manner except as the lessor thereof.

(f) The acquisition, improving and constructing of the Project and the leasing of the Premises by the Authority to the Company will further the public purposes of the Act.

(g) No member of the governing body of the Authority or any other officer of the Authority has any significant or conflicting interest, financial, employment or otherwise, in the Company or in the transactions contemplated hereby.

(h) To the best knowledge of the Authority, (i) the execution, delivery or performance by the Authority of the Bond Documents will not conflict with or create a material breach of or material default under the Act or any other law, rule, regulation or ordinance applicable to the Authority, or any agreement to which the Authority is a party or by which it is bound, and (ii) there is no action, suit, proceeding, inquiry or investigation by or before any court, public board or body, pending or, to the Authority's knowledge, threatened against the Authority which seeks to or does restrain or enjoin the issuance or delivery of the Bond or the execution and delivery of any of the Bond Documents or in any matter questions the validity or enforceability of the Bond or any of the Bond Documents.

Section 2.2. Representations by the Company. The Company makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Missouri.

(b) The Company has lawful power and authority to enter into this Lease and to carry out its obligations hereunder and by proper corporate action, the Company has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers.

(c) The execution and delivery of this Lease, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Lease by the Company will not conflict with or result in a material breach of any of the terms, conditions or provisions of, or constitute a material default under, any Deed of Trust, Leasehold Deed of Trust, deed of trust, lease or any other corporate restrictions or any agreement or instrument to which the Company is a party or by which it or any of its property is bound, or the Company's Articles of Organization/Incorporation or operating agreement/bylaws or any order, rule or regulation applicable to the Company or any of its property of any court or governmental body, or constitute a material default under any of the foregoing, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement to which the Company is a party.

(d) The estimated costs of acquiring, improving and constructing the Project are in accordance with sound accounting principles.

(e) The Project will comply, in all material respects, with the Redevelopment Contract and the Urban Renewal Plan, and with all presently applicable building and zoning, health, environmental and safety ordinances and laws and, to the best of its knowledge, without independent investigation, with all other applicable laws, rules and regulations.

(f) The acquisition, improving and constructing of the Project and the leasing of the Premises by the Authority to the Company will further the public purposes of the Act.

ARTICLE III

GRANTING PROVISIONS

Section 3.1. Granting of Leasehold Estate. The Authority hereby rents, leases and lets the Premises to the Company, and the Company hereby rents, leases and hires the Premises from the Authority, subject to Permitted Encumbrances, for the rentals and upon and subject to the terms and conditions herein contained.

Section 3.2. Lease Term. This Lease shall become effective upon its delivery, and subject to sooner termination pursuant to the provisions of this Lease, shall have a term commencing as of the date of this Lease and terminating on the earlier of *[PRELIMINARY AND SUBJECT TO REVISION]*: (a) the date that is not more than thirty (30) days after a certificate of occupancy ("Certificate of Occupancy") is issued by the City allowing tenants to move into and occupy at least ninety percent (90%) of the Premises; or (b) _____, 2023 ("Lease Term"). It is intended that the Lease Term coincide with the construction period for the Project Improvements and, for clarification purposes, the threshold for Lease termination under (a) is intended to relate to the date that at least ninety percent (90%) of the Premises is complete and available for occupancy as evidenced by the Certificate of Occupancy and not the date that the Premises is at least ninety percent (90%) occupied. The Authority and the Company acknowledge that the Lease Term is intended to coincide with the construction period for completion of the Project as contemplated in this Lease, the Redevelopment Contract, and the Urban Renewal Plan for the purpose of granting a sales tax exemption incentive on Materials (as defined in the Redevelopment Contract) to facilitate construction of the Project on behalf of the Authority. Upon expiration of the Lease Term, the Authority shall convey all of its right, title and interest in and to the Premises to the Company, and the Company shall accept such title and ownership of the Premises, as provided in this Lease and the Redevelopment Contract. The term of this Lease may be extended by written agreement of the Authority and the Company, with written notice to the Trustee, in the event that the Completion Date of the Project is extended due to delays caused by Force Majeure Conditions as permitted under the Redevelopment Contract.

Section 3.3. Possession and Use of the Premises.

(a) The Authority covenants and agrees that as long as neither the Authority nor the Trustee has exercised any of the remedies set forth in **Section 12.2(b)** or **12.2(c)** of this Lease following the occurrence and continuance of an Event of Default, the Company shall have sole and exclusive possession of the Premises (subject to Permitted Encumbrances and the Authority's and the Trustee's right of access pursuant to **Section 10.3** hereof) and shall and may peaceably and quietly have, hold and enjoy the Premises during the Lease Term. The Authority covenants and agrees that it will not take any action, other than expressly pursuant to **Article XII** of this Lease, **Section 11.5**, or the security instruments referred to in **Section 10.8** of this Lease, to prevent the Company from having quiet and peaceable possession and enjoyment of the Premises during the Lease Term and will, at the request and expense of the Company, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Premises.

(b) Subject to the provisions of this Section, the Company shall have the right to use the Project for any lawful purpose allowed by law and contemplated by the Act. The Company shall comply in all material respects with all presently applicable statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Project or to any adjoining public ways, as to the manner of use or the condition of the Project or of adjoining public ways. The Company shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies carried under the provisions of **Article VII** hereof. The Company shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Company to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Company shall have the right, at its own cost and expense, to in good faith contest or review by legal or other appropriate procedures the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction or requirement, or any such requirement, rule or regulation of an insurer, and during such contest or review the Company may refrain from complying therewith.

ARTICLE IV

ACQUISITION, IMPROVEMENT AND CONSTRUCTION OF THE PROJECT

Section 4.1. Issuance of the Bond.

(a) In order to provide funds for the payment of the Project Costs, the Authority agrees that it will issue, sell and cause to be delivered to the purchaser thereof the Bond in accordance with the provisions of the Indenture and the Bond Purchase Agreement. The proceeds of the sale of the Bond, when received, shall be paid over to the Trustee for the account of the Authority. The Trustee shall promptly deposit such proceeds, when received, as provided in the Indenture, to be used and applied as hereinafter provided in this Article and in the Indenture. Alternatively, the Trustee may (pursuant to Section 208 of the Indenture) endorse the Bonds in an amount equal to the requisition certificates submitted pursuant to Section 4.4 below. In that event, the purchaser of the Bonds shall be deemed to have deposited funds with the Trustee in an amount equal to the amount stated in the requisition certificate.

(b) The Authority may authorize the issuance of Additional Bonds from time to time upon the terms and conditions provided in **Section 209** of the Indenture for the purposes described therein.

(c) If the Company is not in default hereunder, the Authority will, at the request of the Company, from time to time, use its best efforts to issue the amount of Additional Bonds specified by the

Company; provided that the terms of such Additional Bonds, the purchase price to be paid therefor and the manner in which the proceeds therefrom are to be disbursed shall have been approved in writing by the Company; provided further that the Company and the Authority shall have entered into a supplement to this Lease to provide for rent in an amount at least sufficient to pay principal and interest on the Additional Bonds when due and the Authority shall have otherwise complied with the provisions of the Indenture with respect to the issuance of such Additional Bonds.

Section 4.2. Acquisition, Improvement and Construction of the Project; Title to the Premises. The Authority and the Company agree that the Authority will and the Company on behalf of the Authority shall for the public purpose of eliminating blighting conditions found to exist on the Premises, but solely from the Project Fund, acquire, improve and construct the Project as follows:

(a) The Authority shall acquire the Property from the Company at the execution hereof. To evidence such acquisition concurrently with the execution of this Lease, the Company shall deliver to the Authority a Special Warranty Deed and any other necessary instruments of transfer in a form reasonably acceptable to the Authority. The cost of acquiring the Property by the Authority shall be paid with the proceeds of the Bond.

(b) The Company will, on behalf of the Authority, acquire, improve and construct the Project Improvements on the Property in a good and workmanlike manner without encroaching upon any easement, right-of-way, or land of others and substantially in accordance with the Redevelopment Contract, the Urban Renewal Plan, the Plans and Specifications, and applicable zoning laws.

(c) The Company agrees that it will use its best efforts to cause the acquisition, improvement and construction of the Project to be completed as soon as practicable subject to Force Majeure Conditions. In the event such acquisition, improvement and construction commences prior to the receipt of proceeds from the sale of the Bond, the Company agrees to advance all funds necessary for such purpose.

(d) The Company shall have and keep on file and available for inspection by the Trustee and the Authority copies of the Plans and Specifications, the Construction Contracts, all policies of insurance with respect to the Premises required by this Lease, all environmental reports, notices and assessments related to the Premises and all other documents executed by or furnished to the Company in connection with the requisition and construction of the Project, throughout the Lease Term, or as soon after the commencement of the Lease Term as such documents become available to the Company.

(e) The Redeveloper shall obtain or cause its contractor to obtain the Payment and Performance as required by the Redevelopment Contract and Section 107.170, RSMo, as amended.

Section 4.3. Project Costs. The term "Project Costs" shall mean the following:

(a) fees and expenses of architects, appraisers, surveyors and engineers for estimates, surveys, and other preliminary investigations and items necessary to the preparation of plans, drawings and specifications and supervision of construction or installation, as well as for the performance of all other duties of architects, appraisers, surveyors and engineers in relation to the completion of the Project or the issuance of the Bond;

(b) all costs and expenses of every nature incurred in acquiring, improving and constructing the Project, including the actual cost of labor, materials, machinery, furnishings and equipment as payable to contractors, builders and materialmen in connection with the Project;

(c) interest accruing on the Bond during the construction period of the Project;

(d) reasonable expenses of administration, supervision and inspection properly chargeable to the Project, underwriting expenses, legal fees and expenses, fees and expenses of accountants and other consultants, publication and printing expenses, and initial fees and expenses of the Trustee to the extent that said fees and expenses are necessary or incident to the issuance and sale of the Bond or the acquisition, improvement and construction of the Project;

(e) all other items of expense not elsewhere specified in this definition as may be necessary or incident to: (1) the authorization, issuance and sale of the Bond; (2) the completion of the Project; and (3) the financing thereof; and

(f) reimbursement to the Company or any of its affiliates or those acting for any of them for any of the above enumerated costs and expenses incurred and paid by them before or after the execution of this Lease.

The Authority hereby agrees to pay for, but solely from moneys available therefor in the Project Fund, and hereby authorizes and directs the Trustee to pay for, but solely from moneys available therefor in the Project Fund, all Project Costs upon receipt by the Trustee of a certificate pursuant to **Section 4.4** hereof.

