

**COUNTY LAND LOAN AGREEMENT
(\$4,000,000)**

Between County of Santa Barbara

and

Hollister Lofts, L.P.

(Hollister Lofts)

COUNTY LAND LOAN AGREEMENT (Hollister Lofts)

This County Land Loan Agreement (“agreement”) is made as of this 5th day of November 2024, by and between the County of Santa Barbara, a political subdivision of the State of California (“Lender”), and Hollister Lofts, L.P., a California limited partnership (“Borrower”).

RECITALS

A. These Recitals utilize certain capitalized terms that are defined in Article 1 of this Agreement. The parties hereto intend to refer to those definitions in connection with their use in these Recitals.

B. Lender wishes to promote the development of more affordable rental housing in neighborhoods in need of revitalization in the Santa Barbara County community and provide a greater choice of housing opportunities for persons and families of low income.

C. Borrower proposes to acquire that certain real Property located at 4540 Hollister Avenue, Goleta, California, as more particularly described in Exhibit A. The County Land Loan will be used for the acquisition of the Property.

D. Borrower wishes to borrow from Lender and Lender wishes to extend to Borrower a loan of non-federal, County funds in the amount of Four Million Dollars and No Cents (\$4,000,000.00) to finance the acquisition of the Property. The County Land Loan is being made to finance acquisition costs associated with the Project in order to help achieve financial feasibility for the Project and maximize the affordability of the rental housing.

E. Borrower will secure necessary construction and permanent loans for the development of the Project.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, obligations, and representations, and in further consideration for the making of the County Land Loan, Borrower and Lender hereby agree as follows:

ARTICLE 1. DEFINITIONS

The following terms have the meanings and content set forth in this section wherever used in this County Land Loan Agreement, attached Exhibits, or documents incorporated into this County Land Loan Agreement by reference.

1.1 “**ANNUAL FINANCIAL STATEMENT**” means the audited financial statement of Operating Expenses and Revenues, prepared at Borrower's expense, by an independent certified public accountant reasonably acceptable to Lender, which shall form the basis for determining Residual Receipts.

1.2 “**AREA MEDIAN INCOME**” means the area median income for the Santa Barbara/Santa Maria/Lompoc Primary Metropolitan Statistical Area, as determined annually by HUD with adjustments for household size.

1.3 **"ASSISTED UNIT"** means any one of the sixteen (16) units designated by Borrower as an Assisted Unit subject to the requirements of the County Land Loan Regulatory Agreement.

1.4 **"BORROWER"** means Hollister Lofts, L.P., a California limited partnership, and its authorized representatives, assigns, transferees, and successors-in-interest to the extent permitted in accordance with Section 9.14, below. As the borrowing entity is organized as a limited partnership, "Borrower" includes the general partner or general partners who have effective control over the operation of the partnership, or, if the general partner is controlled by another entity, the controlling entity.

1.5 **"COUNTY"** means the County of Santa Barbara, a political subdivision of the State of California.

1.6 **"COUNTY LAND LOAN"** means the loan of County funds in the amount of Four Million Dollars (\$4,000,000) from the Lender to the Borrower as provided in this County Land Loan Agreement and as evidenced by the Note to finance Borrower's acquisition of the Property.

1.7 **"COUNTY LAND LOAN AGREEMENT"** means this Agreement entered into between Lender and Borrower.

1.8 **"COUNTY LAND LOAN DOCUMENTS"** means, collectively, the County Land Loan Agreement, the Note, the Deed of Trust, and the County Land Loan Regulatory Agreement, as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to these documents.

1.9 **"COUNTY LAND LOAN REGULATORY AGREEMENT"** means the agreement which regulates the operation of the Project executed by Borrower and Lender, substantially in the form attached hereto as Exhibit D, as well as any amendments to, modifications of, and restatements of the County Land Loan Regulatory Agreement. The terms of the recorded County Land Loan Regulatory Agreement are hereby incorporated into this County Land Loan Agreement.

1.10 **"DEED OF TRUST"** means that deed of trust, assignment of rents, and security agreement recorded as a lien against the Property as security for the Note that evidences the County Land Loan by Borrower as trustor with Lender as beneficiary, substantially in the form attached hereto as Exhibit B, as well as any amendments to, modifications of, and restatements of the Deed of Trust. The terms of the recorded Deed of Trust are hereby incorporated into this County Land Loan Agreement.

1.11 **"ESCROW HOLDER"** means the person or entity designated by the Borrower and approved by Lender to hold all County Land Loan proceeds and documents until receiving written instructions to record the documents and disburse the funds.

1.12 **"HAZARDOUS MATERIALS"** means any hazardous or toxic substances, materials, wastes, pollutants, or contaminants which are defined, regulated, or listed as "hazardous substances," "hazardous wastes," "hazardous materials," "pollutants," "contaminants," or "toxic

substances," under federal or state environmental and health and safety laws and regulations, including, without limitation: petroleum and petroleum byproducts, flammable explosives, urea formaldehyde insulation, radioactive materials, asbestos, and lead.

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

1.14 **"LENDER"** means the County of Santa Barbara, a political subdivision of the State of California, and its authorized representatives, officers, officials, directors, employees, and agents.

1.15 **"NOTE"** means the promissory note executed by the Borrower in favor of Lender in the amount of Four Million Dollars and No Cents (\$4,000,000.00) to evidence the County Land Loan, substantially in the form attached hereto as Exhibit C and hereby incorporated into this County Land Loan Agreement, as it may be amended or restated from time to time during the Term in accordance with the provisions thereof and this County Land Loan Agreement.

1.16 **"OPERATING EXPENSES"** means the actual, reasonable and customary costs, fees and expenses directly attributable to the operation, maintenance, and management of the Project, including painting, cleaning, repairs and alterations, landscaping, utilities, rubbish removal, certificates, permits and licenses, sewer charges, real and personal property taxes and assessments, insurance, property management fees, security, advertising, promotion and publicity, office, janitorial, cleaning and building supplies, cash deposited into reserves for capital replacements with respect to the Project in an amount not less than the amount specified in Section 2.12, below, purchase, lease, repair, servicing and installation of appliances, equipment, fixtures and furnishings, and reasonable fees and expenses of accountants, attorneys, consultants and other professionals in connection with and as necessary for the operation of the Project. The Operating Expenses shall be reported in each Annual Financial Statement, and the Operating Expenses shall be subject to prior review and approval by Lender each year during the Term.

1.17 **"PAYMENT DATE"** means the first day of April following recordation of a notice of completion issued for the Project and each April 1st thereafter until the County Land Loan is paid in full or the County Land Loan Agreement is terminated.

1.18 **"PROJECT"** means the construction, operation, management, and maintenance of the Property, in accordance with the terms of this County Land Loan Agreement, comprised of thirty-five (35) rental housing units, including one unrestricted manager's unit, with rents and incomes restricted to very low income and low income persons in accordance with the terms of the County Land Loan Regulatory Agreement.

1.19 **"PROPERTY"** means the real property located at 4540 Hollister Avenue, Goleta, California, as more particularly described in Exhibit A, which is incorporated into this County Land Loan Agreement by this reference, and all improvements existing and constructed thereon during the Term.

1.20 **"RESIDUAL RECEIPTS"** means the amount of annual Revenue minus the sum of annual Operating Expenses.

1.21 **"REVENUE"** means all gross income received in whole or in part in connection with the Project including, but not limited to, rent from the Units and income from laundry operations, vending machines, meeting space rental, storage, and parking, rental subsidy payments, and interest on any accounts, other than approved reserve accounts, related to the Project.

ARTICLE 2. TERMS OF THE LOAN

2.1 **LOAN.** On and subject to the terms and conditions of the County Land Loan Documents, Lender agrees to make, and Borrower agrees to accept the County Land Loan with the following terms:

2.2 **AMOUNT.** The principal amount of the County Land Loan shall be an amount not to exceed Four Million Dollars and No Cents (\$4,000,000.00) and shall be evidenced by the Note.

2.3 **INTEREST.** Subject to the provisions of Section 2.4, the Note shall bear simple interest at a rate of three percent (3%) per annum from the date of the Note. Interest is not compounding.

2.4 **DEFAULT INTEREST.** In the Event of Default by Borrower of any of its obligations under this County Land Loan Agreement and expiration of applicable cure periods (as described in Article 8), Borrower shall pay to Lender interest on the outstanding principal of the County Land Loan, at an annual rate equal to the lesser of (i) ten percent (10%) or (ii) the highest interest allowed by law, from the date of the Event of Default until the date that the default is cured, if subject to cure, or the County Land Loan is repaid in full.

