

DRAFT

LEASE

THIS LEASE is made and entered into as of _____, 2016, between the LORAIN PORT AUTHORITY (the "Authority" or "Lessor"), a body corporate and politic and a port authority duly organized and validly existing under the laws of the State of Ohio (the "State"), as lessor (together with its lawful successors and permitted assignees, the "Lessor"), and CLOVER COMMUNITIES LORAIN LLC, an Ohio limited liability company, as lessee (together with its successors and permitted assignees, the "Lessee"), under the circumstances hereinafter described, with each capitalized word or term used as a defined term but not otherwise defined herein having the meaning assigned to it in Section 1.1;

WITNESSETH:

WHEREAS, the Lessor has acquired a leasehold interest under the Ground Lease in the Project Site described in Exhibit A and has agreed in the Ground Lease to acquire, construct, equip and install the Project Facilities described generally in Exhibit B hereto on the Project Site; and

WHEREAS, pursuant to and in accordance with the provisions of Section 13, Article VIII, of the Ohio Constitution, the Act and the Authorizing Legislation, the Lessor has determined to lease the Project to the Lessee, and the Lessee is willing to lease the Project from the Lessor; and

WHEREAS, the Lessor and the Lessee each has full right and lawful authority to enter into this Lease and to perform and observe the provisions hereof on its respective part to be performed and observed;

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements contained in this Lease, the Lessor and Lessee agree as follows; *provided that*, any obligation of the Lessor created by or arising out of this Lease shall never constitute a general obligation, debt or bond indebtedness of the Lessor or give rise to any pecuniary liability of the Lessor, but shall be payable solely out of Additional Payments:

ARTICLE I

DEFINITIONS

Section 1.1. Use of Defined Terms. In addition to the words and terms elsewhere defined in this Lease, each capitalized word or term set forth in this Section 1.1 shall have the respective meaning set forth below, unless the context or use indicates another or different meaning or intent. The following definitions shall be applicable to both the singular and plural forms of any of the words and terms used herein.

“Act” means Sections 4582.21 through 4582.59, inclusive, of the Ohio Revised Code, as enacted and amended from time to time.

“Additional Payments” means the amounts required to be paid by the Lessee as Additional Payments pursuant to Section 3.2.

“Authorized Lessee Representative” means the person or persons designated at the time pursuant to this Lease to act on behalf of the Lessee hereunder.

“Authorized Lessor Representative” means the person designated by the Executive at the time pursuant to this Lease to act on behalf of the Lessor hereunder.

“Authorizing Legislation” means the resolution or resolutions adopted by the Legislative Authority authorizing the execution and delivery of this Lease and related matters, together with any certificate or certificates executed by the Executive in connection therewith, as amended or supplemented from time to time.

“Business Day” means a day that is not a (i) Saturday, (ii) Sunday or (iii) day on which banks in New York, New York are closed.

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §§ 9601 *et seq.*), as enacted and amended from time to time.

“Completion Date” means the date on which the Final Cost Certification is submitted to the Lessor pursuant to Section 5(b) of the Construction Services Agreement.

“Construction Services Agreement” means the Construction Services Agreement dated as of _____, 2016, between the Lessor and the Construction Services Provider, as amended or supplemented from time to time.

“Construction Services Provider” means Clover Communities Lorain LLC, an Ohio limited liability company, as an independent contractor for the Lessor, for the purpose of acquiring, constructing, equipping and installing the Project, including the preparation of the Plans and Specifications therefor, together with its lawful successors and permitted assignees under the Construction Services Agreement.

“Contractor” means [_____], together with its lawful successors and permitted assignees.

“Engineer” means an individual or firm qualified to practice the profession of engineering or architecture under the laws of the State and reasonably acceptable to the Lessor.

“Environmental Complaint” means any written notice of violation, request for information or notification that the Lessee or any other Person is potentially responsible for investigation or clean-up of environmental conditions at the Project or any demand letter or complaint, order, citation or other written notice with regard to any Hazardous Discharge in violation of Environmental Laws applicable to the Project or the interest of the Lessor or the Lessee therein.

“Environmental Laws” means any federal, state, local, municipal, foreign, international, multinational or other applicable constitutions, laws, ordinances, principles of common law, regulations, statutes or treaties designed to minimize, prevent, punish or remedy the consequences of actions that damage or threaten the environment or public health and safety, including without limitation, all applicable federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the environment or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances, and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, state and local governmental agencies and authorities with respect thereto, including, without limitation, CERCLA and Chapter 3734 of the Ohio Revised Code.

“Event of Default” means any of the events described as an Event of Default in Section 10.1.

“Executive” means the Chairperson, Vice-Chairperson, Executive Director or Secretary of the Lessor.

“Fiscal Officer” means the Fiscal Officer of the Lessor.

“Force Majeure” means, without limitation, the following: acts of God; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornados; storms; droughts; floods; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; or any other event or circumstance outside the control of the Lessor or the Lessee, as applicable.

“GAAP” means generally accepted accounting principles in the United States.

“Governmental Authority” means, collectively, the State, any political subdivision thereof, and any agency, department, commission, board or bureau thereof having jurisdiction over the Project.

“Hazardous Discharge” means any release or threat of release of a reportable quantity of any Hazardous Substance at the Project.

“Hazardous Substance” means, without limitation, any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials as defined in CERCLA, the Hazardous Materials Transportation Act, as amended (49 U.S.C. §§1801, *et seq.*), RCRA, or any other applicable Environmental Law and in the regulations adopted pursuant thereto.

“Independent Counsel” means an attorney, reasonably acceptable to the Lessor who is duly admitted to practice law before the highest court of the State and who is not a salaried employee of the Lessor or the Lessee.

“Interest Rate for Advances” means [_____]

“Lease” means this Lease, as it may be amended or supplemented from time to time in accordance with its terms.

“Lease Term” means the period commencing on the date of delivery of this Lease and ending on the Lease Termination Date.

“Lease Termination Date” means _____, 20__ or such earlier date as the Lessee shall elect to terminate this Lease pursuant to Section 8.1 or 8.2.

“Lease Termination Payment” means the amount specified in Section 8.1 of this Lease.

“Legal Requirements” means all laws, statutes, codes, acts, ordinances, resolutions, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Project or any part thereof, or any use or condition of the Project or any part thereof.

“Legislative Authority” means the Board of Directors of the Lessor.

“Lessee” means Clover Communities Lorain LLC, an Ohio limited liability company, together with its lawful successors and permitted assignees hereunder.

“Lessee Documents” means the Ground Lease, this Lease and the Construction Services Agreement.

“Lessor” or “Authority” means the Lorain Port Authority, a body corporate and politic and a port authority duly organized and validly existing under the laws of the State as lessor under this Lease, together with its lawful successors and permitted assignees hereunder.

“Lessor Documents” means the Ground Lease, this Lease, and the Construction Services Agreement.

“Notice Address” means:

(a) As to the Lessee: Clover Communities Lorain LLC

With a copy to:

(b) As to the Lessor: Lorain Port Authority
319 Black River Lane
Lorain, Ohio 44052
Attn: Executive Director

or such different address notice of which is given under Section 12.2.

“Operative Documents” means the Lessor Documents and the Lessee Documents.

“Person” or words importing persons means firms, associations, partnerships (including without limitation, general, limited and limited liability partnerships), joint ventures, societies, estates, trusts, corporations, limited liability corporations or companies, public or governmental bodies, other legal entities and natural persons.

“Plans and Specifications” means the preliminary plans and specifications for the Project, as now on file with the Lessor, and as such shall be finalized (and thereafter may be changed from time to time) as provided in this Lease.

“Project” means, collectively, the Project Site and the Project Facilities.

“Project Facilities” means the facilities and other improvements to the Project Site described generally in Exhibit B, and more particularly described in the Plans and Specifications, together with any additions and improvements thereto, modifications thereof and substitutions therefor, less any removals of such property, all made in the manner and to the extent authorized by this Lease.

“Project Purposes” means acquiring, constructing, equipping and installing real and personal property, or any combination thereof, constituting “port authority facilities”, as defined in the Act, for lease to the Lessee for use as residential apartment units and parking facilities, and including such uses and purposes as may result from a change in the Plans and Specifications and as may otherwise be permitted by the Act and this Lease.

“Project Site” means the real estate described in Exhibit A hereto, together with any additions thereto and less any removals therefrom, made in the manner and to the extent authorized by this Lease.

"RCRA" means the Resource Conservation and Recovery Act (42 U.S.C. §§6901 *et seq.*), as enacted and from time to time amended.

"Rental Payment Date" means the first Business Day of each month commencing on _____, 20__.

"Rental Payments" means the rent required to be paid by the Lessee to the Lessor in accordance with Section 3.1.