Section 4.4. Payment for Project Costs. All Project Costs as specified in **Section 4.3** hereof shall be paid by the Trustee from the Project Fund, and the Authority hereby authorizes and directs the Trustee to make disbursements within 15 calendar days from moneys available therefor in the Project Fund, upon receipt by the Trustee of a requisition certificate in substantially the form attached hereto as **Exhibit C**, signed by an Authorized Company Representative. The Trustee may rely conclusively on any such requisition certificate and shall not be required to make any independent inquiry or investigation in connection therewith.

Section 4.5. Establishment of Completion Date. The Completion Date shall be evidenced to the Trustee by a certificate signed by the Authorized Company Representative stating (a) that the acquisition, improvement and construction of the Project has been completed in accordance with the Plans and Specifications, (b) that all costs and expenses incurred in the acquisition, improvement and construction of the Project have been paid except costs and expenses the payment of which is not yet due or is being retained or contested in good faith by the Company, and (c) amounts to be retained by Trustee with respect to item (b) above. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. The Company and the Authority agree to cooperate in causing such certificate to be furnished to the Trustee. The Company anticipates that the Completion Date shall be no later than _____ 1, 20____, subject to Force Majeure Conditions.

Section 4.6. Surplus or Deficiency in Project Fund.

(a) Upon receipt of the certificate described in **Section 4.5** hereof, the Trustee shall, as provided in **Section 504** of the Indenture, transfer any remaining moneys then in the Project Fund to the Bond Fund to be applied as directed by the Company solely to (1) the payment of principal and premium, if any, of the Bond through the payment (including regularly scheduled principal payments, if any) or redemption thereof at the earliest date permissible under the terms of the Indenture, or (2) at the option of the Company, to the purchase of a principal portion of the Bond at such earlier date or dates as the Company may elect. Any amount so deposited in the Bond Fund may be invested as permitted by **Section 702** of the Indenture.

(b) If the Project Fund shall be insufficient to pay fully all Project Costs and to complete the Project lien free, the Company shall pay, in cash, the full amount of any such deficiency by making payments thereof directly to the contractors and to the suppliers of materials and services as the same

shall become due, and the Company shall save the Authority and the Trustee whole and harmless from any obligation to pay such deficiency.

Section 4.7. Project Property of Authority. During the Lease Term, the Authority is and shall be the owner of title in and to the Premises. The Property, any partially completed Project Improvements, the Premises as fully completed, anything under this Lease which becomes, is deemed to be, or constitutes a part of the Premises, and the Premises as repaired, rebuilt, rearranged, restored or replaced by the Company under the provisions of this Lease, except as otherwise specifically provided herein, shall immediately when installed become part of the Premises and shall be the absolute property of the Authority, subject only to this Lease, the Indenture, the Deed of Trust, the Leasehold Deed of Trust, if any, and any other Permitted Encumbrances.

Section 4.8. Sales Tax Exemption. The sales tax exemption granted by the Authority pursuant to Section 4.01 of the Redevelopment Contract shall only apply to construction Materials that are part of the Project Costs and paid for with funds deposited in the Project Fund. The Authority will provide a sales tax exemption certificate to the Company for use with the Project and will cooperate, at the Company's expense, with the Company with respect to any audit or investigation by any taxing authority in connection with the Project but solely at the expense of the Company, including attorney's fees incurred by the Authority in connection with any audit or investigation. If it is determined that contested sales or use tax is due on any portion of the Project, the Company shall pay all applicable sales or use taxes. Notwithstanding anything in this Lease or the Redevelopment Contract to the contrary, the Company acknowledges and agrees that the Authority has made no representation or warranty concerning availability of the sales tax exemption and that the Authority shall have no liability to the Company if any taxing authority shall deny exemption from the payment of sales or use tax.

Section 4.9 Personal Property. Any item of personal property, the entire purchase price of which is paid for by the Company with the Company's own funds, and no part of the purchase price of which is paid for from funds deposited pursuant to the terms of this Lease in the Project Fund, shall be the property of the Company. No personal property purchased with funds of the Company shall be entitled to a sales tax exemption. The Company acknowledges that only personal property that qualifies as a Material and is purchased with Bond proceeds is eligible for a sales tax exemption and that the tax incentives approved by the Authority do not include a personal property tax exemption on any personal property located at the Premises.

ARTICLE V

RENT PROVISIONS

Section 5.1. Basic Rent. The Company covenants and agrees to pay to the Trustee in same day funds for the account of the Authority during this Lease Term, for deposit in the Bond Fund on or before 10:00 A.M., Trustee's local time, on the appropriate dates and in the appropriate amounts, the principal of and the interest on the Bond in accordance with the provisions of the Indenture, as Basic Rent for the Premises, in an amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal on the Bond and the interest thereon on such payment date, shall be equal to the amount payable on such payment date as principal of the Bond and the interest thereon as provided in the Indenture. All payments of Basic Rent provided for in this Section shall be paid directly to the Trustee and shall be deposited in accordance with the provisions of the Indenture into the Bond Fund and shall be used and applied by the Trustee in the manner and for the purposes set forth in this Lease and the Indenture. The Company may at its option make principal payments of Basic Rent by tendering a portion of the principal amount of the Bond equal to such principal payment to the Trustee for cancellation.

Section 5.2. Additional Rent. The Company shall pay as Additional Rent the following amounts and all such payments shall be deemed “rent” under this Lease:

(a) all reasonable fees, charges and expenses, including agent and counsel fees, of the Trustee and the Paying Agent incurred under this Lease, the Indenture or any other document entered into in connection with the Bonds, as and when the same become due in accordance with the separate agreement between the Trustee and the Company;

(b) all costs incident to the payment of the principal of and interest on the Bond as the same becomes due and payable, including all costs and expenses in connection with the call, redemption and payment of all outstanding Bonds;

(c) all fees, charges and expenses (including, without limitation, attorney’s fees) incurred in connection with the enforcement of any rights against the Company or the Premises under this Lease, the Indenture or any other document entered into in connection with the Bonds, by the Authority, the Trustee or the Bondowners, provided, however, the Company shall not be obligated to pay such fees, charges and expenses as may be incurred by the Authority or the Trustee solely as a result of its own gross negligence or willful misconduct of the Authority, the Trustee or both; and

(d) all other payments or expenditures of whatever nature which Company has agreed to pay or assume under the provisions of this Lease, the Redevelopment Contract, the Funding Agreement (including, specifically, without limitation, \$1,500 as an annual bond administrative fee of the Authority payable on each anniversary of the Effective Date during the Lease Term), the Indenture, or any other document entered into in connection with the Bonds or the Project necessary to complete the Project, including, without limitation, any equity payments made by the Company, which equity payments shall be applied to the payment of Project Costs and the costs and expenses incident thereto.

Section 5.3. Obligations of Company Absolute and Unconditional.

(a) The obligations of the Company under this Lease to make payments of Basic Rent and Additional Rent on or before the date the same become due, and to perform all of its other obligations, covenants and agreements hereunder shall be absolute and unconditional, without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Project shall have been started or completed, or whether the Authority's title thereto or to any part thereof is defective or nonexistent, and notwithstanding any damage to, loss, theft or destruction of, the Project or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Premises, legal curtailment of the Company's use thereof, the eviction or constructive eviction of the Company, any change in the tax or other laws of the United States of America, the State of Missouri or any political subdivision thereof, any change in the Authority's legal organization or status, or any default of the Authority hereunder, and regardless of the invalidity of any action of the Authority, and regardless of the invalidity of any portion of this Lease; provided, however, that nothing in this Section 5.3(a) or Section 5.3(b) is intended or shall be deemed to affect or impair in anyway the rights of the Company to tender the Bond for redemption in satisfaction of Basic Rent as provided in Section 5.1 and Section 5.4 hereof, nor the right of the Company to terminate this Lease and repurchase the Premises as provided in Article XI hereof.

(b) Nothing in this Lease shall be construed to release the Authority from the performance of any agreement on its part herein contained or as a waiver by the Company of any rights or claims the Company may have against the Authority under this Lease or otherwise, but any recovery upon such

rights and claims shall be had from the Authority separately, it being the intent of this Lease that the Company shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease (including the obligation to pay Basic Rent and Additional Rent) for the benefit of the Bondowners. The Company may, however, at its own cost and expense and in its own name, prosecute or defend any action or proceeding or take any other action involving third persons which the Company deems reasonably necessary in order to secure or protect its right of possession, occupancy and use of the Premises hereunder, and in such event the Authority hereby agrees to cooperate with the Company and to take all action necessary to effect the substitution of the Company for the Authority in any such action or proceeding if the Company shall so request; provided, however, that the Company shall pay all costs and expenses, including attorney's fees, incurred by the Authority in connection with any such action or proceeding.

Section 5.4. Prepayment of Basic Rent. The Company may at any time prepay all or any part of the Basic Rent provided for hereunder. During such times as the amount held by the Trustee in the Bond Fund shall be sufficient to pay, at the time required, the principal of and interest on all the Bonds then remaining unpaid, the Company shall not be obligated to make payments of Basic Rent under the provisions of this Lease.

Section 5.5. Redemption of Bonds. The Authority and the Trustee, at the written direction of the Company, at any time the aggregate moneys in the Bond Fund are sufficient for such purposes, shall (a) if the same are then redeemable under the provision of **Article III** of the Indenture, take all steps that may be necessary under the applicable redemption provisions of the Indenture to effect the redemption of all or such part of the then outstanding Bonds as may be specified by the Company, on such redemption date as may be specified by the Company or (b) cause such moneys in the Bond Fund or such part thereof as the Company shall direct, to be applied by the Trustee for the purchase of Bonds, pursuant to the written instructions of the Company, for the purpose of cancellation at prices not exceeding the principal amount thereof, or (c) a combination of (a) and (b) as provided in such direction.

Section 5.6. Tax Exemption and PILOTS. The Authority and the Company acknowledge and agree that while the Premises are owned by the Authority and are subject to the Lease, the Premises will be exempt from all real property and sales and use taxes by reason of such ownership.

Notwithstanding the foregoing, the Company will annually pay the payments in lieu of taxes in accordance with the Redevelopment Contract. The Company will indemnify and defend the Authority and its officers, employees and agents against and from any and all causes of action or actions in law or equity, liens, tax assessments or tax liability, claims, damages, loss, costs or expenses of any nature whatsoever by any person or entity (including, without limitation, attorney's fees), which would not have occurred but for the Authority's furnishing of the exemption certificate under this Lease and the Redevelopment Contract or the Authority's ownership of the Premises, as the case may be. Furthermore, notwithstanding anything in this Lease to the contrary, the Company acknowledges that the Authority does not represent, warrant, or guarantee that any tax exemptions will be available to the Company throughout duration of the Lease Term.