2.5 **TERM OF LOAN.** The principal and all current and accrued interest of the County Land Loan shall be due and payable on the earlier of: (a) fifty-five (55) years after the first date as of which a certificate of occupancy has been issued by the applicable governmental authority for each of the Assisted Units, or (b) the date the Property or any interest therein is sold or otherwise transferred, whether directly or indirectly, by operation of law or otherwise, other than leases of the Units contemplated herein, or (c) an Event of Default by Borrower which has not been cured, if subject to cure, as provided for in this County Land Loan Agreement, or (d) if Borrower fails to commence construction in accordance with Section 4.1, below.

2.6 **USE OF FUNDS.** County Land Loan proceeds shall be used only for the purchase of the Property, including related closing costs.

2.7 **SECURITY.** Borrower shall secure its obligation to repay the County Land Loan and Note by executing the Deed of Trust and recording it as a lien against the Property.

2.8 **ORDER OF LOAN REPAYMENT.** Payments on the County Land Loan shall be made from a portion of Residual Receipts.

2.9 **REPAYMENT OF THE COUNTY LAND LOAN.** All accrued interest and principal shall be due and payable in accordance with the terms set forth in Section 2.5.

No repayment is due under the County Land Loan until the Payment Date. Payments shall commence on the first day of April following recordation of a notice of completion issued for the Project. Borrower shall make annual payments on the County Land Loan in the amount equal to fifty percent of Residual Receipts paid pro rata with all other subordinate governmental debt. On or before each Payment Date, Borrower shall submit the Annual Financial Statement to Lender for the preceding calendar year. Lender shall review and approve the Annual Financial Statement and determine annual Revenue. Lender shall review and approve the Annual Financial Statement and determine annual Operating Expenses as provided for below.

2.9.1 Operating Expenses. Thirty (30) days prior to the end of each calendar year during the Term, Borrower shall submit to Lender, for Lender's review and approval, a proposed operating budget for the Project for the following calendar year. The proposed operating budget shall include scheduled payments to be made into accounts for operating and capital replacement reserves. Should the actual total figure for operating expenses as established in the Annual Financial Statement exceed the proposed operating budget approved by Lender, then Borrower shall submit to Lender, for Lender's review and approval, the revised operating budget, and Lender shall determine what amount will constitute annual Operating Expenses in establishing the amount of Residual Receipts due to Lender.

2.9.2 Payments. All payments made by Borrower for the County Land Loan shall be applied as follows: first to pay current annual interest due, if any; then to the cumulative interest owed, if any; then to reduce the principal amount of the County Land Loan.

2.9.3 Dispute Resolution. In the event that Lender determines that there is an understatement in the amount and payment of Residual Receipts due to Lender, Borrower shall promptly pay to Lender such understatement, but in any event, no later than within twenty (20) days of notice of such understatement. In the event that Lender determines that there has been an overpayment in the amount and payment of Residual Receipts due to Lender, Lender shall pay to Borrower the amount of overpayment promptly, but in any event, within twenty (20) days of Lender's determination of such overpayment. Borrower has the right to contest Lender's determinations hereunder, but shall pay under protest and may request an audit by an independent certified public accountant.

2.10. **PREPAYMENT OF COUNTY LAND LOAN.** No prepayment-penalty will be charged to Borrower for payment of all or any portion of the County Land Loan amount prior to the end of the term described herein. However, prepayment of the County Land Loan shall not affect Borrower's obligations under the County Land Loan Regulatory Agreement.

2.11 **RECORDING.** Within thirty (30) calendar days following the Borrower receiving an allocation of Low Income Housing Tax Credits from the California Tax Credit Allocation Committee, Lender shall open escrow at First American Title Company, 100 South H Street, Lompoc, California, or at such other escrow company as may be agreed to by the parties ("Escrow Holder"); with escrow instructions to be based upon the terms and conditions set forth in the Real Property Sale & Purchase Agreement and Escrow Instructions dated November 5, 2024. Borrower shall direct the Escrow Holder to record the Deed of Trust and the County Land Loan Regulatory

Agreement with the Recorder for the County of Santa Barbara, and shall deliver conformed copies of the recorded documents to the Lender and Borrower.

2.12 CAPITAL REPLACEMENT RESERVE FUNDS. Borrower shall fund a capital replacement reserve in the amount of not less than \$500 per unit per year, with a three percent (3%) annual increase.

ARTICLE 3. COUNTY LAND LOAN CONDITIONS PRECEDENT

3.1 CONDITIONS PRECEDENT TO LAND LOAN AGREEMENT. This County Land Loan shall not take effect unless the following conditions precedent are satisfied prior to the disbursement of the County Land Loan:

A. There exists no Event of Default nor any act, failure, omission or condition that with the giving of notice or passage of time would constitute an Event of Default;

B. Borrower has executed and delivered to Lender all documents, instruments, and policies required under the County Land Loan Documents, including but not limited to an ALTA Lender's policy of title insurance in the amount of the County Land Loan from a title insurance company approved by Lender in a form reasonably acceptable to Lender;

C. Borrower has provided evidence of insurance satisfactory to Lender as set forth in Article 6 hereof; and

D. Borrower has secured all final permits, entitlements and approvals required by all permitting and regulatory authorities and jurisdictions relating to the Project.

ARTICLE 4.

DEVELOPMENT OF PROJECT

4.1 COMMENCEMENT OF CONSTRUCTION. Borrower shall commence construction of the Project no later than twenty-four (24) months after the Effective Date of this County Land Loan Agreement. Commencement of construction shall mean obtaining all final permits, entitlements and approvals required by all permitting and regulatory authorities and jurisdictions, and commencing work on any task associated with the Project at the Property that requires a permit, entitlement or approval. If Borrower fails to commence construction as set forth above, Lender may terminate this County Land Loan Agreement pursuant to Article 8, below.

4.2 COMPLETION OF CONSTRUCTION. Borrower shall diligently pursue construction of the Project to completion, and shall complete construction of the Project no later than twenty four (24) months after commencement of construction, as defined in Section 4.1, above. Borrower shall provide proof of completion as evidenced by the recording of a notice of completion for the Project ("Notice of Completion") and securing certificate(s) of occupancy for each of the Units.

4.3 FINANCING. Borrower shall promptly inform Lender in writing of any changes in the amount, terms, or sources of financing or funding for the Project.

4.4 CONTRACTS AND SUBCONTRACTS. All work and professional services for the Project shall be performed by persons or entities licensed or otherwise authorized to perform such work or service(s) in the State of California.

All costs incurred in development and operation of the Project shall be the responsibility and obligation solely of Borrower.

4.5 INSPECTIONS. Borrower shall permit and facilitate, and shall require its contractors to permit and facilitate, observation and inspection at the Project site by Lender and by public authorities during reasonable business hours upon reasonable notice for the purposes of determining compliance with this County Land Loan Agreement. Copies of monthly construction inspection reports shall be provided to the County immediately upon completion of each such construction inspection report.

4.6 SITE SUPERVISION. During the construction of the Project, Borrower shall maintain a full-time site superintendent to supervise all construction work on the Property. The site superintendent shall be on-site at all times during construction work hours.

4.7 CONSTRUCTION RESPONSIBILITIES. Borrower shall be solely responsible for all aspects of Borrower's acts and omissions, and acts and omissions on behalf of Borrower, in connection with the Project, including, but not limited to, the quality and suitability of the construction work, the supervision of construction work, and the qualifications, financial condition, and performance of all contractors, subcontractors, suppliers, consultants, and property managers. Any review or inspection undertaken by Lender with reference to the Project is solely for the purpose of determining whether Borrower is properly discharging its obligations under the County Land Loan Documents, and should not be relied upon by Borrower or by any third parties as a warranty or representation by Lender as to the quality of the construction of the Project.

4.8 BARRIERS TO THE DISABLED. The Project shall be developed and the Property shall be maintained and operated in compliance with all applicable federal, state, and local requirements for access for disabled persons, including but not limited to Section 504 of the Rehabilitation Act of 1973 (29 USC 794), as amended, and with implementing regulations at 24 CFR Part 8, and the Fair Housing Act (42 USC 3601-3619), implemented at 24 CFR Part 100, Subpart D. Within thirty (30) days after Borrower has completed the construction of the Project, Borrower shall submit documentation of compliance with these requirements satisfactory to Lender, including, but not limited to, a certification from the Project architect documenting the unit number and type of accessibility features of each Unit.