"Required Property Insurance Coverage" means insurance insuring the Project Facilities (i) against loss or damage by causes of loss typically insured under coverage forms referred to as "all risks" and including (a) flood coverage, (b) earthquake coverage, (c) coverage for buildings under construction, (d) coverage for the cost to demolish undamaged portions of the property, the value of undamaged portions of the property and increased costs of construction, (e) during the construction period, builder's risk coverage, and (f) such other perils, if any, as the Lessor may reasonably require, in the amount of the full replacement cost of the Project Facilities; *provided that*, such coverage may exclude all personal and business property of any contractors, subcontractors or their agents and employees, other than building materials installed or to be installed at the Project Facilities. The building shall be insured for an amount not less than 100% of the insurable value of the Project Facilities, without deduction for depreciation, on a replacement cost basis with coinsurance waived; such insurance may provide for a loss deductible not greater than \$50,000; *provided that*, the Lessee shall be liable to the Lessor for any loss or portion thereof that is within the deductible.

"Required Public Liability Insurance Coverage" means commercial general liability insurance (including auto liability insurance) with coverage limits not less than \$10,000,000 per occurrence for liability for bodily injury or death and property damage liability combined, including blanket contractual liability and personal injury liability coverages, and \$10,000,000 annual aggregate for personal injury and advertising injury liability, \$10,000,000 annual aggregate for products/completed operations liability and \$10,000,000 general aggregate, with a loss deductible or self-insured retention clause not greater than \$50,000 and with no additional exclusions beyond those in the standard general liability policy form in common use at such time (or its equivalent), unless approved by the Lessor, which approval shall not be unreasonably withheld; *provided that*, the Lessee shall be liable for any liability that is within the deductible. This coverage limit may be achieved through a combination of primary and excess policies.

"State" means the State of Ohio.

"Substantial Completion" means the stage in the progress of the acquisition, construction, equipping and installation of the Project when the Project, or a designated portion thereof, is sufficiently complete that the Lessee can occupy and use the Project, or designated portion thereof, for its intended use in accordance with applicable laws.

"Terrorist Exclusion List" means the United States Department of State Terrorist Exclusion List.

"Unassigned Lessor's Rights" means all the rights of the Lessor to receive Additional Payments under Section 3.2, to be held harmless and to be indemnified under Sections 5.5 and

5.6, to be reimbursed for attorneys' fees and expenses under Section 10.4, and to make requests, to receive notices and to give or withhold consent including, without limitation, consents to amendments, changes, modifications, alterations and termination of this Lease.

Section 1.2. Interpretation. Any reference herein to the Lessor, to the Legislative Authority or to any member or officer of either includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Act, or to a section, provision or chapter of the Ohio Revised Code or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; *provided that*, no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision if it constitutes in any way an impairment of the rights or obligations of the Lessor or the Lessee under this Lease.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Lease; and the term "hereafter" means after, and the term "heretofore" means before, the date of delivery of this Lease. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

Reference to a numbered or lettered Article, Exhibit, Section or subsection means that Article, Exhibit, Section or subsection of or to this Lease, unless the context indicates a different meaning or intent.

Section 1.3. Captions and Headings. The captions and headings in this Lease are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

(End of Article I)

ARTICLE II

LEASE TERM AND REPRESENTATIONS

Section 2.1. Lease; Lease Term; Possession and Use. Upon and subject to the provisions herein set forth, the Lessor does hereby lease to the Lessee, and the Lessee does hereby lease from the Lessor, the Project for the Lease Term. Possession of the Project shall be delivered by the Lessor and accepted by the Lessee upon Substantial Completion of the Project Facilities, including receipt by the Lessor of a certificate of occupancy or temporary certificate of occupancy with respect to the Project Facilities. Notwithstanding the foregoing, if Substantial Completion of portions of the Project Facilities is achieved prior to Substantial Completion of all of the Project Facilities then, at the request of the Lessee, possession of portions of the Project Facilities as to which Substantial Completion has been achieved shall be delivered by the Lessor and accepted by the Lessee. Upon delivery of possession and during the Lease Term, the Lessee shall have the right to use the Project for the Project Purposes.

Section 2.2. Acquisition, Construction, Equipping, Installation and Completion. (a) The Lessor and Clover Communities Lorain LLC, in its capacity as Construction Services Provider, have entered into the Construction Services Agreement under which the Construction Services Provider has assumed responsibility for acquiring, constructing and otherwise improving the Project Facilities in accordance with the Plans and Specifications. The Lessee acknowledges and agrees that it, as Construction Services Provider for the Lessor, is responsible under the Construction Services Agreement for the acquisition, construction, equipping, and installation of the Project Facilities in accordance with the Plans and Specifications, and that the Lessor does not have any responsibility for the performance of, or any duty or obligation to perform any aspect of, the acquisition, construction, equipping or installation of the Project Facilities, except as otherwise expressly provided herein or in the Construction Services Agreement, and the Lessor has not made, and does not and will not make, any warranty, express or implied, concerning the condition or suitability of the Project Site or the Project Facilities, or the quality or suitability of any construction or other improvements or of the Plans and Specifications.

(b) The Plans and Specifications are on file with the Construction Services Provider and the Lessor in the form available at present. The Lessor and the Lessee acknowledge that the Plans and Specifications may require refinement, and each agrees to cooperate with one another, and the Construction Services Provider in completing any such refinement of the Plans and Specifications and obtaining all necessary approvals thereof, as promptly as is feasible. Changes to the Plans and Specifications for the Project may be made at the request of the Lessee in accordance with subsection 4(e) of the Construction Services Agreement.

(c) Completion of the Project shall be evidenced by the certificate required to be provided by the Construction Services Provider in accordance with subsection 5(b) of the Construction Services Agreement, and the Lessee agrees to accept possession of the Project not later than the Completion Date set forth in that certificate.

(d) For the purpose of excluding building and construction materials to be purchased by a contractor or a subcontractor for incorporation into structures or other improvements to real property comprising part of the Project Facilities from State sales and use taxes as contemplated by Section 5739.02(B)(13) of the Ohio Revised Code, the Lessor has provided or will provide exemption certificates to the Construction Services Provider for delivery to the Contractor. The Lessor agrees to cooperate, at the sole cost and expense of the Lessee, with the Lessee, as Construction Services Provider under the Construction Services Agreement in the contest by the Lessee of any claim that such taxes may be payable. The Construction Services Provider shall be solely responsible for the determination of whether any particular purchase of building and construction materials qualifies for exemption from State sales and use taxes by virtue of the provisions of Section 5739.02(B)(13) of the Ohio Revised Code.

Section 2.3. Representations of the Lessor. The Lessor represents that:

(a) it is duly organized and validly existing under the laws of the State; (b) it has duly accomplished all conditions necessary to be accomplished by it prior to the execution and delivery of the Lessor Documents; (c) it is not in violation of or in conflict with any provisions of the laws of the State that would impair its ability to carry out its obligations contained in any Lessor Document; (d) it is empowered to enter into the transactions contemplated by the Lessor Documents; (e) it has duly authorized the execution, delivery and performance of the Lessor Documents; and (f) it will do all things in its power in order to assure the assumption of its obligations under all Lessor Documents by any successor public body.

Section 2.4. Representations and Covenants of the Lessee. The Lessee represents and covenants that:

(a) It is a limited liability company duly organized, validly existing and in good standing under the laws of the State, and it is duly qualified to conduct business under the laws of the State.

(b) It has full power and authority to execute, deliver and perform its obligations under this Lease and to enter into and carry out the transactions contemplated by this Lease; its execution, delivery and performance of this Lease do not, and will not, (i) violate Lessee's organizational instruments, (ii) conflict with or result in a default under any agreement or instrument to which the Lessee is a party or by which it is bound, or (iii) to the knowledge of the Lessee, violate any law or governmental regulation. This Lease has, by proper action, been duly authorized, executed and delivered by the Lessee and all necessary corporate actions have been taken to constitute those documents legal, valid and binding obligations of the Lessee, enforceable in accordance with their respective terms.

(c) It intends at present to use or operate the Project in a manner consistent with the Project Purposes and does not know of any reason that the Project will not be so operated so long as the Lease Term is in effect. If, in the future, there is a cessation of that operation, it will use its best efforts to resume that operation or accomplish an alternative use by the Lessee or others that is consistent with the Act.

(d) There are no actions, suits, proceedings or investigations pending, or to the knowledge of the Lessee, threatened, against the Lessee before any court or administrative agency that, if adversely determined, could materially and adversely affect the financial condition, assets or operations of the Lessee, or that question the validity of this Lease or any action to be taken in connection with the transactions contemplated by this Lease.

(e) There are not any defaults with respect to, or violations by the Lessee of, any order, writ, injunction or decree of any court or of any federal, state, municipal or other governmental department, commission, board, bureau, agency, authority or official, and there are not any violations by the Lessee of any law, statute, rule or regulation to which the Lessee or its properties is or are subject, that could, individually or in combination, materially and adversely affect the financial condition, assets or operations of the Lessee.

(f) There are not any defaults by the Lessee in the payment or performance of any obligations to any third party or in the performance of any mortgage, indenture, lease, contract or other agreement to which Lessee is a party or by which any of Lessee's assets or properties are bound, that could, individually or in combination, materially and adversely affect the financial conditions, assets or operations of the Lessee.