Section 5.7 Martin City Community Improvement District. The Premises are within the Martin City Community Improvement District ("CID"), which imposes a special assessment on real property to fund, in part, the CID's activities. In addition to base taxes, the Construction Period PILOT, and the Tax Abatement Period PILOT payable under the Redevelopment Contract, the Redeveloper shall annually pay when due the CID's special assessment assessed against the Premises during the term of this Lease.

ARTICLE VI

MAINTENANCE, TAXES AND UTILITIES

Section 6.1. Maintenance and Repairs. Throughout the Lease Term the Company shall, at its own expense, keep the Premises in as reasonably safe condition as the operation thereof will permit, and keep the Premises in good repair and in good operating condition, taking into account normal wear and tear, as needed for its operation making from time to time all necessary repairs thereto and renewals and replacements thereof.

Section 6.2. Taxes, Assessments and Other Governmental Charges.

(a) The Authority and the Company acknowledge that the Premises shall be exempt from real property and sales and use taxes as more fully described in **Section 5.6** hereof. Notwithstanding anything to the contrary in **Section 5.6**, The Company shall promptly pay and discharge, as the same become due, all taxes and assessments, general and special, and other governmental charges of any kind whatsoever that may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Premises, or any part thereof or interest therein (including the leasehold estate of the Company therein) or the income therefrom or Basic Rent and other amounts payable under this Lease, including any new taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all utility charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair the security of the Bond or encumber the Authority's title to the Premises; provided that with respect to any special assessments or other governmental charges that are lawfully levied and assessed which may be paid in installments, the Company shall be obligated to pay only such installments thereof as become due and payable during the Lease Term (collectively, "Taxes"). The Company shall pay all Taxes on or before the respective due dates thereof and shall, upon request of the Authority, provide to the Authority evidence of the payment of the same. The parties acknowledge that the Jackson County, Missouri Assessor might determine that "bonus value" exists under Missouri law and declare all or a portion of the leasehold interest in the Premises created by this Lease taxable and in such event the Company shall be solely responsible for payment of any taxes on "bonus value" assessed against the leasehold interest in the Premises created by this Lease, subject to the Company's right to protest any such amount as set out below. Notwithstanding anything in this Lease to the contrary, the Company acknowledges that the Authority makes no representation or warranty that the Authority's tax-exempt status will remain in effect throughout the duration of the Lease Term. In the event that the Authority's tax-exempt status is reduced or eliminated, or the Authority is otherwise unable to effectively extend a tax exemption as a result of circumstances, including, but not limited to: (i) a change in Applicable Law; (ii) a lawsuit or administrative proceeding challenging the validity or legality of the Authority's tax exempt status and which results in a determination by a court of competent jurisdiction or by a federal, state, or local governing body, agency, or department that the Authority's tax-exempt status is invalid or illegal; or (iii) for some other reason, as to all or any part of the Authority's ownership interest in the Premises, then the Company shall be solely responsible for payment of any taxes, fees, charges, interest, penalties, special assessments or other costs assessed, charged, or imposed against the Authority's ownership interest in the Premises or otherwise resulting from the actions of the Company hereunder. The Company shall indemnify, defend and hold the Authority and the Trustee harmless from any taxes, fees, charges, penalties, special assessments, "bonus value" assessment, or any other costs assessed or imposed against the Premises or the leasehold interest created by this Lease, including, without limitation, attorney's fees incurred by the Authority or the Trustee in connection with any such assessment or imposition. The Company's indemnification obligation shall survive the expiration, cancelation or termination of this Lease.

(b) The Company shall have the right to contest the validity or amount of any tax, assessment or other governmental charge which the Company is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings before the tax, assessment or other governmental charge complained of becomes delinquent if and provided (1) the Company, before instituting any such contest, gives the Authority and the Trustee written notice of its intention so to do, (2) the Company diligently prosecutes any such contest and at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (3) the Company promptly pays any final judgment enforcing the tax, assessment or other governmental charge so contested and thereafter promptly procures record release or satisfaction thereof. The Authority agrees to cooperate with the Company in connection with any and all administrative or judicial proceedings related to any tax, assessment or other governmental charge. The Company shall indemnify and hold the Authority whole and harmless from any costs and expenses the Authority may incur, including attorneys' fees, related to any of the above.

Section 6.3. Utilities. All utilities and utility services used by the Company in, on or about the Premises shall be paid for by the Company and shall be contracted for by the Company in the Company's own name, and the Company shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

ARTICLE VII

INSURANCE

Section 7.1. Casualty Insurance.

(a) The Company shall at all times prior to the Completion Date maintain at its sole cost and expense, or cause the contractors under construction contracts to maintain, in full force and effect a policy or policies of Builder's Risk-Completed Value Form Insurance insuring the Premises against fire, lightning and all other risks covered by the extended coverage endorsement then in use in the State of Missouri to the Full Insurable Value of the Premises (subject to reasonable loss deductible clauses not to exceed \$100,000).

(b) Prior to or simultaneously with the expiration of said Builder's Risk Insurance, the Company shall at its sole cost and expense obtain and shall maintain throughout the Lease Term, a policy or policies of insurance to keep the Premises constantly insured against loss or damage by fire, lightning and all other risks covered by the extended coverage insurance endorsement then in use in the State of Missouri in an amount equal to the Full Insurable Value thereof (subject to reasonable loss deductible provisions). The initial determination of Full Insurable Value shall be made at the Completion Date, and thereafter, the Full Insurable Value of the Premises shall be provided annually by the certificate of an Authorized Company Representative. The insurance required pursuant to this Section shall be maintained at the Company's sole cost and expense and shall be maintained with generally recognized responsible insurance company or companies authorized to do business in the State of Missouri. All such certificates of insurance pursuant to this Section, and all renewals thereof, shall name the Authority, the Company and the Trustee and any secured party to whom the Authority has pledged a security interest in certain Project Improvements consisting of personal property pursuant to **Section 10.8** hereof ("Secured Party") as insureds as their respective interests may appear, and shall contain a provision that such insurance may not be cancelled by the issuer thereof without at least 10 days' advance written notice to the Authority, the Company, the Trustee and the Security Party, and shall be payable as provided in **Section 9.1** hereof.

Section 7.2. Commercial General Liability Insurance.

(a) The Company shall at its sole cost and expense maintain or cause to be maintained at all times during the Lease Term general accident and commercial general liability insurance under which the

Authority, the Company and the Trustee shall be named as additional insureds, properly protecting and indemnifying the Authority and the Trustee, in an amount not less than \$1,000,000 per occurrence and not less than \$2,000,000 in the aggregate and not less than \$2,000,000 in the general aggregate and a policy providing umbrella coverage of at least \$5,000,000.00 (subject to reasonable liability retention amounts not to exceed the amounts normally or generally carried by the Company or its affiliates). The policies of said insurance shall contain a provision that the issuer of such insurance will provide at least 30 days' advance written notice to the Company of the cancellation of such insurance. Company agrees it shall immediately forward any notice of cancellation it receives from the issuer of such insurance to the Authority and Trustee. The Trustee shall be entitled to rely upon the certificates required in Section 7.6 as to the Company's compliance with the insurance requirements. The Trustee makes no representation as to, and shall have no responsibility for the sufficiency or adequacy of, the insurance.

(b) In the event of a public liability occurrence, the Net Proceeds of liability insurance carried pursuant to this Section shall be applied toward the extinguishment or satisfaction of the liability with respect to which such proceeds have been paid.

Section 7.3. Blanket Insurance Policies. The Company may satisfy any of the insurance requirements set forth in this Article by using blanket policies of insurance, provided each and all of the requirements and specifications of this Article respecting insurance are complied with.

Section 7.4. Title Insurance. The Company will purchase, on behalf of the Authority and the Trustee, at the Company's expense, from a company duly qualified to issue such insurance in the State of Missouri, an owner's policy of title insurance, including such policy endorsements as the Authority may request, naming the Authority as the insured in the amount of \$39,100,000. Copies of said policy or a commitment therefor will be delivered to the Authority and the Trustee by the Company on or before the date of issuance of the Bond.

Section 7.5 Lender Insurance Requirements. Notwithstanding the forgoing, the insurance requirements of Lender concerning the dollar amount of required coverage and loss deductible clauses will control so long as the Company (i) has an obligation under its agreements with Lender to maintain casualty and general liability insurance, and (ii) continues to comply with all other provisions in this Article VII.

Section 7.6 Insurance Certificates. The Company shall provide the Authority and the Trustee, on an annual basis, commencing on *[_____] 1, 20__]*, with a certificate of an Authorized Company Representative certifying compliance with this Article VII and shall provide copies of certificates of insurance for the insurance policies required conforming to the provisions set forth in this Article VII, each bearing notations evidencing payment of the premiums or other evidence of such payment.

ARTICLE VIII

ALTERATION OF THE PREMISES

Section 8.1. Additions, Modifications and Improvements of the Premises. The Company shall have and is hereby given the right, at its sole cost and expense, to make such additions, modifications and improvements in and to any part of the Premises as the Company from time to time may deem necessary or desirable for its business purposes. All additions, modifications and improvements made by the Company pursuant to the authority of this Section shall (a) be made in workmanlike manner and substantially in compliance with all laws and ordinances applicable thereto, (b) when commenced, be prosecuted to completion with due diligence, and (c) when completed, be deemed a

part of the Premises. Notwithstanding the foregoing, all items of machinery and equipment installed in the Premises by the Company not purchased or acquired from funds deposited with the Trustee shall remain the property of the Company and may be removed by the Company; provided, however, in all cases, the Company shall pay all the costs and expenses of any such removal and shall immediately repair at its expense all damage to the Premises caused thereby.

Section 8.2. Permits and Authorizations. The Company shall not do or permit others under its control to do any work on the Premises related to any repair, rebuilding, restoration, replacement, modification or addition to the Premises, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. All such work shall be done in a good and workmanlike manner and in substantial compliance with all applicable building, zoning and other laws, ordinances, governmental regulations and requirements and substantially in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of **Article VII** hereof.

Section 8.3. Mechanics' Liens.