4.9 LEAD-BASED PAINT AND ASBESTOS REMOVAL. Borrower and its contractors and subcontractors shall not use lead-based paint or asbestos in the construction or maintenance of the Project, and shall comply with Federal regulations set forth in 24 CFR Part 35, subparts A, B, J, K, M and R, 29 CFR, 40 CFR, the Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as Title X (42 USC, 4851, et seq.), the Lead-Based Paint Poisoning Prevention Act (42 USC 4821, et seq.), California OSHA, California Health and Safety Code, and all other applicable Federal, state and County laws, regulations, and standards. Borrower shall incorporate, or cause to be incorporated, this provision in all contracts and subcontracts for work performed on the Project which involve the application of paint or removal of asbestos.

4.10 QUALITY OF WORK AND PROPERTY STANDARDS. Borrower shall construct the Project in conformance with all Applicable Laws, including, but not limited to:

- A. All applicable Federal, state, and local statutes and regulations;
- B. All applicable Federal, state, and local building codes and zoning ordinances;

- C. All permits, entitlements, and approvals for the Project;
- D. International Energy Conservation Code and applicable Federal, state, and local energy conservation codes; and
- E. Property standards set forth at 24 CFR 92.251.

4.11 MECHANICS LIENS AND STOP NOTICES. If any claim of lien is filed against the Property, or a stop notice affecting the County HOME Loan is served on Lender or any other lender or other third party in connection with the Project, Borrower shall, within sixty (60) days of such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to Lender a surety bond in sufficient form and amount, provide Lender with a lien-free endorsement, or provide Lender with other assurance reasonably satisfactory to Lender that the claim of lien or stop notice shall be promptly paid or discharged.

If Borrower fails to discharge any lien, encumbrance, charge, or claim referred to herein, then, in addition to any other right or remedy, Lender may, but shall be under no obligation to, discharge such lien, encumbrance, charge, or claim at Borrower's expense. Alternatively, Lender may require Borrower to immediately deposit with Lender the amount necessary to satisfy such lien or claim and any costs pending resolution thereof. Lender may use such deposit to satisfy any claim or lien that is adverse to or against Borrower or the Property.

Borrower shall record a valid notice of cessation or Notice of Completion upon cessation of construction work on the Project for a continuous period of thirty (30) days or more, and take all other reasonable steps to forestall the assertion of claims of lien against the Property. Borrower authorizes Lender, but without any obligation on the part of Lender, to record any notices of completion or cessation of labor, or any other notice that Lender deems necessary or desirable to protect its interest in the Project and Property.

4.12 COMPLIANCE WITH NO PLACE LIKE HOME PROGRAM AND OTHER STATE REQUIREMENTS. All requirements imposed on properties assisted under the No Place Like Home ("NPLH") program are incorporated herein by this reference.

4.13 RELOCATION. If and to the extent that development of the Project results in the permanent or temporary displacement of residential tenants, homeowners, or businesses, Borrower shall comply with all applicable local, state and federal statutes and regulations with respect to relocation planning, advisory assistance, and payment of monetary benefits, including but not limited to the Uniform Relocation and Real Property Acquisitions Act As Amended (42 USC 4601, et seq.) ("URA"), Section 104(d) of the Housing and Community Development Act of 1974 (42 USC 5304(d)), regulations at 24 CFR Part 42 and 49 CFR Part 24, and HUD Handbook 1378. Borrower shall be solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with said relocation laws. If, upon audit review by Lender or by any Federal agency, it is determined that additional relocation payments are due, then Borrower consents to make such payments. In the event Borrower does not make payments as requested by Lender, then such failure to make such payments shall constitute an Event of Default. Lender may require repayment of the County Land Loan plus any and all relocation payments due. Without limiting or otherwise affecting the standard indemnity and insurance provisions set forth in Article 6 and Exhibit E, Borrower hereby agrees to indemnify Lender for any action brought against Lender based on an alleged failure to comply with relocation obligations arising out of this Project.

ARTICLE 5. OPERATION

5.1 OPERATION OF PROJECT. Borrower shall operate, manage, and maintain the Project in full conformance with the terms of the County Land Loan Regulatory Agreement, which, among other provisions, include restrictions on the Property and the Project regarding Assisted Unit rents and tenant income, leases, and property standards. Any breach of the terms of the County Land Loan Regulatory Agreement and any of the other County Land Loan Documents shall constitute an Event of Default under this County Land Loan Agreement.

5.2 CONFLICTS BETWEEN COVENANTS OR RESTRICTIONS AFFECTING THE PROPERTY. Any conflicts between the restrictive provisions contained in this County Land Loan Agreement and the County Land Loan Documents or any other agreements in connection with the County Land Loan or which affect the Property, are to be resolved by applying the more restrictive covenants or restrictions which affect the County Land Loan or the Property.

5.3 NONDISCRIMINATION. Borrower shall not discriminate or segregate in the development, construction, use, enjoyment, occupancy, conveyance, lease, sublease, or rental of any part of the Property on the basis of race, color, ancestry, national origin, religion, sex, gender, gender identity or expression, sexual preference or orientation, age, marital status, family status, source of income, physical or mental disability, medical condition, genetic information, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), or any basis prohibited by law. Borrower shall include a statement in all advertisements, notices and signs for the availability of Assisted Units for rent to the effect that Borrower is an Equal Housing Opportunity Provider. Borrower shall comply with all applicable local, state, and federal laws concerning discrimination and equal opportunity in housing.

5.4 RECORDS AND REPORTS. Borrower shall be accountable to Lender for all County Land Loan funds disbursed to Borrower pursuant to the County Land Loan Documents. Borrower agrees to maintain records that accurately and fully show the date, amount, purpose, and payee of all expenditures for construction, and to keep all invoices, receipts, and other documents related to expenditures for construction costs for the Project until five (5) years after the term of the County Land Loan Regulatory Agreement.

Commencing on the first day of April following recordation of a notice of completion issued for the Project, Borrower shall submit reports annually to Lender with information regarding tenant income, rent and inspection information for all Assisted Units. Such information and all records related to any revenue received relating to, arising out of, or in connection with the Project must be kept until five years after the term of the Regulatory Agreement. Records must be kept accurate and current.

Borrower shall promptly comply with all requirements and conditions of this County Land Loan Agreement relating to notices, extensions, and other events required to be reported or requested. Borrower shall promptly supply, upon the request of Lender, any and all information and documentation which involves the Project or the County Land Loan and cooperate with Lender in the development of the Project.

Borrower shall submit monthly to Lender written Project construction progress reports and updated construction schedules within ten (10) days following the end of each month, commencing with the execution of this County Land Loan Agreement and concluding upon the recordation of the notice of completion.

Records of all permits, entitlements and approvals, inspections and sign-offs required by all permitting and regulatory authorities and jurisdictions shall be submitted by Borrower to Lender within 30 days following the recordation of the notice of completion.

Copies of the certificate(s) of occupancy shall be submitted by Borrower to Lender upon receipt.

5.5 AUDITS. Borrower shall conduct annual audits and submit to Lender an Annual Financial Statement. Borrower shall make available to Lender for examination at reasonable intervals and during normal business hours all books, accounts, reports, files, and other papers or property with respect to all matters covered by this County Land Loan Agreement, and shall permit Lender to audit, examine, and make excerpts or transcripts from such records. Lender may audit any transaction, record, or document relating to the County Land Loan at any time during and up to 5 years after the conclusion of the County Land Loan Regulatory Agreement.

Lender shall notify Borrower of any records it deems insufficient. Borrower shall immediately begin to correct any deficiency in the records specified by Lender in said notice as soon as reasonably possible. Borrower shall have fifteen (15) calendar days from the date of said notice to correct any deficiency. If more than fifteen (15) days shall be reasonably necessary to correct the deficiency, Borrower shall submit a written request to Lender for an extension. Lender shall respond to an extension request within fifteen (15) days.