(g) Lessee hereby warrants and represents that neither it nor any person, company, affiliated group or organization that holds, owns or otherwise has a controlling interest in Lessee has provided material assistance (within the meaning of Revised Code Section 2909.32) to an organization on the Terrorist Exclusion List. Lessee acknowledges receipt of a current version of the Terrorist Exclusion List. Lessee shall provide to Lessor a fully completed and executed Declaration Regarding Material Assistance/Nonassistance to Terrorist Organization in the form provided by Revised Code Section 2909.32 on the effective date of this Lease.

(h) The zoning regulations applicable to the Project currently permit the Lessee's intended use of the Project; and all utilities, including water, storm and sanitary sewer, gas, electric, and rights of access to public way, are available or arrangements satisfactory to the Lessee exist for their provision to the Project Site, all in sufficient locations and capacities to meet the requirements of the Lessee's intended use of the Project for the Project Purposes and of any applicable Governmental Authority.

(End of Article II)

ARTICLE III

RENTAL PAYMENTS; ADDITIONAL PAYMENTS

Section 3.1. Rental Payments. The Lessee shall pay the Rental Payments on or before each Rental Payment Date to the Lessor at the direction of the Lessor, in immediately available funds of the United States of America in an amount equal to \$70,000 on that Rental Payment Date.

Section 3.2. Additional Payments. The Lessee shall pay to or on the order of the Lessor, as Additional Payments hereunder, any and all costs and expenses incurred or to be paid by the Lessor related to actions taken by the Lessor hereunder or under the Ground Lease, or with respect to the Project upon an Event of Default; provided that, in the case of the Lessor, such cost shall be an obligation of the Lessor only to the extent it is paid or reimbursed by the Lessee.

Section 3.3. Place of Payments. The Lessee shall make all Rental Payments directly to the Lessor or at such other place as may be specified by the Lessor. Additional Payments shall be made directly to the Person to whom or to which they are due or at such other place as that Person may direct.

Section 3.4. Obligations Unconditional. Subject to the Lessee's option to terminate this Lease in accordance with Section 8.1, the obligations of the Lessee to make Rental Payments and to pay Additional Payments, shall be absolute and unconditional and the Lessee shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim that the Lessee may have or assert against the Lessor or any other Person. Nothing herein, except as expressly permitted hereby, shall result in any abatement, diminution or reduction of the Rental Payments or any other payments required hereby. The Lessee (i) will not suspend or discontinue any such payments, (ii) will perform and observe all of its other agreements contained in this Lease and (iii) will not terminate this Lease, for any cause including, without limitation, failure of the Lessor to complete the Project Facilities, failure of title to the Project or any portion thereof, any act or circumstance that may constitute failure of consideration, destruction of or damage to the Project, commercial frustration of purpose, any change in the tax or other laws or administrative rulings of or administrative actions by or under authority of the United States of America, the State or any other political subdivision, or any failure of the Lessor to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Lease. Nothing contained in this Section shall be construed to release the Lessor from the performance of any of the agreements on its part contained in this Lease, and in the event the Lessor should fail to perform any such agreement, the Lessee may institute such action against the Lessor as the Lessee may deem necessary to compel performance or recover its damages for nonperformance, so long as such action shall not be inconsistent with the agreements of the Lessee contained in the preceding sentences. The Lessee may, however, at its own cost and expense and in its own name or, to the extent lawful, in the name of the Lessor, prosecute or defend any action or proceeding or take any other action involving any other Person that the Lessee deems reasonably necessary in order

to secure or protect its right of possession, occupancy and use hereunder, and in such event the Lessor shall cooperate fully with the Lessee, but at the Lessee's expense, and shall take all action necessary to effect the substitution of the Lessee for the Lessor in any such action or proceeding if the Lessee shall so request.

Section 3.5. Past Due Rent and Additional Payments. If the Lessee fails to make any Rental Payment, Additional Payment or other payment hereunder, the item in default shall continue as an obligation of the Lessee until it has been fully paid. During the default period, the portion of any such Rental Payment, Additional Payment or other payment in default shall bear interest, to the extent permitted by law, at the Interest Rate for Advances until such amount (including all interest) is paid.

Section 3.6. Prepayment of Rent. The Lessee may prepay without premium all or any part of the Rental Payments, and the Lessor agrees that it shall accept any such prepayments when tendered by the Lessee.

(End of Article III)

ARTICLE IV

MAINTENANCE AND USE OF PROJECT

Section 4.1. Compliance with Legal and Insurance Requirements. The Lessee, at its expense, will promptly comply or cause compliance with all Legal Requirements and Insurance Requirements, and will procure, maintain and comply, or cause compliance, with all permits, licenses and other authorizations required for any use of the Project or any part thereof then being made or anticipated to be made, and for the proper operation and maintenance of the Project or any part thereof, and will comply with any instruments of record at the time in force burdening the Project or any part thereof. The Lessee may, at its expense and after prior notice to the Lessor, contest by appropriate legal proceedings conducted in good faith and with due diligence any Legal Requirement and postpone compliance therewith pending the completion of such contest; *provided that*, such postponement does not, in the opinion of Independent Counsel selected by the Lessor, subject the Project, or any part thereof, to loss or forfeiture.

Section 4.2. Maintenance and Use of Project. (a) The Lessee, at its expense, will keep or cause to be kept the Project in good order and condition (ordinary wear and tear excepted) and will make all necessary or appropriate repairs, replacements and renewals thereof, interior, exterior, structural and non-structural, ordinary and extraordinary and foreseen and unforeseen.

(b) The Lessee will not do, or permit to be done, any act or thing that might materially impair the value or usefulness of the Project or any part thereof, will not commit or permit any material waste of the Project or any part thereof, and will not permit any unlawful occupation, business or trade to be conducted on the Project or any part thereof.

(c) The Lessee shall also, at its expense, promptly comply with all rights of way or use, privileges, franchises, servitudes, licenses, easements, tenements, hereditaments and appurtenances forming a part of the Project and all instruments creating or evidencing the same, in each case, to the extent compliance therewith is required of the Lessee under the terms thereof.

(d) The Lessee shall remove regularly all trash, litter and debris from the Project Site at the Lessee's expense and shall maintain the Project in a neat and safe manner.

(e) The Lessee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin in connection with the Project.

Section 4.3. Alterations, Additions and Improvements. The Lessee may, in its discretion and at its expense, make such additions, modifications or improvements to the Project from time to time as it may deem desirable for its business purposes; *provided that*, no such addition, modification or improvement shall adversely affect the structural integrity or strength of any improvements constituting a part of the Project Facilities or shall, in the reasonable judgment of the Lessee, materially interfere with the use and operation thereof for the Project Purposes. All additions, modifications and improvements so made by the Lessee shall become and be deemed to constitute a part of the Project (except as otherwise provided in Section 6.1

hereof), subject to any contrary provisions of any sublease with respect to tenant improvements and subject to the Lessee's right to further modify such additions, modification and improvements.

Section 4.4. Substitutions and Removals. In any instance in which the Lessee, in its reasonable discretion, determines that any item of property constituting a part of the Project Facilities shall have become inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary or should otherwise be replaced, the Lessee may remove such items; *provided that*, unless the Lessee determines, in its reasonable discretion, that such items were unnecessary, the Lessee shall substitute therefor, items of similar character or significance.

Section 4.5. Indemnification. In order to induce the Lessor to undertake the duties, obligations, responsibilities and risks described herein in connection with the acquisition, construction, improvement and financing of the Project, and to induce the Lessor to contract with the other parties to the Lessor Documents and other agreements providing for the acquisition, construction improvement and financing of the Project, the Lessee releases the Lessor (the "Indemnified Party") from, agrees that each Indemnified Party shall not be liable for, and indemnifies the Indemnified Party against, all liabilities, losses, fines, penalties, obligations, damages, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses except as may be limited by law or judicial decision or order) (collectively, "Losses") imposed upon, asserted against or incurred by the Indemnified Party, without willful misconduct or breach of any applicable agreement on the part of the Indemnified Party, on account of:

- (a) ownership of any interest (including but not limited to easements) in the Project;
- (b) any loss or damage to property or any accident or injury to or disease, sickness or death of or loss by any Person that may be occasioned by any cause whatsoever pertaining to activities pursuant to this Lease or the maintenance, operation or use of the Project or any part thereof or the adjoining sidewalks, curbs, vaults and vault space, if any, or streets, alleys or ways;
- (c) any use, disuse or condition of the Project or any part thereof or the adjoining sidewalks, curbs, vaults and vault space, if any, or streets, alleys or ways, or arising from any act or failure to act by the Lessee, or any of its agents, contractors, servants, employees, sublessees or licensees;
- (d) any action taken or omitted to be taken by the Indemnified Party in compliance with the terms of this Lease or any other Lessor Document or related instrument, or any action taken at the written request of or with the written consent of the Lessee;
- (e) any claim, action or proceeding brought with respect to the matters set forth in (a), (b), (c), or (d) above;

provided that, the Losses covered by the foregoing indemnification shall not include expenses or costs incurred by the Indemnified Party in performing activities contemplated to be performed by such party in the ordinary course of effecting the transactions contemplated by the agreements to

which it is a party; *provided further, however*, that the foregoing proviso shall not limit any claim an Indemnified Party otherwise may have hereunder as a consequence of the event or circumstance resulting in any such deficiency or diminution. In addition to and not in limitation of the immediately preceding sentence, the Lessee agrees to indemnify and hold each Indemnified Party, as applicable, harmless from and against any and all Losses that may be imposed on, incurred by, or asserted against, the Indemnified Party, as applicable, for following any instructions or other directions upon which the Indemnified Party is authorized to rely pursuant to the terms of the agreements to which it is a party.