(a) Neither the Authority nor the Company shall do or suffer anything to be done whereby the Premises, or any part thereof, may be encumbered by any mechanics' or other similar lien. Whenever and as often as any mechanics' or other similar lien is filed against the Premises, or any part thereof, purporting to be for or on account of any labor done or materials or services furnished in connection with any work in or about the Premises, the Company shall discharge the same of record within 90 days after the date of filing. Notice is hereby given that the Authority and the Trustee shall not be liable for any labor or materials furnished the Company or anyone claiming by, through or under the Company upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the Authority in and to the Premises or any part thereof.

(b) Notwithstanding paragraph (a) above, the Company, at its sole cost and expense, shall have the right to contest any such mechanics' or other similar lien if within said 90-day period stated above it notifies the Authority and the Trustee in writing of its intention so to do, and provided the Company diligently prosecutes such contest, at all times effectively stays or prevents any official or judicial sale of the Premises, or any part thereof or interest therein, under execution or otherwise, and pays or otherwise satisfies any final judgment enforcing such contested lien claim and thereafter promptly procures record release or satisfaction thereof. The Company shall indemnify, defend, and hold the Authority and the Trustee whole and harmless from any loss, costs or expenses (including without limitation attorneys' fees and expenses) the Authority or the Trustee may incur related to any such contest. The Authority shall cooperate with the Company in any such contest at the Company's sole cost and expense.

ARTICLE IX

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 9.1. Damage or Destruction.

(a) If the Premises shall be damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Company, as promptly as practicable, shall either (i) make the determination described in subsection (g) below or (ii) repair, restore, replace or rebuild the same to as nearly as may be practicable their condition and character immediately prior to such damage or destruction, and so that upon completion of such repairs, restoration, replacement or rebuilding such Premises shall be of a value not less than the value thereof immediately prior to the occurrence of such damage or destruction. If the Company shall elect to construct any such new buildings and improvements, for all purposes of this Lease, any reference to the words "Project Improvements" shall be

deemed to also include any such new buildings and improvements and all additions thereto and all replacements and alterations thereof.

So long as the Company is the 100% owner of the Bonds, the Net Proceeds of casualty insurance required by **Article VII** hereof received with respect to such damage or loss to the Premises shall be disbursed in accordance with the Deed of Trust so long as the Deed of Trust contains provisions governing the disbursement of casualty insurance proceeds. If there is no Deed of Trust, so long as the Company is the 100% owner of the Bonds, the Net Proceeds of casualty insurance required by **Article VII** hereof received with respect to such damage or loss to the Premises shall be disbursed in accordance with the Leasehold Deed of Trust so long as the Leasehold Deed of Trust contains provisions governing the disbursement of casualty insurance proceeds. If the Company is the 100% owner of the Bonds and there is no Deed of Trust and no Leasehold Deed of Trust, or if the Deed of Trust or any Leasehold Deed of Trust do not contain provisions governing the disbursement of casualty insurance proceeds, or if the Company is not the 100% owner of the Bonds, then the Net Proceeds of casualty insurance required by **Article VII** hereof payable with respect to such damage or loss to the Premises shall be paid (i) to the Company if such Net Proceeds are equal to or less than \$750,000, or, (ii) if an Event of Default here or under the Indenture shall have occurred and is continuing, to the Trustee, or (iii) if such Net Proceeds exceed \$750,000, to the Trustee. Any amounts received by the Trustee shall be held in trust and disbursed in the following manner:

- (i) to reimburse the Company for making such temporary repairs or doing such other work, as, in the Company's reasonable opinion, may be necessary in order to protect the Premises pending adjustment of the insurance loss or the making of permanent repairs, restoration, replacement or rebuilding;

- (ii) to reimburse the Company for repairing, restoring, replacing or rebuilding the Premises or any part thereof;

- (iii) if no Event of Default shall have occurred and is continuing, payment to the Company pursuant to subdivisions (i) or (ii) of this subsection (a) from such Net Proceeds shall be made to the Company from time to time as the work progresses, in amounts equal to the cost of labor and material incorporated into and used in such work, the architects' and engineers' fees, and other charges in connection with such work, upon delivery to the Trustee (with a copy to the Lender) of a certificate of the Authorized Company Representative in form and substance substantially as provided in **Section 4.4** hereof, and certifying: (1) that the amounts so to be paid to the Company are payable to the Company in accordance with the provisions of this Article and that such amounts are then due and payable by the Company or have theretofore been paid by the Company; (2) the progress of the work; (3) that the work has been done substantially in accordance with the plans and specifications therefor and all insurance requirements of **Article VII** hereof; (4) that the sum requested when added to all sums previously paid out under this Article for the work does not exceed the value of the work done to the date of such certificate; (5) the estimated cost of completing the work, in reasonable detail; and (6) that the remaining Net Proceeds are sufficient to pay the estimated cost of completing the work or that the Company will pay any deficiency in accordance with **Section 9.1(c)** (the Trustee shall be entitled to rely fully upon such certificate);

- (iv) at the request of the Authority, the Trustee or the Lender, the Company shall furnish to the person requesting the same, at the time of any such payment, with an official search, or other evidence reasonably satisfactory to such person, that there has not been filed with respect to the Property or the Project Improvements any mechanic's or other lien which has not been discharged of record or is being contested in accordance with **Section 8.3(a)**, in respect of any work, labor, services or materials performed, furnished or supplied, in connection with the work and that all of said materials have been purchased free and clear of all security interest or

other encumbrances. Neither the Trustee, nor the Lender shall pay out any such sum when the Property or the Project Improvements shall be encumbered with any such security interest or encumbrance. Upon the termination of this Lease and the payment in full of the Bond, any monies then held by the Trustee or the Lender shall be paid over to the Company.

(b) The insurance monies, if any, paid to the Company as provided under this Article, on account of any loss or destruction to the Premises, shall be held by it in trust and applied only for the purposes of repairing, reconstructing, restoring or replacing the Premises.

(c) If any of the insurance monies paid by the insurance company to the Trustee or the Company as hereinabove provided, shall remain after the completion of such repairs, restoration, replacement or rebuilding, and this Lease shall not have terminated, the excess shall be deposited in the Bond Fund. If the Net Proceeds shall be insufficient to pay the entire cost of such repairs, restoration, replacement or rebuilding, the Company shall pay the deficiency.

(d) Except as otherwise provided in this Lease, in the event of any such damage by fire or any other casualty, the provisions of this Lease shall be unaffected and the Company shall remain and continue liable for the payment of all Basic Rent and Additional Rental and all other charges required hereunder to be paid by the Company, as though no damage by fire or any other casualty has occurred.

(e) The Authority and the Company agree that they will cooperate with each other, at the Company's sole cost and expense (including, without limitation, attorneys' fees incurred by the Authority), to such extent as such other party may reasonably require, in connection with the prosecution or defense of any action or proceeding arising out of, or for the collection of any insurance monies that may be due in the event of, any loss or damage, and that they will execute and deliver to such other parties such instruments as may be required to facilitate the recovery of any insurance monies.

(f) The Company agrees to give prompt notice to the Authority and the Trustee with respect to all fires and any other casualties occurring in, on, at or about the Premises.

(g) If the Company shall determine that rebuilding, repairing, restoring or replacing the Premises is not practicable and desirable, any Net Proceeds of casualty insurance required by **Article VII** hereof received with respect to such damage or loss shall be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same become due, all subject to rights of the Lender under the Deed of Trust, and if there is no Deed of Trust, the Leasehold Deed of Trust. The Company agrees to be reasonable in exercising its judgment pursuant to this subsection (g). Alternatively, if the Company is the sole owner of the Bond and it has determined that rebuilding, repairing, restoring or replacing the Premises is not practicable or desirable, it may tender Bonds to the Trustee for cancellation in a principal amount equal to the Net Proceeds of the casualty insurance, and retain such proceeds for its own account, but subject to the rights of the Lender under the Deed of Trust or, if there is no Deed of Trust, the Leasehold Deed of Trust.

(h) The Company shall not, by reason of its inability to use all or any part of the Premises during any period in which the Premises is damaged or destroyed or is being repaired, rebuilt, restored or replaced, nor by reason of the payment of the costs of such rebuilding, repairing, restoring or replacing, be entitled to any reimbursement from the Authority, the Trustee or the Bondowners or to any abatement or diminution of the rentals including without limitation the Basic Rent and the Additional Rent, payable by the Company under this Lease, the Indenture or any other document entered into in connection with the Bonds, or of any other obligations of the Company under this Lease, the Indenture or any other document entered into in connection with the Bonds, except as expressly provided in this Section.

(i) Unless the Company provides the evidence of insurance coverage required by this Lease, the Authority or the Trustee may purchase insurance at the expense of the Company to protect the

interests of the Authority, the Trustee and the Bondowner. This insurance may, but need not, protect the interests of the Company. The coverage that the Authority or the Trustee purchase may not pay any claim the Company may make or that is made against the Company. The Company may later cancel or cause to be cancelled any insurance purchased by the Authority or the Trustee, but only after providing evidence to the Authority and the Trustee that the Company has obtained insurance as required by this Lease. If the Authority or the Trustee purchase insurance relating to the insurance coverage required by this Lease, the Company will be responsible for the costs of that insurance, including the insurance premium, interest and any other charges that the Authority or the Trustee may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the total balance of the obligations due hereunder. The costs of the insurance may be more than the cost of insurance that the Company may be able to obtain on its own.

Section 9.2. Condemnation.

(a) If during the Lease Term, title to, or the temporary use of, all or any part of the Premises shall be condemned by or sold under threat of condemnation to any authority possessing the power of eminent domain, to such extent that the claim or loss resulting from such condemnation is greater than \$1,000,000, the Company shall, within 90 days after the date of entry of a final order in any eminent domain proceedings granting condemnation or the date of sale under threat of condemnation, notify the Authority, the Trustee and the Lender under the Deed of Trust (if any) and the Leasehold Deed of Trust (if any) in writing as to the nature and extent of such condemnation or loss of title and whether it is practicable and desirable to acquire or construct substitute improvements.

(b) If the Company shall determine that such substitution is practicable and desirable, the Company shall proceed promptly with and complete with reasonable dispatch the acquisition or construction of such substitute improvements, so as to place the Premises in substantially the same condition as existed prior to the exercise of the said power of eminent domain, including the acquisition or construction of other improvements suitable for the Company's operations at the Premises (which improvements will be deemed a part of the Premises and available for use and occupancy by the Company without the payment of any rent other than herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby); provided, that such improvements will be acquired by the Authority subject to no liens, security interests or encumbrances prior to the lien and/or security interest afforded by the Indenture, other than Permitted Encumbrances. In such case, any Net Proceeds received from any award or awards with respect to the Premises or any part thereof made in such condemnation or eminent domain proceedings, or of the sale proceeds, shall be applied in the same manner as provided in **Section 9.1** hereof (with respect to the receipt of casualty insurance proceeds).