5.6 ENCUMBRANCE OF PROPERTY. Borrower shall not engage in any financing or any other transaction creating any security interest or other encumbrance or lien upon the Property, whether by express agreement or operation of law or otherwise, or allow any encumbrance or lien to be made on or attached to the Property, except with the prior written consent of Lender, and shall be made only if duly executed by an authorized representative of Lender. Borrower shall notify Lender in writing in advance of any financing secured by any deed of trust, mortgage, or other similar lien instrument that it proposes to enter into with respect to the Project or Property, and shall immediately notify Lender in writing of any encumbrance or lien that has been created on or attached to the Property, whether by voluntary act of or on behalf of Borrower or otherwise

5.7 TRANSFER OF PROPERTY. Borrower warrants and represents that it has not made, permitted, allowed, acquiesced in or created, and Borrower shall not, make, permit, acquiesce in or create, any sale, assignment, conveyance, lease (other than the leasing of Assisted Units in the Project pursuant to an approved lease), or other transfer, in whole or in part, directly or indirectly, by operation of law or otherwise, of the Property, or any interest therein, without the prior written consent of Lender in each instance duly executed by an authorized representative of Lender. Borrower shall obtain the prior written consent of Lender duly executed by an authorized representative of Lender prior to and as a condition of assigning the County Land Loan or any of Borrower's obligations or interests hereunder

5.8 TRANSFER OF PARTNERSHIP INTEREST. Borrower warrants and represents that it has not made, permitted, allowed, acquiesced in or created, and Borrower shall not make, permit, acquiesce in or create any sale, assignment, conveyance, or other transfer of any general partnership interests without the prior written consent of Lender. Notwithstanding the foregoing, if the general partner of Borrower fails to perform any of its obligations, duties or covenants under any County Land Loan Documents or a default by Borrower's general partner occurs pursuant to the terms of the agreement of limited partnership, the Borrower shall be entitled to remove Borrower's general partner and substitute a new general partner upon prior approval in writing by Lender. Such removal and substitution with Lender's written approval shall not constitute a default under the County Land Loan Documents or cause the acceleration of the County Land Loan or entitle Lender to exercise its other remedies under the County Land Loan Documents. Lender's approval of the installation of the substitute general partner shall not be unreasonably withheld or delayed. Notwithstanding anything to the contrary contained herein, a transfer of a limited partner interest as defined in the agreement of limited partnership shall not be deemed a transfer under this County Land Loan Agreement.

5.9 FEES, TAXES, AND OTHER LEVIES. Borrower shall be responsible for payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Property or the Project, and shall pay such charges prior to delinquency. However, Borrower shall not be required to pay and discharge any such charge so long as (a) the legality thereof is being contested diligently and in good faith and by appropriate proceedings, and (b) if requested by Lender, Borrower deposits with Lender any funds or other forms of assurance Lender in good faith from time to time determines appropriate to protect Lender from the consequences of the contest being unsuccessful.

5.10 DAMAGE TO PROPERTY. If the Property or any building or other improvement on the Property is damaged or destroyed by an insurable cause, Borrower shall, at its sole cost and expense, diligently undertake to repair or restore said buildings and improvements, unless Lender reasonably determines that such restoration or repair is not economically feasible. Such work or repair shall be commenced within one hundred twenty (120) days after the damage or loss occurs and shall be complete within one (1) year thereafter, subject to any extensions of time granted by Lender. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, Borrower shall make up the deficiency.

If Lender determines that restoration or repair is not economically feasible, then Lender may declare an Event of Default, such that the unpaid principal and all accrued and unpaid interest on the County Land Loan shall then be immediately due and payable, and Borrower shall apply all insurance proceeds thereto.

5.11 EQUAL EMPLOYMENT OPPORTUNITY. Borrower and all contractors, subcontractors, and professional service providers performing services on the Property or otherwise in connection with the Project shall comply with all Federal, state and local requirements concerning equal employment opportunity, including, but not limited to, equal opportunities for businesses and lower-income persons (referred to as a Section 3 clause, of the Housing and Urban Development Act of 1968, 12 U.S.C.).

ARTICLE 6. INDEMNITY AND INSURANCE

6.1 **INDEMNITY.** Borrower shall comply with the indemnification provisions set forth in Exhibit E "Standard Indemnification and Insurance Provisions" attached hereto and incorporated herein.

6.2 **INSURANCE.** Borrower shall comply with the insurance provisions set forth in Exhibit E "Standard Indemnification and Insurance Provisions" attached hereto and incorporated herein.

6.3 **NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.** No officials, employees and agents of Lender shall be personally liable to Borrower for any obligation created under the terms of these County Land Loan Documents.

ARTICLE 7. HAZARDOUS MATERIALS

7.1 **REPRESENTATIONS AND WARRANTIES.** After reasonable investigation and inquiry, Borrower hereby represents and warrants, as of the date of this County Land Loan Agreement and except as previously disclosed and acknowledged in writing by Lender or as disclosed by the reports based on environmental audit(s) performed on the Property and submitted to Lender, that (a) the Property is not and has not been a site for the use, generation, manufacture, transportation, storage, or disposal of Hazardous Materials in violation of federal or state law; (b) the Property is in compliance with all applicable environmental and health and safety laws, regulations, ordinances, administrative decisions, common law decisions (whether federal, state, or local) with respect to Hazardous Materials, including those relating to soil and groundwater conditions ("Hazardous Materials Laws"); (c) there are no claims or actions pending or threatened with respect to the Property by any governmental entity or agency or any other person relating to Hazardous Materials; and (d) there has been no release or threatened release of any Hazardous Materials on, under, or near the Property (including in the soil, surface water, or groundwater under the Property) or any other occurrences or conditions on the Property or on any other real property that could cause the Property or any part thereof to be classified as a "hazardous waste facility" or as a "buffer zone" under California Health and Safety Code Sections 25100, et seq.

7.2 **NOTIFICATION TO LENDER.** Borrower shall promptly notify Lender in writing of any of the following: (a) the discovery of any concentration or amount of Hazardous Materials of which Borrower becomes aware or of which Borrower has direct or constructive knowledge on, under, or near the Property requiring notice to be given to any governmental entity or agency under Hazardous Materials Laws; (b) any knowledge, whether direct or constructive, by Borrower that the Property does not comply with any Hazardous Materials Laws; (c) the receipt by Borrower of notice of any claims or actions pending or threatened with respect to the Property relating to Hazardous Materials Laws by any governmental entity, agency, corporation or person; or (d) the discovery by Borrower of any occurrence or condition on the Property or on any real property located within 2,000 feet of the Property that could cause the Property or any part thereof to be designated as a "hazardous waste property" or as a "buffer zone" under California Health and Safety Code Sections 25100, et seq., or regulations adopted in connection therewith.

7.3 USE AND OPERATION OF PROPERTY. Borrower and Borrower's agents, employees, contractors, subcontractors, tenants, guests, and permittees shall not use the Property or allow the Property to be used for the generation, manufacture, storage, disposal, or release of Hazardous Materials. Borrower shall comply and cause the Project and use thereof to comply with all Hazardous Materials Laws.

7.4 REMEDIAL ACTIONS. If at any time Borrower has actual or constructive knowledge of the presence of any Hazardous Materials on, under, or near the Property, Borrower shall promptly undertake, at no cost or expense to Lender and without any liability on the part of or attributable to Lender, all handling, treatment, removal, storage, decontamination, cleanup, transport, disposal and other remedial actions, if any, required by any Hazardous Materials Laws or by any orders or requests of any governmental entity or agency or any judgment, consent decree, settlement or compromise with respect to any claims or actions related to Hazardous Materials Laws. The foregoing, however, shall be subject to Borrower's right of contest below.

7.5 RIGHT OF CONTEST. Borrower may contest in good faith any claim, demand, levy or assessment under Hazardous Materials Laws if: (a) the contest is based on a material question of law or fact raised by Borrower in good faith, (b) Borrower promptly commences and thereafter diligently pursues the contest, (c) the contest will not materially impair the taking of any remedial action with respect to such claim, demand, levy or assessment, and (d) if requested by Lender, Borrower deposits with Lender all funds and other forms of assurance and security Lender in good faith from time to time determines appropriate to protect Lender from liability and other consequences of such contest being unsuccessful, and any remedial action then reasonably necessary. No Event of Default shall be deemed to exist with respect to any claim, demand, levy or attachment being contested by Borrower under this Section 7.5, provided that Borrower does so in full compliance herewith and with the other Loan Documents and all applicable laws.

7.6 ENVIRONMENTAL INDEMNITY. Without limiting or otherwise affecting the indemnity and insurance provisions set forth in Article 6, above, and in Exhibit E, Borrower shall defend, indemnify, and hold Lender free and harmless against any and all claims, demands, administrative actions, litigation, liabilities, losses, damages, response costs, and penalties, including, but not limited to, all costs of legal proceedings and reasonable attorney's fees, that Lender may directly or indirectly incur, sustain or suffer as a consequence of any inaccuracy or breach of any representation, warranty, agreement, or covenant contained in this County Land Loan Agreement with respect to Hazardous Materials, or as a consequence of any use, generation, manufacture, storage, release, or disposal (whether or not Borrower knew of same) of any Hazardous Materials occurring prior to or during Borrower's use or occupancy of the Property.