In case any action or proceeding is brought against an Indemnified Party in respect of which indemnity may be sought hereunder, the party seeking indemnity promptly shall give written notice of that action or proceeding to the Lessee, and the Lessee shall have the obligation and the right, upon receipt of that notice, to assume the defense of the action or proceeding with legal counsel reasonably acceptable to the Indemnified Party; *provided that*, failure of a party to give that notice shall not relieve the Lessee from any of its obligations under this Section, except to the extent that failure prejudices materially the defense of the action or proceeding by the Lessee or otherwise results in a material increase in the amount to be indemnified. If the Lessee shall fail to actively and diligently pursue such defense or the Indemnified Party has claims or defenses inconsistent with those of the Lessee, the Indemnified Party affected shall have the right to engage separate legal counsel as may be necessary and to participate in the defense of any such matter at the reasonable cost and expense of the Lessee. An Indemnified Party may employ separate legal counsel at its own expense and participate in the defense. The Lessee shall not be liable for any settlement made without its consent (which consent shall not be unreasonably withheld), so long as the Lessee is actively and diligently pursuing such defense and an Event of Default is not continuing hereunder.

The indemnifications set forth herein and in Section 4.6 are intended to and shall include the indemnification of all affected officials, directors, officers and employees of the Indemnified Party. Those indemnifications are intended to and shall be enforceable to the full extent permitted by law and shall survive the termination or expiration of this Lease.

Section 4.6. Environmental Matters. (a) Throughout the Lease Term, the Lessee or its employees, contractors or agents shall:

- (i) not place or permit to be placed any Hazardous Substances at the Project except to the extent not prohibited by applicable law;
- (ii) forthwith upon receipt by the Lessee of written notice of the occurrence of any violation of any Environmental Law in connection with the ownership, occupancy or use of the Project, or the receipt by the Lessee of any citation, notice of investigation, fine or other assessment in connection therewith, report or other communication from any Governmental Authority with respect to any violation or alleged violation of any Environmental Law in connection with the ownership, occupancy or use of the Project, deliver written notice thereof to the Lessor describing the same and any steps being taken by the Lessee with respect thereto.

(iii) in the event that it obtains, gives or receives written notice of any Hazardous Discharge or receives an Environmental Complaint, then the Lessee shall, within seven Business Days, give written notice of same to the Lessor detailing facts and circumstances of which the Lessee is aware giving rise to the Hazardous Discharge or Environmental Complaint, and copies of all documents and reports concerning a Hazardous Discharge at the Project that the Lessee is required to file with any Governmental Authority under any Environmental Law.

(iv) respond in a timely manner to any Hazardous Discharge or Environmental Complaint and take all necessary action (as reasonably determined by the Lessee) in order to safeguard the health of any Person and, subject to its rights under Sections 5.1 and 5.2 of this Lease, to avoid subjecting the Project to any lien. If the Lessee shall fail to respond in a timely manner to any Hazardous Discharge or Environmental Complaint or the Lessee shall fail to comply in any material respect with any of the requirements of any Environmental Laws, the Lessor may, but without the obligation to do so, for the sole purpose of protecting the interest of the Lessor in the Project, following reasonable (in no event fewer than 30 days) prior written notice to the Lessee: (A) give such notices or (B) enter onto the Project (or authorize third parties to enter onto the Project) and take such actions as the Lessor (or such third parties as directed by the Lessor) deems reasonably necessary or advisable, to clean up, remove, mitigate or otherwise deal with any such Hazardous Discharge or Environmental Complaint, with the costs of such actions undertaken by the Lessor being reimbursable, on demand, as Additional Payments hereunder.

(v) to the full extent permitted by law, defend and indemnify the Indemnified Parties and hold the Indemnified Parties harmless, from and against any and all claims, actions, proceedings, losses, liabilities, obligations, damages, expenses, costs, civil and criminal fines and penalties, including reasonable attorney's fees and expenses, threatened, suffered or incurred by the Indemnified Parties under, in connection with or on account of (A) any threatened, alleged or actual violation of Environmental Laws relating to the Project (including, without limitation, the assertion of any lien thereunder), (B) any Hazardous Discharge affecting the Project Site, (C) any Hazardous Substances or other materials hazardous to Persons or property affecting the Project, whether or not the same originates or emerges from the Project or any contiguous real estate, regardless of whether the same arise out of the release by the Lessee of such substances or materials; *provided that*, this indemnification shall not be applicable to the extent, if any, that such loss, liability, damage or expense is attributable to any Hazardous Discharge resulting from gross negligence, criminal proceeding or intentional misconduct of the Indemnified Party seeking indemnification. The Lessee shall be obligated to indemnify the Indemnified Parties under the terms and conditions of this Section, regardless of whether any federal, state, or local environmental agency has taken or threatened any action in connection therewith.

(End of Article IV)

ARTICLE V

GOVERNMENTAL CHARGES

Section 5.1. Taxes, Other Governmental Charges and Utility Charges. The Lessee shall pay, as the same respectively become due and payable, all taxes, payments in lieu of taxes, assessments, whether general or special, and any other governmental charges of any kind whatsoever that may at any time during the Lease Term be lawfully assessed or levied against or with respect to the Project and which, if not paid, may become or be made a lien on the Project, and all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project.

The Lessee may, at its expense, in good faith contest any taxes, assessments and other charges, and, in the event of any such contest, during the period of such contest and any appeal therefrom, may permit the taxes, assessments or other charges so contested to remain unpaid unless the Lessor shall notify the Lessee that, in the opinion of Independent Counsel, by nonpayment of any such items the Project or any part thereof will be materially and adversely affected, or will be subject to loss or forfeiture, in which event such taxes, assessments or charges shall be paid or provision for payment by deposit or bonding shall be made promptly by the Lessee.

Section 5.2. Mechanics' and Other Liens. The Lessee shall not suffer or permit any mechanics' or other similar liens to be filed or exist against the interest of the Lessor or the Lessee in the Project, whether by reason of work, labor, services or materials supplied or claimed to have been supplied to, for, or in connection with the Project or to the Lessee or anyone holding the Project or any part thereof through or under the Lessee; *provided that*, the filing of any such lien shall not constitute a default hereunder if (a) the Lessee shall, within 90 days after it has notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise; or (b) such lien is in an amount not in excess of \$250,000 and the Lessee is contesting the validity or amount of the lien by appropriate proceedings timely instituted. The Lessor shall cooperate fully with the Lessee, but at the Lessee's expense, in any such contest. If the Lessee shall fail to cause such lien to be discharged, or to contest the validity or amount thereof, within such period, then, in addition to any other right or remedy, the Lessor may, but shall not be obligated to, discharge the same by deposit or by bonding and any amounts so advanced, or the cost of obtaining any such bond, shall be reimbursed by the Lessee promptly upon demand as Additional Payments hereunder.

Section 5.3. Insurance. The Lessee shall keep the Project Facilities continuously insured in the amount and with the coverage of the Required Property Insurance Coverage and shall keep and maintain, with respect to the Project, Required Public Liability Insurance Coverage. Such insurance shall name the Lessor as a loss payee or an additional insured and shall be obtained and maintained by means of policies with generally recognized, responsible insurance companies qualified to do business in the State. The insurance to be provided may be by blanket policies. Each policy of insurance shall be written so as not to be subject to cancellation or substantial modification without 30 days' prior written notice to the Lessor. The Lessee shall deposit with the Lessor certificates or other evidence satisfactory to the Lessor that the insurance required hereby has been obtained and is in full force and effect and, prior to the

expiration of any such insurance, the Lessee shall furnish the Lessor with evidence satisfactory to the Lessor that such insurance has been renewed or replaced.

All policies providing the Required Property Insurance Coverage shall contain a clause requiring any Net Proceeds of insurance providing such coverage shall be paid and applied as provided in Section 6.2. The proceeds of Required Public Liability Insurance Coverage shall be applied toward the extinguishment or satisfaction of the liability with respect to which such insurance proceeds have been paid.

Section 5.4. Workers' Compensation Coverage. The Lessee shall maintain, or cause to be maintained in connection with the Project, the workers' compensation coverage required of it by the applicable laws of the State.

Section 5.5. Payment by Lessor. If the Lessee fails to (i) pay taxes, payments in lieu of taxes, assessments and other governmental or utility charges as required by Section 5.1, (ii) pay or discharge mechanics' or other liens as required by Section 5.2, (iii) maintain and keep in force the insurance required by Section 5.3 or (iv) maintain required workers' compensation coverage as required by Section 5.4, the Lessor may (but shall not be obligated to) advance funds to pay any such required charges or items after 10 days' prior written notice to the Lessee. Any funds so advanced as set forth in this Section 5.5 are hereby included as Additional Payments and shall be due on demand, together with interest thereon from the date of advancement at the Interest Rate for Advances.