(c) If the Company is the sole owner of the Bond and it has determined or Lender shall direct that it is not practicable and desirable to acquire or construct substitute improvements, any Net Proceeds of condemnation awards received by the Company shall be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same becomes due and payable, all subject to the rights of the Lender under the Deed of Trust (if any) and the Leasehold Deed of Trust, if any.

(d) The Company shall not, by reason of its inability to use all or any part of the Premises during any such period of restoration or acquisition nor by reason of the payment of the costs of such restoration or acquisition, be entitled to any reimbursement from the Authority, the Trustee or the Bondowners or to any abatement or diminution of the rentals, including without limitation the Basic Rent and the Additional Rent, payable by the Company under this Lease, the Indenture or any other document entered into in connection with the Bonds, nor of any other obligations hereunder except as expressly provided in this Section.

(e) The Authority, at the Company's sole cost and expense, shall cooperate with the Company in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Premises or any part thereof, and shall, to the extent it may lawfully do so, permit the Company to litigate in any such proceeding in the name and on behalf of the Authority. In no event will the Authority voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Premises or any part thereof without the prior written consent of the Company and Lender. The Company shall pay for all costs and expenses incurred by the Authority, including attorneys' fees, in connection with any such condemnation proceedings.

Section 9.3. Bondowner Approval. Notwithstanding anything to the contrary contained in this **Article IX**, but subject to the provisions of the Deed of Trust or if there is no Deed of Trust, the Leasehold Deed of Trust, the proceeds of any insurance received subsequent to a casualty or of any condemnation proceedings (or threats thereof) may prior to the application thereof by the Authority or the Trustee be applied as directed by the Owners of 100% of the principal amount of Bonds outstanding, subject and subordinate to the rights of the Trustee to be paid all their expenses (including attorneys' fees, trustee's fees and any extraordinary expenses of the Trustee) incurred in the collection of such gross proceeds.

ARTICLE X

SPECIAL COVENANTS

Section 10.1. No Warranty of Condition or Suitability by the Authority; Exculpation and Indemnification. The Authority makes no covenant, representation, or warranty, express or implied, as to the suitability of the Premises for any purpose whatsoever or as to any existing conditions or defects, hidden, latent, or otherwise which may affect the Premises, all such warranties being expressly WAIVED by the Company. The Company acknowledges having inspected the Premises, having observed its physical characteristics and existing conditions, and having had the opportunity to conduct such investigation and study on and of the Premises as it deems necessary. The Company further acknowledges and agrees that the Authority is leasing the Premises to the Company pursuant to this Lease "AS IS", and the Company expressly assumes the risk that adverse physical characteristics and existing conditions of any nature or description may not have been revealed by the Company's investigation.

The Company releases the Authority from, agrees that the Authority shall not be liable for and agrees to indemnify and hold the Authority harmless against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Premises or the use thereof; unless such loss is the result of the Authority's gross negligence or willful misconduct.

Section 10.2. Surrender of Possession. Upon accrual of the Authority's right of re-entry because of the Company's default hereunder or upon the cancellation or termination of this Lease for any reason other than the Company's purchase of the Premises pursuant to **Article XI** hereof, the Company shall peacefully surrender possession of the Premises to the Authority in good condition and repair, ordinary wear and tear excepted; provided, however, the Company shall have the right within 90 days (or such later date as the Authority may agree to) after the termination of this Lease to remove from the Property any buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and not constituting part of the Premises. All repairs to and restorations of the Premises required to be made because of such removal shall be made by and at the sole cost and expense of the Company, and during said 90-day (or extended) period the Company shall bear the sole responsibility for and bear the sole risk of loss for said buildings, improvements, furniture, trade fixtures, machinery and equipment. All buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and which are not so removed from the Premises prior to the expiration of said period shall be the separate and absolute property of the Authority.

Section 10.3. Authority's Right of Access to the Premises. , the Company agrees that the Authority and the Trustee and their duly authorized agents shall have the right at reasonable times upon reasonable prior written notice during business hours, subject to the Company's usual safety and security requirements, to enter upon the Property (a) to examine and inspect the Premises without interference or prejudice to the Company's operations, (b) as may be reasonably necessary to cause to be completed the acquisition, improvement and construction provided for in **Section 4.2** hereof, and (c) to perform such work in and about the Premises made necessary by reason of the Company's continued default under any of the provisions of this Lease.

Section 10.4. Permitted Encumbrances; Leasehold Deed of Trust.

(a) If no default under this Lease shall have happened and be continuing, and subject to the rights of the Lender, the Company may at any time or times (1) grant easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements that are for the direct use of the Premises, or part thereof, by the grantee, (2) release existing easements, licenses, rights-of-way and other rights or privileges, all with or without consideration and upon such terms and conditions as the Company shall determine, (3) incur Permitted Encumbrances, or (4) modify or amend existing Permitted Encumbrances (except any Permitted Encumbrance that requires approval of the Authority, the Trustee, or other party to effectuate any modification or amendment thereto). The Authority agrees that it will execute and deliver and will cause and direct the Trustee to execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the Authority and the Trustee of: (i) a copy of the instrument of grant or release or of the agreement or other arrangement, (ii) a written application signed by an Authorized Company Representative requesting such instrument, and (iii) a certificate executed by an Authorized Company Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Company, will not impair the effective use or interfere with the efficient and economical operation of the Premises, and will not materially adversely affect the security intended to be given by or under the Indenture; provided, however, that no such agreement or instrument shall cause or result in any liability to or obligation of the Authority or the Trustee. The Authority shall have the right to approve the form of any such agreement or instrument, which approval shall not be unreasonably withheld, conditioned, or delayed. If the instrument of grant shall provide that any such easement or right and the rights of such other parties thereunder shall be superior to the rights of Authority and the Trustee under this Lease and the Indenture and shall not be affected by any termination of this Lease or default on the part of the Company hereunder then such easement shall not have any effect whatsoever without the prior written consent of the Authority and subject to the rights of the Lender. If no default shall have happened and be continuing beyond any applicable grace period, any payments or other consideration received by the Company for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Company, but, in the event of the termination of this Lease or during the continuation of a default, all rights then existing of the Company with respect to or under such grant shall inure to the benefit of and be exercisable by the Authority and the Trustee.

(b) The Company may mortgage the leasehold estate created by this Lease, subject to the rights of the Lender, with the prior notice to but without the written consent of the Trustee, the Lender and the Authority, provided and upon condition that a duplicate original or certified copy or photostatic copy of each such Leasehold Deed of Trust, and the note or other obligation secured thereby, is delivered to the Authority and the Trustee not later than thirty (30) days after the execution thereof.

(c) The Authority acknowledges and agrees that the Company may finance and refinance its rights and interests in the Premises, this Lease and the leasehold estate created hereby and, in connection therewith, the Company may execute financing documents or Leasehold Deeds of Trust with one or more Lenders. Notwithstanding anything contained to the contrary in this Lease, the Company may, at any time and from time to time, with prior notice to but without the consent of the Authority (i) execute one or

more financing documents or Leasehold Deeds of Trust upon the terms contained in this **Section 10.4** and (ii) sublease or assign this Lease, the leasehold estate, any sublease and rights in connection therewith, and/or grant liens or security interests therein, to any Lender.

(d) If (1) the Company shall execute and deliver a Leasehold Deed of Trust, and (2) the provisions and conditions of subsection (b) above shall have been fully complied with and observed with respect to such Leasehold Deed of Trust, and (3) the Company or the Lender under such Leasehold Deed of Trust shall have notified the Authority and the Trustee in writing of the making thereof and of the name and address of such leasehold Lender; then:

(i) this Lease may not be modified, amended, canceled or surrendered by agreement between the Authority and the Company, without the prior written consent of such leasehold Lender;

(ii) there shall be no merger of this Lease or of the leasehold estate created hereby with the fee title to the Premises, notwithstanding that this Lease or said leasehold estate and said fee title shall be owned by the same person or persons, without the prior written consent of such leasehold Lender;

(iii) the Authority shall serve upon each such leasehold Lender a copy of each notice of default and each notice of termination given to the Company under this Lease, at the same time as such notice is served upon the Company;

(iv) each leasehold Lender shall have the same period of time after the service of such notice upon it within which the Company may remedy or cause to be remedied the default which is the basis of the notice plus twenty (20) days; and the Authority shall accept performance by such leasehold Lender as timely performance by the Company;

(v) such leasehold Lender shall not be required to continue possession or continue foreclosure proceedings under paragraph (vii) of this subsection if the particular default has been cured;

(vi) the Authority may exercise any of its rights or remedies with respect to any other default by the Company occurring during the period of such forbearance provided for under said paragraph (vii), subject to the rights of the leasehold Lender under this Section as to such other defaults;

(vii) in case of the occurrence and continuance of default by the Company under this Lease, other than a default in the payment of money, the Authority shall take no action to effect a termination of this Lease by service of a notice or otherwise, without first giving to such leasehold Lender a reasonable time within which either to obtain possession of the Premises and to remedy such default in the case of a default which is susceptible of being cured when such leasehold Lender has obtained possession of the Premises, or to institute and with reasonable diligence to complete foreclosure proceedings or otherwise acquire the Company's leasehold estate under this Lease in the case of a default which is not susceptible of being remedied by such leasehold Lender, provided that the leasehold Lender shall deliver to the Authority within thirty (30) days after the expiration of the grace period applicable to the particular default, an instrument unconditionally agreeing to remedy such default other than a default not susceptible of being remedied by such leasehold Lender. The Authority's right to terminate this Lease by reason of a default which is not susceptible of being remedied by such leasehold Lender shall end with respect to such default when the leasehold Lender obtains possession of the Premises as aforesaid, which possession shall be deemed to include possession by a receiver;