ARTICLE 8. DEFAULT AND REMEDIES

8.1 EVENTS OF DEFAULT. The occurrence of any of the following events shall constitute an "Event of Default" under this County Land Loan Agreement. Borrower shall provide immediate written notice to Lender of any occurrence or potential occurrence of any of the following events:

A. Monetary. (1) Borrower's failure to pay when due any sums payable under the County Land Loan Agreement and Note or any advances made by Lender under the Deed of Trust or this County Land Loan Agreement; (2) Borrower's use of County Land Loan funds for costs

other than acquisition of the Property or for uses inconsistent with any term or restriction in the County Land Loan Documents; (3) Borrower's failure to obtain and maintain the insurance coverage required under this County Land Loan Agreement; (4) Borrower's failure to make any other payment due under the County Land Loan Documents; (5) Borrower's failure to pay taxes; (6) Borrower's default, after applicable notice and cure periods have expired, under any other agreement related to, in connection with, or arising out of debt secured by the Property;

B. Operation. (1) Discrimination by Borrower on the basis of characteristics prohibited by this County Land Loan Agreement or applicable law, or (2) the imposition of any encumbrances or liens on the Property without Lender's prior written approval, or (3) any invalidation or reduction of the priority of the Deed of Trust or County Land Loan Regulatory Agreement arising out of any act or omission by or on behalf of Borrower;

C. General performance of County Land Loan Documents obligations. Any breach by Borrower beyond applicable notice and cure periods, if any, of any of Borrower's obligations under any of the County Land Loan Documents;

D. General performance of other obligations. Any breach by Borrower beyond applicable notice and cure periods, if any, of any obligations on Borrower imposed by any other agreements, including any grant agreements, with respect to the financing, rehabilitation, or operation of the Project or the Property, whether or not Lender is a party to such agreement, which may impair Lender's security under the Deed of Trust;

E. Representations and warranties. A determination by Lender that its security under the Deed of Trust has or will be materially impaired due to the fact that any of Borrower's representations or warranties made in any of the County Land Loan Documents, or any certificates, documents, or schedules supplied to Lender by or on behalf of Borrower, were untrue in any material respect when made, or that Borrower concealed or failed to disclose a material fact from Lender;

F. Damage to or failure to maintain Property. Material damage or destruction to the Property by fire or other casualty, if Borrower does not take steps to reconstruct the Project as required by the County Land Loan Documents, or if Borrower fails to maintain the Property;

G. Bankruptcy, dissolution, and insolvency. Borrower's (1) filing for bankruptcy, dissolution, or reorganization, or failure to obtain a full dismissal of any such involuntary filing brought by another party before the earlier of final relief or ninety (90) days after the filing; (2) making a general assignment for the benefit of creditors; (3) applying for the appointment of a receiver, trustee, custodian, or liquidator, or failure to obtain a full dismissal of any such involuntary application brought by another party before the earlier of final relief or ninety (90) days after the filing; (4) insolvency; (5) failure, inability or admission in writing of its inability to pay its debts as they become due;

H. Construction. (1) use of defective or unauthorized materials or defective workmanship in constructing the Project; (2) Borrower's failure to commence or timely complete construction in accordance with this County Land Loan Agreement; (3) the cessation of construction prior to completion of the Project for a period of more than thirty (30) consecutive

calendar days without prior written approval from Lender; (4) Borrower's failure to remedy any deficiencies in recordkeeping or failure to provide records to Lender upon Lender's reasonable request; (5) Borrower's failure to substantially comply with any Applicable Laws or Lender policies pertaining to construction, including, but not limited to, provisions of this County Land Loan Agreement pertaining to affirmative action and equal employment opportunity, minority and women-owned business enterprises, disabled access, lead-based paint, Hazardous Materials, and provision or relocation benefits and assistance.

8.2 NOTICE OF DEFAULT AND OPPORTUNITY TO CURE.

A. In the event of an Event of Default, Lender shall give written notice to Borrower of such Event of Default (each, a "Default Notice") which specifies:

- i. the nature of the event or deficiency giving rise to the Event of Default,
- ii. whether, in Lender's sole discretion, such Event of Default is subject to cure, and
- iii. if the Default Notice indicates that such Event of Default is subject to cure, the action(s) required to cure such Event of Default, and the date(s) by which such action(s) to cure, as specified therein, must be completed.

The Lender has the sole discretion to determine the reasonable time needed to cure. Notwithstanding anything to the contrary contained herein, a cure by the limited partner of Borrower shall be accepted as if cured by Borrower itself.

B. Notwithstanding anything to the contrary contained in the Loan Agreement, Lender hereby agrees that any cure of any default made or tendered by Borrower's limited partner shall be deemed to be a cure by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower. Copies of all notices which are sent to Borrower under the terms of this Loan Agreement shall also be sent to Borrower's limited partner at an address designated by Borrower's limited partner.

8.3 LENDER'S REMEDIES. Upon the occurrence of an Event of Default and, if applicable, a failure to cure said Event of Default in accordance with the applicable Default Notice, Lender may, in addition to other rights and remedies permitted by the County Land Loan Documents or applicable law, proceed with any or all of the following remedies in any order or combination Lender may choose in Lender's sole discretion:

A. Terminate this County Land Loan Agreement, in which event the entire principal amount outstanding and all accrued interest under the County Land Loan Agreement and Note, as well as any other monies advanced to Borrower by Lender under the County Land Loan Documents, including, but not limited to, administrative costs, shall immediately become due and payable at the option of Lender;

B. Bring an action in equitable relief (1) seeking the specific performance by Borrower of the terms and conditions of the County Land Loan Documents, and/or (2) enjoining, abating, or preventing any violation of said terms and conditions, and/or (3) seeking declaratory relief;

C. Accelerate the County Land Loan, and demand immediate full payment of the principal amount outstanding and all accrued interest under the County Land Loan Agreement and Note, as well as any other monies advanced to Borrower by Lender under the County Land Loan Documents, plus associated amounts due, such as relocation benefits described in Section 4.13, above;

D. Enter the Property and take any actions Lender deems necessary in its judgment to complete construction of the Project (subject to Lender's right at any time to discontinue work without liability), including without limitation (1) making changes in the scope of work or other work or materials with respect to the Project, (2) entering into, modifying, or terminating any contractual arrangements (subject to Lender's right at any time to discontinue work without liability), and (3) taking any remedial actions with respect to Hazardous Materials that Lender deems necessary to comply with Hazardous Materials Laws or to otherwise render the Property suitable for occupancy;

E. Seek appointment from a court of competent jurisdiction of a receiver with the authority to complete construction as needed to preserve Lender's interest in seeing the Project developed in a timely manner (including the authority to take any remedial actions with respect to Hazardous Materials that Lender or the receiver deems necessary to comply with Hazardous Materials Laws or to otherwise render the Property suitable for occupancy) and to operate, manage, and maintain the Project;

F. Initiate and pursue any private and/or judicial foreclosure action allowed under applicable law and the power of sale provision in the Deed of Trust;

G. With respect to defaults under Hazardous Materials provisions herein, pursue the rights and remedies permitted under applicable law, including, but not limited to California Civil Code Section 2929.5, and California Code of Civil Procedure Sections 564, 726.5, and 736;

H. Order immediate stoppage of construction work and demand that any condition resulting in an Event of Default be corrected before construction work may continue;

I. Enter upon, take possession of, and manage the Property, either in person, via agent, or by a receiver appointed by a court, and collect rents and other amounts specified in the assignment of rents in the Deed of Trust and apply them to operate the Property or to pay off the County Land Loan and/or any advances made under the County Land Loan Documents, as provided for by the County Land Loan Deed of Trust; or

J. Pursue any other remedy allowed at law or in equity. Nothing in this section is intended or shall be construed as precluding Lender from proceeding with a non-judicial foreclosure under the power of sale contained in the Deed of Trust in the Event of Default by Borrower.