Section 5.6. Mutual Waiver of Subrogation. Neither Lessor nor Lessee shall be liable for any damage to the property of the other caused by fire or other peril (a) covered by insurance maintained by the other party or (b) usually covered by a standard policy of fire and extended coverage insurance, with vandalism and malicious mischief endorsements, and each party releases the other from all liability for such damage including any subrogation claims of any insurer. This provision shall apply regardless of the negligence of the other party and shall not be limited to the amount of insurance coverage.

(End of Article V)

ARTICLE VI

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 6.1. Damage to or Destruction of Project. In case of any damage to or destruction of the Project Facilities or any part thereof, the Lessee shall promptly give or cause to be given written notice thereof to the Lessor describing generally the nature and extent of such damage or destruction. Unless such damage or destruction is such as to permit the exercise of an option to prepay the Rental Payments pursuant to this Lease and the Lessee has not elected to exercise such option and terminate this Lease pursuant to Section 8.2, there shall not be any abatement or diminution of Rental Payments, and the Lessee shall, whether or not the Net Proceeds of insurance, if any, received on account of such damage or destruction shall be sufficient for such purpose, promptly commence and complete, or cause to be commenced and completed, repair or restoration of the Project Facilities as nearly as practicable to the value, condition and character thereof existing immediately prior to such damage or destruction, with such changes or alterations, however, as the Lessee may deem desirable or appropriate for proper operation of the Project.

Section 6.2. Use of Insurance Proceeds. In connection with any damage to or destruction of the Project Facilities or any part thereof, and the repair or restoration of the Project Facilities pursuant to Section 6.1, Net Proceeds of Required Property Insurance Coverage not in excess of \$500,000 shall be paid to the Lessee for application of as much as may be necessary for such repair and restoration. If such Net Proceeds are in excess of \$500,000, they shall be paid to and held in a separate insurance loss account (the "Net Proceeds Account), for application of as much as may be necessary of the Net Proceeds for the payment of costs of repair, rebuilding or restoration of the Project, either on completion thereof or as the work progresses, as directed by the Lessee. Any balance of the Net Proceeds held in the Net Proceeds Account remaining after payment of all costs of such repair, rebuilding or restoration shall be applied to prepay Rental Payments, and to the extent all Rental Payments have been prepaid, any excess balance shall be paid to the Lessee.

If, in lieu of repair and restoration, the Lessee has exercised any option to prepay all of its remaining Rental Payments pursuant to this Lease, any Net Proceeds received by the Lessor prior to such prepayment shall be credited against the amount payable by the Lessee pursuant to this Lease to effect such prepayment, and to the extent all Rental Payments have been prepaid, any excess balance shall be paid to the Lessee.

Section 6.3. Eminent Domain. If title to or the temporary use of the Project, or any part thereof, shall be taken under the exercise of the power of eminent domain by any Governmental Authority or by any Person acting under governmental authority, the Lessee shall promptly give or cause to be given written notice thereof to the Lessor describing the nature and extent of such taking. Any Net Proceeds received from any award made in such eminent domain proceedings shall be paid to and held by the Lessor in a separate condemnation award account for application in one or more of the following ways, as determined by the Lessee in accordance with the requirements of this Lease:

(a) The restoration of the Project to substantially the same condition as existing prior to the exercise of the power of eminent domain with such changes or alterations, however, as the Lessee may deem appropriate for the proper operation of the Project and is reasonably acceptable to the Lessor; or

(b) The acquisition, by construction or otherwise, by the Lessor of other improvements reasonably acceptable to the Lessor and suitable for the Lessee's operations on the Project Site (which improvements shall be deemed a part of the Project);

(c) The prepayment of Rental Payments in the manner and to the extent permitted by this Lease.

Within 90 days from the date of entry of a final order in any eminent domain proceeding, the Lessee shall direct the Lessor, as to which of the specified ways the Net Proceeds of the condemnation award shall be applied. Any balance of such Net Proceeds not required to be applied for the purposes so specified shall, be applied to the prepayment of Rental Payments, and to the extent all Rental Payments have been prepaid, any excess balance shall be paid to the Lessee.

Section 6.4. Investment and Disbursement of Net Proceeds. All moneys received by or on behalf of the Lessor constituting Net Proceeds shall, pending application, be invested in such Eligible Investments as the Authorized Lessor Representative may direct from time to time. Any such Net Proceeds shall, to the extent to be used for repair, rebuilding, improvement, restoration, acquisition or construction, be disbursed as provided in the Construction Services Agreement in the same manner and subject to the same procedures as apply to disbursements for the original acquisition, construction, equipping and installation of the Project Facilities.

(End of Article VI)

ARTICLE VII
FURTHER REPRESENTATIONS AND AGREEMENTS
RESPECTING THE PROJECT

Section 7.1. Installation and Removal of Personal Property Not Part of Project. The Lessee may from time to time, in its discretion and at its expense, install personal property and trade fixtures, in addition to the Project Facilities, in or upon the Project. All such items so installed shall remain the sole property of the Lessee and shall not be deemed part of the Project for purposes of this Lease. The Lessee may, at any time while it is not in default under this Lease, remove from the Project any property installed pursuant to this Section; *provided that*, such removal will not impair the character or significance of the Project as furthering the Project Purposes; *and, provided further that*, if any such removal causes damage to any portion of the Project, the Lessee shall restore the same or repair such damage at its expense.

Section 7.2. Documents to be Provided. From time to time, the Lessor shall execute and deliver such documents as the Lessee may properly request to evidence that particular items of personal property or fixtures installed on or removed from the Project pursuant to Section 7.1 are not part of the Project for purposes of this Lease. From time to time, upon the reasonable request of the Lessor (but not more frequently than once each calendar year), the Lessee shall report to the Lessor on alterations, additions and improvements made pursuant to Section 4.3, removals and any substitutions pursuant to Section 4.4, and installation and removal of personal property and fixtures installed or removed pursuant to Section 7.1.

Section 7.3. Right of Access. The Lessee agrees that, subject to reasonable security and safety regulations and to the rights of sublessees and without unreasonable interference with Lessee's operations, the Lessor and its authorized agents, shall have the right at all reasonable times, upon not less than two business days' prior written notice to the Lessee, to enter upon the Project for purposes of inspection. The Lessee further agrees that the Lessor and its authorized agents shall be provided such access to the Project Site and the Project Facilities as may be reasonably necessary to cause to be completed the Project Facilities and thereafter for the proper maintenance of the Project in the event of failure by the Lessee to perform its obligations hereunder; *provided, however, that*, the Lessor shall perform any such maintenance unless the Lessee has failed to perform the required maintenance within 30 days after the Lessor has given the Lessee written notice of the Lessee's failure (or, if such maintenance cannot reasonably be completed within 30 days, unless the Lessee has failed to commence performance of the required maintenance within such 30-day period or thereafter fails to diligently complete the required maintenance).

Section 7.4. Lessee to Maintain its Existence; Conditions Under Which Exceptions Permitted. The Lessee agrees that during the Lease Term it will maintain its existence as a legal entity, will not dissolve or otherwise dispose of all or any substantial portion of its assets, will not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it and will not distribute all or any substantial portion of its assets, in the form of dividends or otherwise, to any shareholder; *provided that*, the Lessee may, without violating the agreement contained in this Section, consolidate with or merge into another entity, or permit one or more other entities to consolidate with or merge into it, or sell or otherwise

transfer to another entity all or a substantial portion of its assets as an entirety and thereafter dissolve, or distribute all or a substantial portion of its assets to a shareholder if (i) in the case of a dissolution or disposition of all or substantially all of its assets or consolidation with or merger into another entity, or consolidation with or merge into it of another entity, the surviving, resulting or transferee entity is other than the Lessee, such surviving, resulting or transferee entity (x) assumes in writing all of the obligations of the Lessee under this Lease and (y) either obtains the consent of the Lessor, which consent shall not be unreasonably withheld, or has a net worth at least equal to that of the Lessee prior to dissolution, sale, consolidation or merger, and (ii) in the case of distribution of a substantial portion of its assets to a shareholder, either (x) the shareholder assumes in writing all of the obligations of the Lessee under this Lease and the Lessee confirms in writing its continuing responsibility for the performance of those obligations and (y) either obtains the consent of the Lessor (such consent not to be unreasonably withheld, conditioned or delayed) or the combined net worth of the distributee shareholder and the Lessee is not less than the net worth of the Lessee prior to that distribution. Net worth shall be determined in accordance with the Lessee's normal business practices.

If consolidation, merger or sale or other transfer is made as provided in this Section, the provisions of this Section shall continue in full force and effect and no further consolidation, merger or sale or other transfer shall be made except in compliance with the provisions of this Section.

Section 7.5. Title to Project Site. Written evidence as to the status of title to the Project Site as of the date of delivery of this Lease has been made available to the Lessee and the Lessor. The Lessee and the Lessor agree that such title is satisfactory and that all defects in and liens and encumbrances on such title, as set forth in such evidence as exclusions from coverage and exceptions, do not impair the Lessee's use or the value of the Project Site.