Section 10.5. Indemnification of Authority and Trustee. The Company shall indemnify, defend, and save the Authority and the Trustee and their respective members, commissioners, directors, officers, employees and agents harmless from and against all claims, liens, losses, liabilities, damages, costs, or expenses, including without limitation reasonable attorneys' fees and expenses, of any character by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done in, on or about, the Premises during the Lease Term, and against and from all claims, liens, losses, liabilities, damages, costs, or expenses, including without limitation attorneys' fees and expenses, of any character arising during the Lease Term from (a) any condition of the Premises caused by the Company's use, lease, occupancy, possession, or development of the Premises, (b) any breach or default on the part of the Company in the performance of any of its obligations under this Lease, (c) any contract entered into in connection with the acquisition, improvement and construction of the Premises, (d) any act of negligence or omission of the Company or of any of its agents, contractors, servants, members, employees, invitees, or licensees or subtenants, (e) any loss or damage to property or any injury to or death of any person, (f) a material inaccuracy of any representation or the material breach of any representation, covenant, or warranty of the Company in this Lease, and (g) any act of negligence or omission of any assignee or sublessee of the Company, or of any agents, contractors, servants, members, employees, invitees, or licensees of any assignee or sublessee of the Company; provided, however, the indemnification contained in this **Section 10.5** shall not extend to the Authority if (i) such claim is the result of work being performed at the Premises by employees of the Authority, or (ii) such claim is the result of the Authority's gross negligence or willful misconduct. The Company shall indemnify, defend, and save the Authority and the Trustee harmless from and against all claims, losses, damages, costs and expenses, including without limitation attorney's fees and expenses, (except those of the Authority which have arisen from the willful misconduct or gross negligence of the Authority or those of the Trustee which have arisen from the willful misconduct or negligence of the Trustee) incurred in or in connection with any action or proceeding brought thereon or in connection with this Lease, the Redevelopment Contract, the Indenture, or any other document entered into in connection with the Bonds, and upon notice from the Authority or the Trustee, the Company shall defend them or either of them in any such action or proceeding.

Section 10.6. Depreciation, Investment Tax Credit and Other Tax Benefits. The Authority agrees that any depreciation, investment tax credit or any other tax benefits with respect to the Premises or any part thereof shall be made fully available to the Company, and the Authority, at the Company's sole cost and expense (including, without limitation, attorney's fees incurred by the Authority), will cooperate with the Company in any effort by the Company to avail itself of any such depreciation, investment tax credit or other tax benefits.

Section 10.7. Company to Maintain its Existence. The Company agrees that, subject to compliance with any agreements between the Company and the Lender, until the Bonds are paid or payment is provided for in accordance with the terms of the Indenture, it will maintain its existence, and will not dissolve or otherwise dispose of all or substantially all of its assets; provided, however, that the Company may, without violating the agreement contained in this Section, consolidate with or merge into another limited liability company, a domestic corporation (i.e., a corporation incorporated and existing under the laws of one of the states of the United States) or permit one or more other domestic corporations to consolidate with or merge into it, or may sell or otherwise transfer to another domestic corporation all or substantially all of its assets as an entirety and thereafter dissolve, provided, the surviving, resulting or transferee expressly assumes in writing all the obligations of the Company contained in this Lease.

If, at any time during the term of this Lease, the Company changes its state of incorporation, changes its form of organization, changes its name, or takes any other action which could affect the proper location for filing of Uniform Commercial Code financing statements or continuation statements or which could render existing filings seriously misleading or invalid, the Company shall immediately provide written notice of such change to the Authority and the Trustee, and thereafter promptly deliver to the

Authority or the Trustee such additional information or documentation regarding such change as the Authority or the Trustee may reasonably request for the purpose of amendment and/or refiling, at the expense of the Company, as may be reasonably determined to be necessary by the Authority or the Trustee, and their respective attorneys and agents.

Section 10.8. Security Interests. At the written request of the Owner of the Bond, the Authority and the Company agree to enter into all instruments (including financing statements and statements of continuation) as may be reasonably requested for perfection of and continuance of the perfection of the security interests of the Authority and the Trustee in the Premises. Upon the written instructions of the Owner of the Bond, the Trustee shall, at the expense of the Company, file all instruments the Owner of the Bond shall deem necessary to be filed and shall continue or cause to be continued the liens of such instruments for so long as the Bond shall be Outstanding. The Authority and the Company shall cooperate with the Trustee in this regard by executing such continuation statements and providing such information as the Trustee may require to renew such liens.

Section 10.9. Environmental Matters.

(a) The Company covenants that it shall not place or cause to be placed, nor permit any other person to place or cause to be placed, any Hazardous Substances on or about the Property or the Project Improvements above any *de minimis* non-reportable levels reasonably necessary to the Company's use of the Property or the Project Improvements.

(b) The Company indemnifies and agrees to protect, defend and hold harmless, the Authority and the Authority's officers, directors, commissioners, employees, agents, affiliates, successors and assigns (except to the extent intentionally and directly caused by any such indemnified party), from and against any and all claims, liens, demands, losses, damages, costs, expenses, liabilities, assessments, fines, penalties, charges, administrative or judicial proceedings, orders, judgments, causes of action, defects in title, remedial action requirements, and/or enforcement actions of any kind (including, without limitation, attorneys' fees and costs) directly or indirectly arising out of or attributable to, in whole or in part, (i) the breach of the covenants of the Company contained in this Section, or (ii) the use, handling, generation, manufacture, production, storage, release, threatened release, discharge, treatment, removal, transport, decontamination, cleanup, disposal, and/or presence of Hazardous Substances on, under, from or about the Property or the Project Improvements, or (iii) any other activity carried on or undertaken on or off the Premises, whether prior to or during the ownership of the Premises by the Authority, and whether by the Company or any other predecessor in title or any employees, agents, contractors, or subcontractors of the Company or any other predecessor in title, or any third persons at any time occupying or present on the Premises, in connection with the use, handling, generation, manufacture, production, storage, release, threatened release, discharge, treatment, removal, transport, decontamination, cleanup, disposal, and/or presence of any Hazardous Substance at any time located, transported or present on, under, from, to or about the Property or the Project Improvements, including without limitation: (A) all consequential damages; (B) the cost of any required or necessary repair, cleanup, or detoxification of the Property or the Project Improvements and the preparation and implementation of any closure, remedial or other required plans; and (C) liability for personal injury or property damage arising under any statutory or common-law tort theory, including damages assessed for the maintenance of a public or private nuisance, response costs or for the carrying on of any abnormally dangerous activity.

(c) The foregoing indemnity obligation includes without limitation: (i) the costs of removal or remedial action incurred by the United States government or the State or response costs incurred by any other person, or damages from injury to, destruction of, or loss of natural resources, including the cost of assessing such injury, destruction or loss, incurred pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended

("CERCLA"), 42 U.S.C. §9601 *et seq.*; (ii) the clean-up costs, fines, damages or penalties incurred pursuant to any applicable provisions of State law; and (iii) the cost and expenses of abatement, correction or cleanup, fines, damages, response costs or penalties which arise from the provisions of any other Applicable Law.

(d) The foregoing indemnity shall further apply to any residual contamination on, under, from or about the Property or the Project Improvements, or affecting any natural resources, arising in connection with the use, handling, generation, manufacturing, production, storage, release, discharge, treatment, removal, transport, decontamination, cleanup, disposal, and/or presence of any such Hazardous Substance on, under, from or about the Property or the Project Improvements and irrespective of whether any of such activities were or will be undertaken in accordance with any Applicable Laws. This indemnity is intended to be operable under 42 U.S.C. Section 9607(e)(1), and any successor section thereof, and shall survive the termination of this Contract in all respects.

Section 10.10. Affirmative Action. The Company shall comply with all requirements of the Redevelopment Contract for the construction of the Project. The Company shall ensure that it and its Contractors and subcontractors collectively meet both the MBE and WBE goals established by the Human Relations Department of the City for this Project. Notwithstanding anything to the contrary, the Developer may achieve compliance with this Section by complying with, or demonstrating good faith efforts to comply with, the goals for M/WBE utilization.

Section 10.11. Americans with Disabilities Act. Company agrees to comply, during the term of this Lease, with all provisions of the Americans With Disabilities Act, Public Law 101-336 as well as 28 C.F.R. Parts 35 and 36 and 29 C.F.R. Part 1630, as applicable and as amended from time to time.

Section 10.12. Obligations under Indenture. The Company will perform the obligations assigned to it in the Indenture.

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE PREMISES

Section 11.1. Option to Purchase the Premises. The Company shall have, and is hereby granted, the option to purchase the Premises at any time, prior to the expiration of the Lease Term upon payment in full of all Bonds then outstanding or provision for their payment having been made pursuant to **Article XIII** of the Indenture. To exercise such option the Company shall give written notice to the Authority and to the Trustee, if any portion of the Bonds shall then be unpaid or provision for their payment shall not have been made in accordance with the provisions of the Indenture, and shall specify therein the date of closing such purchase, which date shall be not less than 10 business days nor more than 180 days from the date such notice is mailed and in no event later than the Lease Term expiration date, and in case of a redemption of the Bond in accordance with the provisions of the Indenture the Company shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. The purchase price payable by the Company in the event of its exercise of the option granted in this Section shall be the sum of the following:

(a) an amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to redeem all the then outstanding Bonds on the earliest redemption date next succeeding the closing date, including, without limitation, principal and interest to accrue to said redemption date and redemption expense; plus

(b) an amount of money equal to the Trustee's and the Paying Agent's reasonable fees and expenses under the Indenture, this Lease and any other documents entered into in connection with the Bonds, accrued and to accrue until such redemption of the Bond; plus

(c) the sum of \$10; plus

(d) an amount of money equal to the costs and expenses, including attorney's fees, incurred by the Authority in connection with the Company's exercise of its option to purchase the Premises, together with any other amounts payable to the Authority under this Lease, the Indenture, in the Redevelopment Contract, or the Funding Agreement, or any other document entered into in connection with the Bonds.

At its option, to be exercised at least 5 days prior to the date of closing such purchase, the Company may tender and deliver to the Trustee for cancellation Bonds not previously paid, and the Company shall receive a credit against the purchase price payable by the Company in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon.

Section 11.2. Conveyance of the Premises. At the closing of the purchase of the Premises or transfer by the Authority pursuant to this Article, the Authority will upon receipt of the purchase price deliver to the Company the following:

(a) If the Indenture shall not at the time have been satisfied in full, a release from the Trustee of the Premises from the lien and/or security interest of the Indenture, in such form as reasonably requested by the Company.

(b) A special warranty deed, bill of sale and/or such other documents, in such form as reasonably requested by the Company and as acceptable to the Authority, conveying to the Company fee simple title to the Premises, as it then exists, subject to the following: (1) those liens and encumbrances, if any, to which title to the Premises was subject when conveyed to the Authority; (2) those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; (3) Permitted Encumbrances other than the Indenture and this Lease; and (4) if the Premises or any part thereof is being condemned, the rights and title of any condemning authority.