ARTICLE 9. GENERAL PROVISIONS

9.1 BORROWER'S WARRANTIES. Borrower represents and warrants: (1) that it is duly organized, validly existing and in good standing under the laws of the State of California, (2)

that it has the full power and authority to carry out the Project and to execute this County Land Loan Agreement, (3) that the persons executing and delivering this County Land Loan Agreement are authorized to execute and deliver this County Land Loan Agreement and all such other reasonable or necessary documents on behalf of Borrower, (4) that there has been no substantial adverse change in Borrower's financial condition including, but not limited to, judgment liens, tax liens, mechanic's liens, or bankruptcy, (5) that Borrower has access to professional advice and support to the extent necessary to enable Borrower to fully comply with the terms of each of the County Land Loan Documents and to otherwise carry out the Project in a good and workmanlike and professional manner, and (5) that all representations of Borrower regarding this County Land Loan (including all supplementary submissions of documents) are true, correct and complete in all respects and are offered to induce Lender to make this County Land Loan.

9.2 MONITORING AND EVALUATION. Except as otherwise provided for in this County Land Loan Agreement, Borrower shall maintain and submit records to Lender within ten (10) business days of Lender's request which document Borrower's performance of each requirement of this County Land Loan Agreement.

9.3 CONFLICTS OF INTEREST. Borrower covenants that:

A. Except for approved eligible administrative or personnel costs, no person described in subsection (B) below who exercises or has exercised any functions or responsibilities with respect to the activities funded pursuant to this contract or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during, or at any time after, such person's tenure. The Borrower shall exercise due diligence to ensure that the prohibition in this Section is followed.

B. The conflict of interest provisions of Section 9.3(A) above apply to any person who is an employee, agent, consultant, officer, partner, representative, or independent contractor of Borrower, or any immediate family member of such person, or any person related within the third (3rd) degree of such person. No employee, agent, consultant, officer, partner, representative, or independent contractor of Borrower, or any immediate family member of such person, or any person related within the third (3rd) degree of such person, is an elected or appointed official of the County.

9.4 POLITICAL ACTIVITY. None of the funds, materials, property or services contributed by Lender or Borrower under this County Land Loan Agreement shall be used for any partisan political activity or the election or defeat of any candidate for public office or of any measures or initiatives.

9.5 PUBLICITY. Any publicity produced by Borrower for the Project during the term of this County Land Loan Agreement and for one (1) year thereafter shall make reference to the contribution of Lender in making the Project possible. The words "County of Santa Barbara" will be prominently displayed in any and all pieces of publicity, including but not limited to flyers, press releases, posters, signs, brochures, public service announcements, interviews, and newspaper

articles. Borrower further agrees to cooperate with authorized staff and officials of Lender in any Lender-generated publicity or promotional activities undertaken with respect to the Project.

9.6 TERM OF THIS AGREEMENT. This County Land Loan Agreement shall commence effective as of the first date duly executed by all of the parties hereto, and shall remain in full force and effect throughout the Term.

9.7 GOVERNING LAW. This County Land Loan Agreement shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law or those provisions preempted by federal law.

9.8 STATUTORY REFERENCES. All references in this County Land Loan Agreement to particular statutes, regulations, ordinances, or resolutions of the United States, the State of California, or the County of Santa Barbara shall be deemed to include the same statute, regulation, ordinance, or resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject as the provision to which specific reference was made.

9.9 TIME. Time is of the essence in this County Land Loan Agreement.

9.10 CONSENTS AND APPROVALS. Any consent or approval of Lender or Borrower required under this County Land Loan Agreement shall not be unreasonably withheld. Any approval required under this County Land Loan Agreement shall be in writing and executed by an authorized representative of the party granting the approval.

9.11 NOTICES, DEMANDS AND COMMUNICATIONS. All notices, demands and communications between Borrower and Lender shall be sufficiently given and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the principal offices of Borrower and Lender as follows:

LENDER: County of Santa Barbara
Housing and Community Development
105 E Anapamu Street, Room 406
Santa Barbara, CA 93101-2065
Attn: Deputy Director

With a copy to: Office of the County Counsel
105 E Anapamu Street, Room 201
Santa Barbara, CA 93101-2065

BORROWER: Hollister Lofts, L.P.
815 West Ocean Avenue
Lompoc, CA 93436
Attn: Executive Director

With a copy to: Price, Postel & Parma LLP
Attn: Mark S. Manion
200 East Carrillo Street, Fourth Floor
Santa Barbara, CA 93101

9.12 BINDING UPON SUCCESSORS. All provisions of this County Land Loan Agreement shall be binding upon the successors-in-interest, transferees, and assigns of each of the parties hereto; provided, however, that the benefits hereof shall only inure to the permitted successors-in-interest, transferees, and assigns of Borrower to the extent in accordance with Section 9.14, below.

9.13 RELATIONSHIP OF PARTIES. The relationship of Borrower and Lender under this County Land Loan Agreement is and at all times shall remain solely that of a debtor and a creditor, and shall not be construed as a joint venture, equity venture, partnership, or any other relationship. Lender neither undertakes nor assumes any responsibility or duty to Borrower (except as provided for herein) or any third party with respect to the Project, the Property, the County Land Loan, or the County Land Loan Documents.

9.14 ASSIGNMENT AND ASSUMPTION. Borrower shall not assign or otherwise transfer, in whole or in part, directly or indirectly, whether by operation of law or otherwise ("Transfer"), this County Land Loan Agreement, or any of the other County Land Loan Documents, or any of its interests herein or therein, or any of its rights or obligations hereunder or thereunder, except to the extent specifically permitted hereunder, without the prior written consent of Lender in each instance, which must be duly executed by an authorized representative of Lender. Any purported Transfer in violation of this Section 9.14 shall be void *ab initio* and shall constitute an Event of Default and a breach of this County Land Loan Agreement.

9.15 WAIVER. Any waiver by Lender of any Borrower obligation or Lender right or remedy in this County Land Loan Agreement or any waiver by Lender of any term of the County Land Loan Documents must be in writing, and shall be made only if duly executed by an authorized representative of Lender. No waiver will be implied from any delay or failure by Lender to take action on any breach or default of Borrower or to pursue any remedy allowed under this County Land Loan Agreement, the County Land Loan Documents or applicable law. Any extension of time granted to Borrower to perform any obligation under this County Land Loan Agreement shall not operate as a waiver or release from any of its obligations under this County Land Loan Agreement or any term of the County Land Loan Documents. Consent by Lender to any act or omission by Borrower shall not be construed as a waiver to any other or subsequent act or omission or to waive the requirement for Lender's written consent to future waivers.

9.16 INTEGRATION. This County Land Loan Agreement and the other County Land Loan Documents contain the entire agreement of the parties hereto and thereto with respect to the subject matter hereof and thereof, and supersede any and all prior negotiations and agreements with respect to the subject matter hereof and thereof.

9.17 OTHER AGREEMENTS. Borrower represents that it has not entered into any agreements that are inconsistent or in conflict with the terms of this County Land Loan Agreement

or the County Land Loan Documents. Borrower shall not enter into any agreements that are inconsistent or in conflict with the terms of the County Land Loan Documents without an express waiver by Lender in writing.

9.18 AMENDMENTS AND MODIFICATIONS. No changes, modifications, or amendments to this County Land Loan Agreement shall be effective unless set forth in a written amendment to this County Land Loan Agreement executed by a duly authorized representative of each party hereto. Borrower agrees to not unreasonably withhold its approval of any amendments proposed by Lender that are necessary in order to conform with Applicable Laws.

9.19 SEVERABILITY. Every provision of this County Land Loan Agreement is intended to be severable. If any provision of this County Land Loan Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

9.20 COUNTERPARTS. This County Land Loan Agreement may be executed electronically and in any number of counterparts, each of which is an original and all of which taken together form one single document.

Remainder of Page Left Intentionally Blank

IN WITNESS WHEREOF, Lender and Borrower have caused this County Land Loan Agreement to be executed by their respective duly authorized representatives, as set forth below, effective as of the first date duly executed by all of the parties hereto ("Effective Date").