Section 7.6. No Warranty of Condition or Suitability. The Lessor does not make any warranty, either express or implied, as to the suitability or utilization of the Project, or as to the condition of the Project or that it is or will be suitable for the Lessee's purposes or needs.

Section 7.7. Litigation Notice. Each party shall give the other prompt notice of any action, suit or proceeding by or against that party, at law or in equity, or before any governmental instrumentality or agency, or of any of the same which may be threatened, which, if adversely determined, would materially impair the right of that party to carry on the business which is contemplated in connection with the Project, or would materially and adversely affect its business, operations, properties, assets or condition.

(End of Article VII)

ARTICLE VIII

TERMINATION OF LEASE

Section 8.1. Option to Terminate. The Lessee shall have the option to terminate this Lease on or after _____, 20__, but only if payment or prepayment of all Rental Payments shall have been made and all Additional Payments and other amounts required to be paid by the Lessee under this Lease have been made, and all other conditions set forth in Section 3.6 have been satisfied. To exercise that option, the Lessee shall give written notice of such termination to the Lessor not later than the 30th day prior to such prepayment and that termination shall be effective upon payment of the foregoing amount, together with one hundred dollars (\$100.00) in consideration of the transfer required herein pursuant to the Lessee's purchase option rights (collectively, the "Lease Termination Payment"). Simultaneously with the termination of this Lease, and upon payment of the Lease Termination Payment pursuant to this Section 9.1, the Lessor shall transfer and convey the fee simple interest in the Project to the Lessee (or the Lessee's designee as stated in writing by the Lessee at the time) in accordance with Section 9.3. In no event shall this Lease be terminated pursuant to this Section 9.1 without the Lessor transferring and conveying the fee simple interest in the Project to the Lessee (or the Lessee's designee) in accordance with Section 8.3.

Section 8.2. Termination of Lease on Substantial Casualty or Condemnation. If

(1) The Project is damaged or destroyed to such an extent that, in the Lessee's reasonable determination, it cannot reasonably be expected to be restored, within a period of 18 months from the commencement of restoration, to the condition thereof immediately preceding such damage or destruction, or

(2) Title to, or the temporary use of, all or a significant part of the Project is taken under the exercise of the power of eminent domain to such extent that in the Lessee's reasonable determination, the Project cannot reasonably be expected to be restored, within a period of eighteen months from the commencement of restoration, to a condition of usefulness comparable to that existing prior to the taking,

then, within 90 days following the date on which any such event occurs (the date of the occurrence of any damage or destruction, the date of entry of a final order in any eminent domain proceeding or the date of the denial), the Authorized Lessee Representative shall provide the Lessor and the Purchaser with its determination that (i) it will prepay all of the remaining Rental Payments on the date required as set forth below, and (ii) upon the payment of the Lease Termination Payment, it will terminate this Lease. Copies of this determination shall be provided to Lessor. In the event that such option is exercised, such option shall be irrevocable and the Lessee shall pay the Lease Termination Payment (less any amounts on deposit with the Lessor and available therefor pursuant to Article VI, including without limitation, any Net Proceeds) on or prior to a Business Day, which date shall be specified in the determination of the Authorized Lessee Representative, upon which payment the Lease shall be terminated.

The mutual agreements contained in this Section 8.2 are independent of, and constitute an agreement separate and distinct from, any other provisions of this Lease and any other agreements between the Lessor and the Lessee and shall be unaffected by any fact or circumstance which might impair or be alleged to impair the validity of those other provisions. Simultaneously with the termination of this Lease pursuant to this Section 8.2, the Lessor shall transfer and convey the fee simple interest in the Project to the Lessee (or the Lessee's designee) in accordance with Section 8.3. In no event shall this Lease be terminated pursuant to this Section 8.2 without the Lessor transferring and conveying the fee simple interest in the Project to the Lessee (or the Lessee's designee) in accordance with Section 9.3.

Section 8.3. Conveyance of Lessor's Interest in Project. Simultaneously with the termination of the Lease Term pursuant to Section 8.1 or 8.2, or at the expiration of the Lease Term, subject to the payment to the Lessor of the Lease Termination Payment due and payable in connection with the exercise by the Lessee of its option to purchase the Project on the Lease Termination Date, and upon payment of any other amounts payable by the Lessee in connection therewith, the Lessor shall transfer and convey the Project to the Lessee (or the Lessee's designee) by such quit-claim deed and by such other bills of sale, instruments and other documents as are reasonably necessary and appropriate to transfer and convey the Project, including the fee simple interest in that portion of the Project constituting real estate, to the Lessee (or the Lessee's designee), subject only to

- (a) liens, encumbrances and covenants running with the land to which title to the Project was subject at the commencement of the Lease Term;
- (b) liens and other encumbrances created by the Lessee or to or in the creation or suffering of which the Lessee consented or acquiesced or in the creation of which it participated;
- (c) liens and other encumbrances for taxes, payments in lieu of taxes, governmental charges or special assessments not then delinquent;
- (d) liens and other encumbrances resulting from the failure of the Lessee to observe or perform any of its covenants, agreements or obligations under this Lease; and
- (e) if the conveyance is made by reason of a termination of this Lease, under Section 8.2 hereof, due to the exercise of eminent domain, the rights and title of the condemning authority.

If the conveyance is made by reason of a termination of this Lease pursuant to subparagraph (1) of the first paragraph of Section 8.2 hereof, the Lessee, upon payment of the Lease Termination Payment to Lessor, shall be entitled to all insurance proceeds in connection with the damage or destruction or, at the Lessee's option, the Lessee shall be entitled to credit such Net Proceeds against the payment of the Lease Termination Payment.

No further action of the Legislative Authority shall be required to authorize or to effect the conveyance contemplated in this Section, and upon the payment by the Lessee of all amounts payable by the Lessee in connection therewith and upon satisfaction by the Lessee of all

other requirements therefor, any officer or officers of the Lessor are authorized and directed hereby to execute and deliver any instruments and documents necessary or advisable to effect the conveyance.

Section 8.4. Other Terminations. Simultaneously with any termination of this Lease other than pursuant to Section 8.1 or Section 8.2, the Lessor shall transfer and convey the fee simple interest in the Project to the Lessee (or the Lessee's designee) in accordance with Section 9.3, so long as, upon or prior to such transfer and conveyance, the Lessee has paid the Lease Termination Payment.

Section 8.5. No Further Action of Legislative Authority; Guaranty. Provided that the Lessor shall receive an amount in consideration of its transfer of the Project that is equal to or greater the Lease Termination Payment, no further action of the Legislative Authority shall be required to authorize or to effect the conveyance contemplated in this Section, and upon the payment by Lessor of all amounts payable by Lessor in connection therewith and upon satisfaction by Lessor of all other requirements therefor, the Executive, either alone or together with any other officer or officers deemed by the Executive to be appropriate, is authorized and directed hereby to execute and deliver any instruments and documents necessary or advisable to effect the conveyance.

In the event of resulting in termination of this Lease prior to the Lease Termination Date, the Lessee shall also cause to be delivered to the Lessor a guaranty of the Lessee (the "Guaranty") to defend and indemnify the Lessor for any liability which may arise from a sales or use tax audit with respect to the construction and building materials for the Project; provided however, such Guaranty shall not extend for any claims, lawsuits or any losses incurred by the Lessor due to the willful misconduct of the Lessor or any of its employees or agents. The Guaranty shall remain in effect until the stated Lease Termination Date.

(End of Article VIII)

ARTICLE IX

EVENTS OF DEFAULT

Section 9.1. Events of Default. Each of the following shall be an "Event of Default":

- (a) The Lessee shall fail to pay any Rental Payment on or prior to the date on which any such payment is due and payable, which failure shall continue for a period of five (5) Business Days after written notice (unless the party to which the payment is due shall agree in writing to an extension of such time prior to its expiration) specifying such failure and requesting that it be remedied, given by the Lessor to the Lessee.
- (b) The Lessee shall fail to make any other payment (other than a Rental Payment) required to be made under this Lease, which failure shall continue for a period of 30 days after written notice (unless the party to which the payment is due shall agree in writing to an extension of such time prior to its expiration) specifying such failure and requesting that it be remedied, given by the Lessor to the Lessee.
- (c) The Lessee shall fail to observe and perform any of its other covenants, conditions or agreements contained herein for a period of 60 days after written notice (unless the party to or for the benefit of which the adherence and performance is due shall agree in writing to an extension of such time prior of its expiration) specifying such failure and requesting that it be remedied, given by the Lessor (or the party to or for the benefit of which such covenant, condition or agreement runs) to the Lessee, or in the case of any such default that can be cured with due diligence but not within such 60-day period, the Lessee shall fail to proceed promptly to cure such default and thereafter prosecute the curing of such default with due diligence.
- (d) Any representation or warranty by the Lessee contained in any Lessee Document is intentionally false or misleading in any material respect.
- (e) The Lessee shall: (A)(i) admit in writing its inability to pay its debts generally as they become due; or (ii) file a petition in bankruptcy or a petition to take advantage of any insolvency act; or (iii) make an assignment for the benefit of creditors; or (iv) consent to the appointment of a receiver for itself or of the whole or any substantial part of its property; (B) file a petition or answer seeking reorganization or arrangement under the Federal bankruptcy laws or any other applicable law or statute of the United States or any state thereof; (C) in the event of a petition in bankruptcy filed against it, be adjudicated a bankrupt or a court of competent jurisdiction shall enter an order or decree appointing, without the consent of the Lessee, a receiver or trustee for the Lessee or for the whole or substantially all of its property, or approving a petition filed against it seeking reorganization or arrangement of the Lessee under the Federal bankruptcy laws or any other applicable law or statute of the United States or any state thereof and

such adjudication, order or decree shall not be vacated or set aside or stayed within 90 days from the date of the entry thereof.