Section 11.3. Relative Position of Option and Indenture. The options and obligation to purchase the Premises granted to the Company in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not the Company is in default under this Lease, provided that such default will not result in nonfulfillment of any condition to the exercise of any such option and further provided that all options herein granted shall terminate upon the termination of this Lease.

Section 11.4. Obligation to Purchase the Premises. The Company hereby agrees to purchase, and the Authority hereby agrees to sell, the Premises for the sum of \$10 at the expiration of the Lease Term following full payment of the Bond and all other fees, charges and expenses (including without limitation attorneys' fees and expenses having been made in accordance with the provisions of the Indenture, the Redevelopment Contract, the Funding Agreement, this Lease and any other document entered into in connection with the Bonds).

Section 11.5. Option of Authority to Transfer. Notwithstanding any other provision of this Lease to the contrary, the Authority shall have the right at any time, whether or not an Event of Default has occurred, to terminate this Lease and transfer the Premises, including all improvements thereon, to the Company by the transfer documents in the event: (i) the Authority terminates this Lease by reason of Company's default hereunder or the Authority terminates the Redevelopment Contract by reason of the

Company's default thereunder; or (ii) in the absence of any Force Majeure Condition, construction of the Premises has ceased for ten (10) consecutive days; or (iii) the Authority determines that the Authority's continued ownership of the Premises has subjected or would subject the Authority or its officers, commissioners, agents or employees to any material obligation, cause of action, judgment, tax, assessment, lien, fine, penalty, claim, or other liability; provided, however, the Authority shall provide prior written notice to the Company, the Trustee, and the Lender of the Authority's intent to terminate this Lease and transfer the Premises to the Company and the reason(s) therefor and the Company, the Trustee, and the Lender shall be given a reasonable opportunity, as determined by the Authority, to cure the stated reason(s) for the termination and transfer but in no event longer than one hundred twenty (120) days (unless a shorter period is required under (iii) for the Authority to avoid any such liability or potential liability).

In such event, the Authority shall give the Company written notice of its intent to transfer, and the Owners shall tender, or be deemed to have tendered, the outstanding principal amount of the Bonds for cancellation with instructions that such tender is in lieu of payment in accordance with **Section 11.1** hereof and this Lease shall thereupon be terminated and the Authority will promptly convey the Premises in accordance with **Section 11.2** hereof.

Section 11.6 Closing. For any transfer of title to the Premises under this Article XI, the Company shall pay all closing costs and expenses, including attorney's fees incurred by the Authority in connection with such transfer.

Furthermore, as a material inducement for the Authority to enter into this Lease, the Company irrevocably waives any right to reject any conveyance of the Premises, including all improvements thereon, by the Authority. The Company hereby names the Jackson County, Missouri Director of Records and its agents or employees as the Company's agent for acceptance of a deed executed by the Authority pursuant to this Article XI conveying title to the Company. The Company authorizes the Authority to send any deed executed pursuant to this Article XI directly to the Office of the Jackson County, Missouri Director of Records for acceptance and recording, with a copy of such deed to be sent to the Company, and acknowledges that receipt of such deed by the Office of the Jackson County, Missouri Director of Records shall constitute acceptance of the deed by the Company.

ARTICLE XII

DEFAULTS AND REMEDIES

Section 12.1. Events of Default. If any one or more of the following events shall occur and be continuing, it is hereby defined as and declared to be and to constitute an "Event of Default" under this Lease:

(a) Default in the payment of Basic Rent or Additional Rent on the date due or within 15 days thereafter; or

(b) Default in the due observance or performance of any covenant, agreement, obligation or provision of this Lease other than as specified in subsections (a), (c), or (d) of this **Section 12.1** on the Company's part to be observed or performed, and such default shall continue for 30 days after the Authority or the Trustee has given the Company written notice specifying such default (or such longer period as determined by the Authority to be reasonably required to cure such default; provided that (1) the Company has commenced such cure within said 30-day period, and (2) the Company diligently prosecutes such cure to completion); or

(c) The Company shall: (1) admit in writing its inability to pay its debts as they become due; or (2) file a petition in bankruptcy or for reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the Bankruptcy Code as now or in the

future amended or any other similar present or future federal or state statute or regulation, or file a pleading asking for such relief; or (3) make an assignment for the benefit of creditors; or (4) consent to the appointment of a trustee, receiver or liquidator for all or a major portion of its property or shall fail to have the appointment of any trustee, receiver or liquidator made without the Company's consent or acquiescence, vacated or set aside; or (5) be finally adjudicated as bankrupt or insolvent under any federal or state law; or (6) be subject to any proceeding, or suffer the entry of a final and non-appealable court order, under any federal or state law appointing a trustee, receiver or liquidator for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Code, as now or in the future amended, which order or proceeding, if not consented to by it, shall not be dismissed, vacated, denied, set aside or stayed within 60 days after the day of entry or commencement; or (7) suffer a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within 60 days after the final entry, or levy or after any contest is finally adjudicated or any stay is vacated or set aside; or

(d) The Company shall vacate or abandon the Premises, and permanently cease to conduct on the Premises the business of a residential and commercial mixed-use facility, unless the Premises has been subject to a casualty and the Company is intending to rebuild the Premises or the Company's interest in this Agreement has been transferred to a financing party or a lender and the Premises continues in operation thereafter; or

(e) An event of default occurs under the Redevelopment Contract or the Funding Agreement.

Section 12.2. Remedies on Default. If any Event of Default referred to in **Section 12.1** hereof has occurred and continues beyond the period provided to cure, then the Authority may at the Authority's election (subject, however, to any restrictions against acceleration of the maturity of the Bonds or termination of this Lease in the Indenture), then or at any time thereafter, and while such default continues, take any one or more of the following actions:

(a) cause all amounts payable with respect to the Bonds for the remainder of the term of this Lease to become due and payable after giving ten (10) days prior written notice thereof to the Company, as provided in the Indenture; or

(b) give the Company written notice of the Authority's intention to terminate this Lease on a date specified therein, which date shall not be earlier than 30 days after such notice is given, and if all defaults have not then been cured, on the date so specified, the Owners shall tender or be deemed to have tendered the outstanding principal amount of the Bonds for cancellation with instruction that such tender is in lieu of payment in accordance with **Section 11.1** hereof and this Lease shall thereupon be terminated, and the Authority will promptly convey the Premises in accordance with **Section 11.2** hereof; or

(c) institute such proceedings as may be necessary or desirable to enforce performance or observance of any obligation, agreement, or covenant of the Company under this Lease; or

(d) without terminating this Lease, re-enter the Premises, by summary proceedings or otherwise.

Section 12.3. Survival of Obligations. The Company covenants and agrees with the Authority and Bondowners that its obligations under this Lease shall survive the cancellation and termination of this Lease, for any cause, and that the Company shall continue to pay the Basic Rent and Additional Rent and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease; provided, however, that upon the payment of all Basic Rent and Additional Rent required under **Article V** hereof, and upon the satisfaction and discharge of the Indenture under **Section 1301** thereof, the Company's obligation under this Lease shall thereupon cease and terminate in full, except that obligations with respect to indemnification of the Authority and the Trustee shall not so terminate.

Section 12.4. Performance of the Company's Obligations by the Authority. If the Company shall fail to keep or perform any of its obligations as provided in this Lease in the making of any payment or performance of any obligation, then the Authority, or the Trustee in the Authority's name, may (but shall not be obligated so to do) upon the continuance of such failure on the Company's part for 30 days after written notice of such failure is given the Company by the Authority or the Trustee, and without waiving or releasing the Company from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all reasonable sums so paid by the Authority or the Trustee and all necessary incidental reasonable costs and expenses (including, but not limited to, interest at the Trustee's Prime rate plus 2% on any sums so paid and attorneys' fees and expenses) incurred by the Authority or the Trustee in performing such obligations shall be deemed Additional Rent and shall be paid to the Authority or the Trustee on demand, and if not so paid by the Company, the Authority or the Trustee shall have the same rights and remedies provided for in **Section 12.2** hereof in the case of default by the Company in the payment of Basic Rent.

Section 12.5. Rights and Remedies Cumulative. The rights and remedies reserved by the Authority and the Company hereunder and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The Authority and the Company shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

Section 12.6. Waiver of Breach; Inaction Not a Waiver. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by the Company of any covenant, agreement or undertaking by the Company, the Authority or the Trustee may nevertheless accept from the Company any payment or payments hereunder without in any way waiving Authority's right to exercise any of its rights and remedies provided for herein with respect to any such breach or breaches of the Company which were in existence at the time such payment or payments were accepted by the Authority or the Trustee. In addition, failure of the Authority to complain of any act or omission on the part of the Company no matter how long the same may continue, shall not be deemed to be a waiver by the Authority of any of its rights under this Lease. No waiver by the Authority at any time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision.

Section 12.7. Notice of Defaults Under Section 12.1; Opportunity of Company to Cure Defaults.

(a) Anything herein to the contrary notwithstanding, no default specified in **Section 12.1(a), (b), (c) or (d)** shall constitute an Event of Default until actual notice of such default by registered or certified mail shall be given by the Authority, by the Trustee or by the Owners of 25% in aggregate principal amount of all Bonds Outstanding to the Company and the Lender, and the Company shall have had 30 days after receipt of such notice to correct said default or cause said default to be corrected, and shall not have corrected said default or caused said default to be corrected within such period; provided, however, if any such default shall be such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the Company within such period and diligently pursued until the default is corrected.

(b) With regard to any alleged default concerning which notice is given to the Company under the provisions of this Section, the Authority hereby grants the Company full authority for account of the Authority to perform any covenant or obligation, the nonperformance of which is alleged in said notice to constitute a default, in the name and stead of the Authority, with full power to do any and all things and acts to the same extent that the Authority could do and perform any such things and acts in order to remedy such default.

Section 12.8. Trustee's Exercise of the Authority's Remedies. Whenever any default or Event of Default shall have occurred and be continuing, the Trustee may, but shall not be obligated to, exercise any or all of the rights of the Authority under this Article, upon notice as required of the Authority unless the Authority has already given the required notice. In addition, the Trustee shall have available to it all of the remedies prescribed by the Indenture.