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD

By: Sheila De La Guerra
Sheila De La Guerra
Deputy Clerk

"LENDER"
COUNTY OF SANTA BARBARA
a political subdivision of the State of California

By: Laura Capps
Laura Capps, Chair
Board of Supervisors

Date: 3-11-25

APPROVED AS TO FORM:
RACHEL VAN MULLEN
COUNTY COUNSEL

Signed by:
By: Lauren Wideman
Lauren Wideman
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER, CPA
AUDITOR-CONTROLLER

Signed by:
By: Shawna Jorgensen
Shawna Jorgensen
Deputy Auditor-Controller

APPROVED AS TO FORM:
CEO/RISK MANAGEMENT

Signed by:
By: Greg Milligan
Greg Milligan
Risk Manager

BORROWER SIGNATURES ON FOLLOWING PAGE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of SANTA BARBARA

On, March 11, 2025 before me, Sheila de la Guerra, a Deputy Clerk, personally appeared SUPERVISOR LAURA CAPPS, CHAIR OF THE BOARD OF SUPERVISORS, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Sheila de la Guerra
Signature Sheila de la Guerra



“BORROWER”
HOLLISTER LOFTS, L.P., a California limited
Partnership

By: Surf Development Company, a California
nonprofit public benefit corporation, its managing
general partner

By: Robert P. Havlicek Jr.
Robert P. Havlicek Jr
Chief Executive Officer

Date: 2/20/2025

By: Housing Authority of the County of Santa Barbara,
a public body, corporate and politic,
its administrative general partner

By: Robert P. Havlicek Jr.
Robert P. Havlicek Jr
Executive Director

Date: 2/20/2025

STATE OF CALIFORNIA)
) ss.
COUNTY OF Santa Barbara)

WITNESS my hand and official seal.

K. Stroll
Signature of Notary Public



(Place Notary Seal Above)

EXHIBIT A - LEGAL DESCRIPTION OF THE PROPERTY

That certain real property situated in the County of Santa Barbara, State of California, described as follows:

That portion of Lot 7 of the Outside Pueblo Lands and of the City of Santa Barbara, in the County of Santa Barbara, State of California, as shown on W.H. Norway's Map No. 2 recorded in Book 5, Page 75 of Maps and Surveys, in the Office of the County Recorder of said County more particularly described as follows;

Commencing at the centerline intersection of San Antonio Road and Hollister Avenue, said point shown as a "Fd. P.K. Nail & Tag "S.B. Co. Road Comm." Dn. 3'" on a Record of Survey filed in Book 140, Page 12 of Records of Survey in the office of the County Recorder; thence along said centerline of Hollister Avenue North 78°50'12" East 240.16 feet; thence perpendicular to said centerline of Hollister Avenue North 11°09'48" West 49.31 feet to the True Point of Beginning

Thence 1st continuing North 11°09'48" West 30.69 feet to an angle point;

Thence 2nd North 47°16'49" East 123.03 feet to an angle point;

Thence 3rd North 67°31'36" East 124.97 feet to an angle point;

Thence 4th North 78°50'12" East 115.11 feet to a point on the Westerly line of a 10' wide Easement to the Goleta Sanitary District recorded August 3, 2004, as Instrument No. 2004-80913 of Official Records of said County and an angle point;

Thence 5th along said Westerly line of said 10' wide Easement to the Goleta Sanitary District, South 12°16'01" East 122.10 feet to an angle point;

Thence 6th South 78°49'31" West 100.28 feet to an angle point;

Thence 7th South 81°53'45" West 88.57 feet to an angle point;

Thence 8th South 78°01'20" West 156.15 feet to the True Point of Beginning.

~ End of Description ~

EXHIBIT B - Deed of Trust

NO FEE DOCUMENT

**Recording requested by and
when recorded, mail to:**

County of Santa Barbara
105 E. Anapamu Street, Room 105
Santa Barbara, CA 93101
Attn: Deputy Director

NO FEE DOCUMENT PURSUANT TO
GOVERNMENT CODE SECTION 6103 and 27383

**COUNTY LAND LOAN
PERMANENT DEED OF TRUST, ASSIGNMENT OF
RENTS, AND SECURITY AGREEMENT**

THIS COUNTY LAND LOAN DEED OF TRUST, ASSIGNMENT OF RENTS, AND SECURITY AGREEMENT ("Deed of Trust") is made as of this ____ day of March, 2025, by Hollister Lofts, LP, a California Limited Partnership ("Trustor"), to First American Title Company, as trustee ("Trustee"), for the benefit of the County of Santa Barbara, a political subdivision of the State of California ("Beneficiary"). **GRANT IN TRUST**

1. **GRANT.** Trustor, in consideration of the indebtedness referred to below, hereby irrevocably grants and conveys to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, all of Trustor's interest in the real property located at 4540 Hollister Avenue, Goleta, California, as more particularly described in Exhibit A (the "Property") incorporated herein by this reference;

TOGETHER WITH all interest, estates or other claims, both in law and in equity which Trustor now has or may hereafter acquire in the Property; all buildings, structures, fixtures, improvements, signs, and landscaping now or hereafter erected or located on the Property, including all equipment and machinery used for supplying or distributing heating, cooling, electricity, gas, water, air, and light, all kitchen and laundry appliances such as washers, dryers, refrigerators, garbage disposals, ovens, ranges, dishwashers, all plumbing and bathroom fixtures, all security and access control equipment, fire prevention and extinguishment equipment, elevators, floor coverings, window coverings, paneling, cabinets, (provided, however, that Trustor shall have the right to remove, if necessary, such fixtures, furnishings, and equipment for the purpose of replacement with similar items of the same quality performing the same functions, which replacements shall themselves become part of this grant); all building material and equipment either now or hereafter delivered to the Property and installed or intended to be installed on the Property; all reserves, accounts, deferred payments, and refunds relating to development on

the Property; all rents and income generated by the Property or improvements thereon (subject however to the assignment of rents to Beneficiary contained herein); all leases, subleases and rental agreements covering the Property or any portion thereof now existing or hereafter entered into, and all interests of Trustor in security deposits, advance rentals, accounts, or payments of similar nature with respect to such leases, subleases, or rental agreements; all easements and rights-of-way appurtenant to the Property, including parking and recreational easements, and all interests of Trustor in any land lying within the right-of-way of any street, sidewalks, and areas of land adjacent to or used in connection with the Property; all development rights and credits, air rights, water rights, and oil, gas or mineral rights with respect to the Property; all claims or demands with respect to insurance proceeds, and all awards made for a taking by eminent domain; all interests and rights in any private or government grants, subsidies, loans, or other financing with respect to development on the Property; all interests in personal property used in and about the Property (except furniture and other personal property of tenants of dwelling units on the Property); all intangible property and rights relating to the Property or operations on the Property, including trade names, goodwill, trademarks, and service marks; all government permits, approvals, and map rights related to construction on the Property; all architectural, structural, and mechanical plans, specifications, designs, studies, and data with respect to construction of improvements on the Property; all environmental tests, studies and reports with respect to the Property; all current and future claims and rights of action of Trustor against prior owners and operators of the Property, neighboring property owners and operators, tenants and former tenants, consultants, advisors, and other third parties with respect to environmental or Hazardous Materials contamination and cleanup of the Property under any federal, state, or local ordinances, statutes, regulations, or administrative decisions or common law.

All of the foregoing, together with the Property, is herein referred to as the "Security."

OBLIGATIONS SECURED

2. **OBLIGATIONS.** Trustor makes this grant for the purpose of securing the following obligations:

A. Repayment of the indebtedness of Trustor to Beneficiary in the principal sum of Four Million Dollars and No Cents (\$4,000,000.00), with interest thereon, evidenced by a promissory note executed by Trustor on file at the offices of Beneficiary and hereby incorporated by reference into this Deed of Trust (the "Note"), or as much as has been disbursed to Trustor therewith; and

B. Payment of any sums advanced by Beneficiary to protect the security and priority of this Deed of Trust; and

C. Performance of every obligation, covenant or agreement of Trustor contained in this Deed of Trust, the Note, the County Land Loan Agreement, and the County Land Loan Regulatory Agreement executed between Trustor and Beneficiary concurrently herewith, including all modifications, extensions and renewals of these obligations; and

D. Performance of any other obligation or repayment of any other indebtedness of Trustor to Beneficiary, where such evidence of obligation or indebtedness specifically recites that it is secured by this Deed of Trust, including but not limited to any Funds or additional funding or security that may be provided pursuant to Section 21, below; and

E. Performance of any obligations of Trustor in any other agreements with respect to financing of the Project or the Security the absence of which would adversely affect Beneficiary, whether or not Beneficiary is a party to such agreements.