- (f) The Lessee shall fail, within 90 days after the commencement of any proceeding against the Lessee seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, to have such proceeding dismissed, or, within 90 days after the appointment without the consent or acquiescence of the Lessee, of any trustee, receiver or liquidator of the Lessee or any material part of its properties, to have such appointment vacated, or the Lessee shall be adjudicated as a bankrupt or insolvent.

The foregoing provisions of subparagraph (c) of this Section are subject to the following limitations: if by reason of *Force Majeure* the Lessee is unable in whole or in part to perform or observe its agreements under this Lease other than its obligation to make payments required hereunder, the Lessee shall not be deemed in default during the continuance of such inability, including a reasonable time for the removal of the effect thereof.

Section 9.2. Remedies on Default. Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

- (a) The Lessor may declare all Rental Payments, together with any Additional Payments and other amounts payable hereunder to be immediately due and payable, whereupon the same shall become immediately due and payable;
- (b) The Lessor may re-enter and take possession of the Project without terminating this Lease and sublease the Project for the account of the Lessee, holding the Lessee liable for the difference between the rent and other amounts payable by such sublessee in such subleasing and the aggregate of the Rental Payments and Additional Payments and other amounts payable by the Lessee hereunder;
- (c) The Lessor may terminate this Lease, exclude the Lessee from possession of the Project and lease the Project to another, but holding the Lessee liable for all Rental Payments and Additional Payments and other amounts payable hereunder up to the effective date of such subleasing;
- (d) The Lessor may have access to and inspect, examine and make copies of the books and records and any and all accounts, data and income tax and other tax returns of the Lessee, insofar as they pertain to the Project; and
- (e) The Lessor may take whatever action at law or in equity may appear necessary or desirable to collect the Rental Payments and Additional Payments and other amounts then due and thereafter to become due, or to enforce performance and observance of any other obligation or agreement of the Lessee, under this Lease including, without limitation, actions to recover any amounts owed hereunder, ancillary damages suffered, and for specific performance or injunctive relief.

Anything herein to the contrary notwithstanding, the Lessor shall not be entitled to exercise the remedies listed in subparagraph (b) or (c) of this paragraph unless, if available, the Lessee has exercised a right to terminate this Lease under Section 8.1 or 8.2, including payment of the Lease Termination Payment to the Lessor. In the event that, under the above provisions of this Section 9.2, Lessor has the right to and does terminate this Lease, Lessee may, within 6 months after such termination, and upon payment of the Lease Termination Payment, require Lessor to transfer and convey the fee simple interest in the Project to the Lessee (or the Lessee's designee) in accordance with Section 8.3.

Section 9.3. No Remedy Exclusive. No remedy conferred or reserved by this Lease is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Lessor to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be expressly required herein.

Section 9.4. Lessee to Pay Attorneys' Fees and Expenses. If an Event of Default should occur and the Lessor should employ attorneys or incur other expenses for the enforcement of any obligation or agreement of the Lessee contained herein, the Lessee shall, on demand therefor and to the extent permitted by law, reimburse the reasonable fees of such attorneys and such other expenses so incurred.

Section 9.5. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 9.6. Performance of the Lessee's Requirements. If the Lessee shall fail to do or perform any act or thing required to be done by it under the terms of this Lease which failure, in the reasonable opinion of the Lessor, is likely to have a material adverse effect on the Project or the Lessor's interest therein, the Lessor may, at its sole option, after reasonable written notice to the Lessee with respect thereto and reasonable opportunity afforded to the Lessee to do and perform the same, itself or by its employees, agents or independent contractors, enter the Project in accordance with the terms of this Lease and do and perform the same on the Lessee's behalf and at the Lessee's reasonable cost and expense; *provided that*, unless the Lessor shall reasonably conclude that the act or thing required to be done or performed by the Lessee must be done or performed sooner in order to ensure that a material adverse effect does not occur, a period of 30 days shall be deemed to provide the Lessee a reasonable opportunity to do or perform the act or thing required to be done. The Lessee shall, forthwith upon receipt of notice of the amount of such cost and expense, pay the same to the Lessor, as Additional Payments under Section 3.2, together with interest thereon at the Interest Rate for Advances, from the date of notice of each payment by the Lessor to the date of repayment (including such interest) by the Lessee.

(End of Article IX)

ARTICLE X

ASSIGNMENT, SUBLEASING AND RELEASE OF PORTIONS OF PROJECT

Section 10.1. Assignment and Subleasing by Lessee. This Lease may not be assigned by the Lessee in whole or in part (other than pursuant to Section 7.4) except upon the prior written consent of the Lessor, which consent shall not be unreasonably withheld. The Project may be subleased, as a whole or in part, by the Lessee without the necessity of obtaining the consent of the Lessor subject, however, to each of the following conditions, each of which conditions shall also apply to each assignment hereof:

(a) No assignment (other than pursuant to Section 7.4 hereof) or subletting shall relieve the Lessee from primary liability for any of its obligations hereunder, and in the event of any such assignment or subletting, the Lessee shall continue to remain primarily liable for the Rental Payments and Additional Payments and for performance and observance of the agreements on its part herein provided to be performed and observed by it.

(b) Any assignment or sublease from the Lessee must retain for the Lessee such rights and interests as will permit it to perform its obligations under this Lease, and any assignee from the Lessee shall assume the obligations of the Lessee hereunder to the extent of the interest assigned and from and after the date of the assignment.

(c) Any assignment or sublease from the Lessee shall not materially impair fulfillment of the purposes of the Act to be accomplished by the operation of the Project.

Section 10.2. Assignment by the Lessor. With the prior written consent of the Lessee, which consent shall be within the Lessee's sole discretion, but shall not be withheld in a manifestly unreasonable manner, in accordance with applicable law, the Lessor may grant an assignment of its right, title and interest in, to and under this Lease, and may mortgage or grant a security interest in the Project Facilities as security for payment of any obligations of the Lessor issued to finance costs of the Project.

Section 10.3. Restrictions on Transfer and Encumbrance of Project by the Lessor. The Lessor agrees that it will not sell, assign, transfer, convey or otherwise dispose of the Project or any portion thereof or of its interest therein during the Lease Term, nor will it create or suffer to be created any debt, lien or charge thereon (except the lien or charge for taxes, governmental charges or special assessments) or make any pledge or assignment of or create any lien or encumbrance upon the rents, revenues and receipts derived from the sale, lease or other use or disposition of the Project other than as permitted in Section 10.2 hereof, except with the prior written consent of the Lessee which consent shall be within the Lessee's sole discretion. Any assignment, transfer or conveyance of all or any portion of the Lessor's interest in the Project (i) shall be subject to all of the provisions of this Lease, including but not limited to the rights of the Lessee to terminate this Lease and require conveyance of the Project as provided in Article VIII

hereof, and (ii) shall not survive, and shall be automatically extinguished upon, conveyance of the Project to the Lessee (or the Lessee's designee) pursuant to that Article VIII.

Section 10.4. Release of Portion of Project. The parties hereto reserve the right, at any time and from time to time, to amend this Lease to effect the release of and removal from this Lease and the leasehold estate created hereby of any part of or interest in the Project and the conveyance of such part or interest to a grantee designated by the Lessee and approved by the Lessor; provided that such amendment shall not be effective until and unless there are deposited with the Lessor the following:

(a) An executed copy of said amendment.

(b) A certificate of the Authorized Lessee Representative and Authorized Lessor Representative (i) stating that the Lessee is not to their knowledge in default under any of the provisions of this Lease, (ii) giving, if applicable, an adequate legal description of that portion of the Project to be released, (iii) stating the purpose for which the release is desired, (iv) stating that the improvements, if any, to be constructed upon that portion of the Project to be released are consistent with, or not inconsistent with, the purposes of the Act, (v) requesting such release and (vi) approving such amendment.

(c) Evidence of the authority of the officer of the Lessee who executed such amendment.

(d) An opinion of counsel for the Lessee stating that the Lessee is not in default under this Lease and that the amendment is duly authorized and executed by the Lessee.

(e) A fully executed counterpart of the instrument conveying or transferring the interest proposed to be released.

(f) A certificate of an Engineer, acceptable to the Lessor dated not more than sixty days prior to the date of the release and stating that, in the opinion of such Engineer, the release so proposed to be made will not impair the physical operations of the unreleased portion of the Project and will not destroy any means of ingress to and egress from the unreleased portion of the Project.

The Lessor shall execute and deliver such documents as the Lessee may properly request in order to effect any release pursuant to this Section. Any release pursuant to this Section may be made for the purpose of conveying the part or interests released to the Lessee.