Section 12.9 Recovery of Attorneys' Fees. In the event the Authority commences an action to enforce this Lease or defend its rights hereunder, the Authority, if the Authority is the substantially prevailing party in any such action, shall be entitled to recover from the Company all costs and expenses including attorneys' fees incurred by the Authority in connection therewith.

ARTICLE XIII

ASSIGNMENT AND SUBLEASE

Section 13.1. Assignment; Sublease.

(a) Notwithstanding the right of the Company to assign its interests in this Lease to secure financing as provided in Section 10.4, neither the Company nor its successors or permitted assigns may assign or in any manner transfer this Lease or any estate or interest herein nor sublet the Premises in whole or in part (each a "Transfer") without first obtaining the written consent of the Authority, which consent may be granted, denied, or conditioned in the sole discretion of the Authority. Notwithstanding the foregoing, the Company shall: (i) have the right without the Authority's prior written consent to sublet individual residential and commercial units as such units may be configured within the Premises in the usual course of the Company's business; and (ii) have the right, upon prior written notice to the Authority, to assign this Lease without consent of the Authority to any Controlled Affiliate (as defined in the Indenture) of the Company and such affiliate shall be deemed to assume and agree to keep, observe and perform all of the terms, covenants, obligations (including specifically, without limitation, indemnification obligations) and provisions of this Lease. Upon any assignment by the Company as permitted under this Lease, this Lease shall be binding upon and shall inure to the benefit of the assignee or to any successor entity and the assignment instrument shall be recorded in the Office of the Recorder of Deeds for Jackson County, Missouri. Notwithstanding anything in **Section 13.1** to the contrary with respect to an assignment to a Controlled Affiliate, the form of any such assignment instrument shall be subject to the approval of the Authority, which approval shall not be unreasonably withheld. Consent by the Authority to one or more Transfers shall not operate as a waiver of the Authority's rights as to any subsequent Transfers.

With respect to any assignment, the Company shall comply with the following conditions:

- (1) Such assignment shall be in writing, duly executed and acknowledged by the assignor and in proper form for recording;
- (2) Such assignment shall include the entire then unexpired term of this Lease;
- (3) A duplicate original of such assignment shall be delivered to the Authority, the Lender and the Trustee not later than fifteen (15) days prior to the proposed effective date, together with an assumption agreement, duly executed and acknowledged by the assignee in proper form for recording, by which the assignee shall assume all of the terms, covenants and conditions of this Lease on the part of the Company to be performed and observed;
- (4) At the time of any such assignment there shall be no damage or destruction to the Premises which has not been repaired, restored and replaced in accordance with the provisions of this Lease, unless any funds then held by the Company for the purposes of such repair, restoration and replacement are simultaneously transferred to the assignee; and
- (5) There shall be delivered to the Trustee and the Authority written evidence that all conditions precedent to such assignment have been satisfied.

Upon the satisfaction of the conditions set forth herein, the assignor shall be relieved of all further liability occurring on and after the effective date of such assignment, provided, however, such assignment shall not relieve the assignor of its obligations pursuant to **Sections 10.5** and **10.9** hereof.

Section 13.2. Assignment of Revenues by Authority. The Authority shall assign and pledge any rents, revenues and receipts receivable under this Lease, to the Trustee pursuant to the Indenture as security for payment of the principal of, interest and premium, if any, on the Bond and the Company hereby consents to such pledge and assignment.

Section 13.3. Restrictions on Sale or Encumbrance of Premises by Authority. During this Lease Term, the Authority agrees that, except to secure the Bond to be issued pursuant to the Indenture and except as otherwise provided in **Section 10.4** and **Articles XI** and **XII** hereof, it will not sell, assign, encumber, mortgage, transfer or convey the Premises or any interest therein, except with the prior written consent of the Company and the Bondowner.

ARTICLE XIV

AMENDMENTS, CHANGES AND MODIFICATIONS

Section 14.1. Amendments, Changes and Modifications. This Lease may not be amended, modified or waived orally except by a written instrument approved and signed by both parties. In addition, subsequent to the issuance of Bonds and prior to the payment in full of the Bond (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Lease may not be effectively amended, changed, modified, altered or terminated without the prior written consent of the Trustee, given in accordance with Article XII of the Indenture.

ARTICLE XV

MISCELLANEOUS PROVISIONS

Section 15.1. Notices. It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Lease to be given to or filed with the Authority, the Trustee, the Company or the Owners of the Bonds if the same is given or filed in the manner and at the addresses specified in the Indenture. Notwithstanding the forgoing, any notice required under this Lease shall be provided in writing to each party required to receive such notice.

Section 15.2. Authority Shall Not Unreasonably Withhold Consents and Approvals. Except as otherwise provided herein, wherever in this Lease it is provided that the Authority shall, may or must give its approval or consent, or execute supplemental agreements or schedules, the Authority shall not unreasonably or arbitrarily withhold or refuse to give such approvals or consents or refuse to execute such supplemental agreements or schedules.

Section 15.3. Net Lease. The parties hereto agree (a) that this Lease shall be deemed and construed to be a net lease, (b) that the payments of Basic Rent are designed to provide the Authority and the Trustee funds adequate in amount to pay all principal of and interest accruing on the Bond as the same become due and payable, (c) that to the extent that the payments of Basic Rent are not sufficient to provide the Authority and the Trustee with funds sufficient for the purposes aforesaid, the Company shall be obligated to pay, and it does hereby covenant and agree to pay, upon demand therefor, as Additional Rent, such further sums of money, in cash, as may from time to time be required for such purposes, and (d) that if after the principal of and interest on the Bond and all fees, expenses and costs incident to the payment of the Bond have been paid in full the Trustee or the Authority holds unexpended funds received in accordance with the terms hereof such unexpended funds shall, after payment therefrom of all sums then due and owing by the Company under the terms of this Lease, and except as otherwise provided in this Lease and the Indenture, become the absolute property of and be paid over forthwith to the Company.

Section 15.4. No Pecuniary Liability. Notwithstanding any other provision herein to the contrary, the obligations, liabilities, and any amounts due and owing by the Authority pursuant to the provisions hereof shall be non-recourse as to the Authority. No provision, representation, covenant, or agreement contained in this Lease, the Redevelopment Contract, the Indenture, the Bond (including, without limitation, any indemnity obligation), or any obligation herein imposed upon the Authority, or the breach thereof, shall constitute or give rise to or impose upon the Authority a pecuniary liability or a charge upon the general credit or the taxing powers of the City or the State of Missouri. No provision hereof shall be construed to impose a charge against the general credit of the Authority or any personal or pecuniary liability upon any commissioner, officer, agent or employee of the Authority.

All covenants, obligations and agreements of the Authority contained in this Lease shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future commissioner, officer, agent or employee of the Authority in other than his or her official capacity, and no official executing this Lease shall be liable personally for this Lease or be subject to any personal liability or accountability by reason of the execution and delivery of this Lease or by reason of the covenants, obligations or agreements of the Authority contained in this Lease.

Section 15.5. Electronic Storage. The parties agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files, and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 15.6. Governing Law. This Lease shall be construed in accordance with and governed by the laws of Missouri.

Section 15.7. Binding Effect. This Lease shall be binding upon and shall inure to the benefit of the Authority and the Company and their respective successors and assigns.

Section 15.8. Severability. If for any reason any provision of this Lease shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

Section 15.9. Execution in Counterparts. This Lease may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 15.10 Holdover. If at the expiration of this Lease, the Company should hold over for any reason whatever, it is agreed that in the absence of a written agreement to the contrary, such tenancy shall be from month-to-month only.

Section 15.11 Incorporation. The Recitals and exhibits attached to this Lease are incorporated into and made a part of this Lease as if they were fully included herein.

Section 15.12 Recordation of Lease. The Authority and the Company agree that this Lease shall not be recorded, but that a short form lease shall be executed and recorded in accordance with the laws governing and regulating recording of such documents in the State of Missouri. The costs and expenses of the recordation of such short form lease shall be borne by the Company.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

**LAND CLEARANCE FOR
REDEVELOPMENT AUTHORITY OF
KANSAS CITY, MISSOURI**

By: _____
Dan Moye, Executive Director

[SEAL]

ATTEST:

By: _____
Susan Tumey, Assistant Secretary

MARTIN CITY PARTNERS, LLC ,
a Missouri limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT A
PROPERTY

EXHIBIT B

PROJECT IMPROVEMENTS

All buildings, structures, improvements, fixtures, equipment and machinery located on or to be acquired or purchased for the construction, improvement and equipping of the Property pursuant to **Article IV** hereof and paid for in whole or part from the proceeds of Bonds and all additions, alterations, modifications and improvements thereof made pursuant to this Lease.

EXHIBIT C

[FORM OF REQUISITION CERTIFICATE]

Requisition No. _____

Date: _____

REQUISITION CERTIFICATE

TO: *[TRUSTEE]*, AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF *[CLOSING MONTH]* 1, 2021, BETWEEN LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY OF KANSAS CITY, MISSOURI, AND THE TRUSTEE, AND LEASE AGREEMENT DATED AS OF *[CLOSING MONTH]* 1, 2021, BETWEEN LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY OF KANSAS CITY, MISSOURI, AND MARTIN CITY PARTNERS, LLC

The undersigned hereby request that a total of \$_____ be paid for Project Costs (as defined in said Lease) in such amounts, to such payees and for such purposes as set forth on **Schedule 1** attached hereto.

We hereby state and certify that: (i) the amounts requested are or were necessary and appropriate in connection with the acquisition, improvement and construction of the Project, have been properly incurred and are a proper charge against the Project Fund, and have been paid by or are justly due to the persons whose names and addresses are set forth on Schedule 1, and have not been the basis of any previous requisition from the Project Fund; (ii) as of this date, except for the amounts referred to above, there are, to the best of our knowledge, no outstanding statements which are due and payable for labor, wages, materials, supplies or services in connection with the acquisition, improvement and construction of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof; and (iii) no part of the several amounts paid or due as stated above has been or is being made the basis for the withdrawal of any moneys from the Project Fund in any previous or pending application for payment made pursuant to said Lease.

For any payee which is the Company the undersigned hereby instructs the Trustee to make such payment by wire transfer to the following account: Bank Name: _____, Bank Location: _____, ABA No. _____, Credit Account No. _____ (Martin City Partners, LLC), Contact Person: _____.

MARTIN CITY PARTNERS, LLC,
a Missouri limited liability company

By: _____
Authorized Company Representative

SCHEDULE 1 TO REQUISITION CERTIFICATE

Amount

Payee and Address

Description