Except as otherwise expressly provided herein, no release or conveyance effected under any of the provisions of this Lease shall entitle the Lessee to any abatement or diminution of the Rental Payments or any Additional Payments payable hereunder. The moneys received as consideration for any such release or conveyance under this Section 10.4 shall be paid to the Lessor and applied in accordance with the amendment. Lessor acknowledges that it is anticipated that Lessee will exercise the right to amend the Lease to effect the release of and removal from this Lease and the leasehold created hereby of portions of the Project from time to

time and Lessor shall use good faith efforts to effect each such amendment as soon as commercially practicable after the exercise of such right by Lessee.

(End of Article X)

ARTICLE XI

MISCELLANEOUS

Section 11.1. Quiet Enjoyment. The Lessor covenants with the Lessee that, so long as no Event of Default exists, the Lessee shall and may, subject to the "Permitted Exceptions" set forth in Exhibit C, peaceably and quietly have, hold and enjoy the Project without let or hindrance from any person whomsoever.

Section 11.2. Notices. All notices, certificates, requests or other communications hereunder shall be deemed to be sufficiently given on the next Business Day when mailed by overnight courier, or when personally delivered, or three (3) Business Days after deposit in the U.S. registered or certified mail, postage prepaid, addressed to the appropriate Notice Address, in each case with all delivery charges and postage prepaid. A duplicate copy of each notice, certificate, request or other communication given hereunder to the Lessor or Lessee shall also be given to the other respective party. The Lessee and the Lessor may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 11.3. Binding Effect; Third Party Beneficiaries. This Lease shall be binding in accordance with its terms upon the Lessor and the Lessee, and shall inure to the benefit of the Lessor, the Lessee, and their respective successors and assigns.

Section 11.4. Execution Counterparts. This Lease may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

Section 11.5. Severability. If any provision of this Lease, or any covenant, stipulation, obligation, agreement, act, or action, or part thereof made, assumed, entered into, or taken thereunder or any application thereof, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect any other provision or any other covenant, stipulation, obligation, agreement, act or action or part thereof, made, assumed, entered into, or taken, each of which shall be construed and enforced as if such illegal or invalid portion were not contained herein. Nor shall such illegality or invalidity of any application thereof affect any legal and valid application thereof, and each such provision, covenant, stipulation, obligation, agreement, act, or action, or part shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 11.6. Extent of Covenants of the Lessor; No Personal Liability. All covenants, stipulations, obligations and agreements of the Lessor contained in this Lease shall be effective to the extent authorized and permitted by applicable law. No such covenant, stipulation, obligation or agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, officer, agent or employee of the Lessor in other than his official capacity, and neither the members of the Legislative Authority nor any other officer of the Lessor nor any official executing this Lease shall be liable personally on this Lease or be subject to any personal liability or accountability by reason of the execution thereof or by reason of the covenants, stipulations, obligations or agreements of the Lessor contained in this

Lease or in any other document. Any obligation the Lessor created by or rising out of this Lease shall never constitute a general obligation, debt or bonded indebtedness of the Lessor or give rise to any pecuniary liability of the Lessor, but shall be payable solely out of Additional Payments, and the Lessor shall be required to perform any such obligations only to the extent that Additional Payments are available therefor.

Section 11.7. Captions. The captions and headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.

Section 11.8. Governing Law. This Lease shall be governed exclusively by and construed in accordance with the laws of the State.

Section 11.9. Estoppel Certificate. Upon the written request of either the Lessor or the Lessee, as the case may be, the Lessor and the Lessee agree to deliver to the other a statement in writing and certified that this Lease is a true and exact copy of the lease between the parties, that there are no amendments thereto (or stating what amendments there may be and attaching copies thereof), that to the extent the same are true this Lease is in full force and effect, there are no offsets, defenses or counterclaims with respect to the payment of any obligations under the terms of this Lease or with respect to the performance of any other terms, covenants and conditions thereof, that there are no defaults or if there are defaults, setting forth the nature of such defaults, the status of the Rental Payments and other payments due under the terms of this Lease and such other information reasonably requested by the Lessor or the Lessee. The Lessor and the Lessee agree to promptly supply the aforesaid instrument to the other party but no later than thirty days after receipt of a written request therefor. The Lessor and the Lessee agree that any statement as aforesaid may be relied upon by any prospective purchaser, mortgagee, assignee, sublessee or any other Person concerning the Project.

Section 11.10. Relationship of the Parties. Nothing contained in this Lease shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, or of partnership or joint venture between the parties hereto, it being understood and agreed that neither the method of computation of Rental Payments or Additional Payments nor any other provision contained in this Lease, nor any acts of the parties to this Lease, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant.

Section 11.11. Other Agreements. Nothing herein shall be construed nor is intended to limit or in any manner adversely affect the rights, privileges or remedies afforded to any mortgagee of the Lessor or any other Person under any other agreement executed in connection with the execution and delivery of this Lease.

Section 11.12. No Joint Venture. Any intention to create a joint venture or partnership relationship between the Lessor and the Lessee is hereby expressly disclaimed.

Section 11.13. No Accord and Satisfaction. The acceptance by the Lessor of any sums from the Lessee (whether as Rental Payments or otherwise) in amounts which are less than the amounts due and payable by the Lessee hereunder is not intended, nor shall any such

acceptance be construed, to constitute an accord and satisfaction of any dispute between the Lessor and the Lessee regarding amounts due and payable by the Lessee hereunder, unless the Lessor specifically declares it as such in writing and then only with respect to that Person.

Section 11.14. No Merger. In no event shall the leasehold interests, estates or rights of the Lessee hereunder merge with any interests, estates or rights of the Lessor in or to the Project, it being understood that such leasehold interests, estates and rights of the Lessee hereunder shall be deemed to be separate and distinct from the Lessor's interests, estates and rights in or to the Project, notwithstanding that any such interests, estates or rights are at any time or times held by or vested in the same person, corporation or other entity.

Section 11.15. Survival. The obligations of the Lessee to be performed under this Lease at or prior to the Lease Termination Date, and the obligation of the Lessor to transfer and convey the Project pursuant to Section 8.3, and the obligations of the Lessee to pay or reimburse the Lessor for expenses or costs or for indemnification, shall survive the expiration or termination of this Lease. The extension of any applicable statute of limitations by any party shall not affect such survival.

Section 11.16. Chattel Paper. To the extent that this Lease constitutes chattel paper (as such term is defined in the Uniform Commercial Code in any applicable jurisdiction), no security interest in this Lease may be created through the transfer or possession of any counterpart other than the original counterpart, which shall be identified as the original counterpart by the receipt of the Lessor on its signature page.

Section 11.17. Time of Essence. Time is of the essence of this Lease.

Section 11.18. Recordation of Lease. Contemporaneously with the execution and delivery of this Lease, the parties shall execute a memorandum of this Lease in accordance with Revised Code Section 5301.251, which shall include such provisions of this Lease as the Lessor or the Lessee desire to include, and which shall be recorded at the Lessee's expense. Upon termination of this Lease in accordance with its terms, the parties agree to execute and deliver such documents as may be reasonably required to release and terminate such memorandum of this Lease of record.

Section 11.19. Project Sign. Lessee shall permit Lessor to erect a sign on the Project Site acknowledging the Lessor's role in the Project.

(End of Article XI)

IN WITNESS WHEREOF, the Lessor and the Lessee caused this Lease to be duly executed in their respective names, all as of the date hereinbefore written.

**Clover Communities Lorain LLC, an Ohio
limited liability company**

By: _____

Name: _____

Title: _____

Lorain Port Authority

By: _____

Name: _____

Title: _____

STATE OF OHIO

)

SS:

COUNTY OF _____

)

On _____, 2016, _____, the _____ of CLOVER COMMUNITIES LORAIN LLC, an Ohio limited liability company, acknowledged before me that he signed the foregoing instrument for and in the name and on behalf of that company.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

(SEAL)

NOTARY PUBLIC

STATE OF OHIO

)

SS:

COUNTY OF _____

)

On _____, 2016, _____, the _____ of the Lorain Port Authority, acknowledged before me that she signed the foregoing instrument for and in the name and on behalf of the Lorain Port Authority.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

(SEAL)

NOTARY PUBLIC

This Instrument was prepared by

David A. Rogers, Esq.
Frost Brown Todd LLC
10 West Broad Street, Suite 2300
Columbus, Ohio 43215

CERTIFICATE

The undersigned, Fiscal Officer of the Lessor under the foregoing Lease, hereby certifies that the moneys, if any, required to meet the obligations of the Lessor during the year 2016 under the aforesaid Lease have been lawfully appropriated by the Board of Directors of the Lessor for such purposes and are in the treasury of the Lessor or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. The obligations of the Lessor under the Lease are limited as provided in the recitals thereto and Section 12.8 thereof. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2016

Fiscal Officer
Lorain Port Authority

EXHIBIT A

PROJECT SITE

EXHIBIT B

PROJECT FACILITIES

The Project Facilities consist of a three-story building with 125 independent senior living units located in Lorain County, Ohio.

EXHIBIT C

PERMITTED EXCEPTIONS

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