ABSOLUTE ASSIGNMENT OF RENTS AND RIGHT TO POSSESSION

3. **ASSIGNMENT.** As additional security, Trustor hereby assigns to Beneficiary:

(a) all of the rents, revenues, profits, and income from the Security, any deposits now or hereafter in Trustor's possession which have been collected with respect to the Security, and any reserve or capital funds now or hereafter held by Trustor with respect to construction or operation of the Security (collectively, the "Rents"); and (b) the right to enter, take possession of, and manage the Security; provided however that Trustor shall have, before an Event of Default, as defined herein, the exclusive right to possess the Security and to collect Rents and use them in accordance with the documents described in Section 2.C. above (collectively, the "Loan Documents"). This assignment is intended to be an absolute and present transfer of Trustor's interest in existing and future Rents, effective as of the date of this Deed of Trust.

4. **ENFORCEMENT.** Upon the happening of an Event of Default which remains uncured after expiration of the applicable cure period pursuant to the terms of the County Land Loan Agreement or other Loan Documents, Beneficiary may, in addition to other rights and remedies permitted by the County Land Loan Agreement, this Deed of Trust, or applicable law: (a) enter upon, take possession of, and manage the Security, either in person as a mortgagee-in-possession, by agent, or by a receiver appointed by a court, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Security, (b) collect all Rents, including those past due and unpaid, and apply the same to pay for the costs and expenses of operation of the Security, including attorneys' fees, and pay off any indebtedness secured by this Deed of Trust, all in such order as Beneficiary may determine and/or (c) Beneficiary may make, cancel, enforce, and modify leases and rental agreements, obtain and evict tenants, set and modify rent terms, sue for rents due, enter into, modify, or terminate any contracts or agreements, or take any legal action, as it deems necessary with respect to the Rents or to development or operation of the Security, subject to the rent restrictions imposed against the property.

5. **APPOINTMENT OF A RECEIVER.** In any action to enforce this assignment, Beneficiary may apply for the appointment of a receiver to take possession of the Security and take whatever measures are necessary to preserve and manage the Security for the benefit of Beneficiary and the public interest. Trustor hereby consents to the appointment of a receiver. The receiver shall have all of the authority over the Security that Beneficiary would have if Beneficiary took possession of the Security under this assignment as a mortgagee-in-possession, including the right to collect and apply Rents and the right to complete construction of improvements.

6. **NO WAIVER OF POWER OF SALE.** The entering upon and taking possession of the Security and the collection of Rents shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or notice of default and, notwithstanding the continuance in possession of the Security or the collection and application of Rents, Beneficiary shall be entitled to exercise every right provided for in this Deed of Trust or by law upon occurrence of any Event of Default, including the right to exercise the power of sale.

COMMERCIAL CODE SECURITY AGREEMENT

7. **GRANT.** This Deed of Trust is intended to be a security agreement and financing statement pursuant to the California Commercial Code for any of the items specified above as part of the Security which under applicable law may be subject to a security interest pursuant to the Commercial Code, and Trustor hereby grant Beneficiary a security interest in said items. Beneficiary may file a copy of this Deed of Trust in the real estate records or other appropriate index as a financing statement for any of the items specified as part of the Security. Trustor shall execute and deliver to Beneficiary at Beneficiary's request any financing statements, as well as extensions, renewals, and amendments thereof, and copies of this instrument in such form as Beneficiary may require to perfect a security interest with respect to said items. Trustor shall pay all costs of filing such financing statements and shall pay all reasonable costs of any record searches for financing statements and releases. Without the prior written consent of Beneficiary, Trustor shall not create or permit any other security interest in said items. This Deed of Trust constitutes a fixture filing under Sections 9313, 9334, and 9501 et seq. of the California Commercial Code.

8. **REMEDIES.** Upon Trustor's breach of any obligation or agreement in the Loan Documents, and after expiration of any applicable cure period, Beneficiary shall have the remedies of a secured party under the Commercial Code and at Beneficiary's option may also invoke the remedies provided for elsewhere in this Deed of Trust with respect to said items. Beneficiary may proceed against the items of real property and personal property specified above separately or together and in any order whatsoever.

RIGHTS AND OBLIGATIONS OF TRUSTOR

9. **PERFORMANCE OF SECURED OBLIGATION.** Trustor shall promptly perform each obligation secured by this Deed of Trust in accordance with the Loan Documents.

10. **PAYMENT OF PRINCIPAL AND INTEREST.** Trustor shall promptly pay when due the principal and any interest due on the indebtedness evidenced by the Note.

11. **MAINTENANCE OF THE SECURITY.** Trustor shall, at the Trustor's own expense, maintain and preserve the Security or cause the Security to be maintained and preserved in good condition, in good repair, and in a decent, safe, sanitary, habitable and tenantable condition. Trustor shall not cause or permit any violations of any laws, ordinances, regulations, covenants, conditions, restrictions, or equitable servitudes as they pertain to improvements, alterations, maintenance or demolition on the Security. Trustor shall not commit or permit waste on or to the Security. Trustor shall not abandon the Security. Beneficiary shall have no responsibility over maintenance of the Security. In the event Trustor fails to maintain the Security in accordance with the standards in this Deed of Trust, the County Land Loan Agreement, or the County Land Loan Regulatory Agreement, Beneficiary and after any applicable cure periods have expired, Beneficiary may, but shall be under no obligation to make such repairs or replacements as are necessary and provide for payment thereof. Any amount so advanced by Beneficiary, together with interest thereon from the date of such advance at the same rate of interest as specified in the Note (unless payment of such an interest rate would be contrary to applicable law, in which event such sums shall bear interest at the highest rate then allowed by applicable law), shall become an additional obligation of Trustor to Beneficiary and shall be secured by this Deed of Trust.

12. **INSPECTION OF THE SECURITY.** Trustor shall permit Beneficiary to enter and inspect the Security during normal business hours for compliance with these obligations upon at least 24 hours advance notice of such visit by Beneficiary to Trustor or Trustor's Property manager.

13. **LIENS, ENCUMBRANCES, AND CHARGES.** Trustor shall discharge any lien, encumbrance, or charge not approved in writing by Beneficiary that may attain priority over this Deed of Trust.

14. **DEFENSE AND NOTICE OF CLAIMS AND ACTIONS.** Trustor shall appear in and defend, at its own expense, any action or proceeding relating to, connected with, or arising out of the Security and/or the rights of Beneficiary. Trustor shall give Beneficiary and Trustee prompt notice in writing of the assertion of any claim, of the filing of any action or proceeding and of any condemnation offer or action with respect to the Security upon Trustor's receipt of notice thereof.

15. **SUITS TO PROTECT THE SECURITY.** Beneficiary shall have power to initiate and maintain such suits and proceedings as it may deem expedient (a) to prevent any impairment of the Security or the rights of Beneficiary, (b) to preserve or protect its interest in the Security and in the Rents, and (c) to restrain the enforcement of or compliance with any governmental legislation, regulation, or order, if the enforcement of or compliance with such legislation, regulation, or order would impair the Security or be prejudicial to the interest of Beneficiary.

16. **DAMAGE TO SECURITY.** Trustor shall give Beneficiary and Trustee prompt notice in writing of any damage to the Security. If the Property or any building on the Property is damaged or destroyed by an insurable cause, Trustor shall, at its sole cost and expense, diligently undertake to repair or restore said buildings if Trustor reasonably determines that such restoration or repair is economically feasible. Such work or repair shall be commenced within one hundred twenty (120) days after the damage or loss occurs and shall be complete within one (1) year thereafter, subject to any extensions of time granted by Beneficiary. If Trustor elects to rebuild, all insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, Trustor shall make up the deficiency.

If Trustor determines that restoration or repair is not economically feasible, then Beneficiary may declare an Event of Default pursuant to Section 24 below. Upon request by Lender to repay principal and interest, Borrower shall apply all insurance proceeds thereto.

17. **TITLE.** Trustor warrants that Trustor lawfully has, or will have after purchase and conveyance, legal title to the Security without any limitation on the right to encumber other than those limitations set forth in the Loan Documents or other financing documents approved by Beneficiary.

18. **GRANTING OF EASEMENTS.** Trustor may not grant easements, licenses, rights-of-way or other rights or privileges in the nature of easements with respect to the Security except those required or desirable for installation and maintenance of public utilities including water, gas, electricity, sewer, cable television, telephone, or those required by law.

19. **TAXES AND LEVIES.** Trustor shall pay prior to delinquency, all taxes, fees, assessments, charges and levies imposed by any public authority or utility company which are or may become a lien affecting the Security. However, Trustor shall not be required to pay and discharge any such tax, assessment, charge or levy so long as (a) the legality thereof shall be

promptly and actively contested in good faith and by appropriate proceedings, and (b) Trustor maintains reserves adequate to pay any contested liabilities. In the event that Trustor fails to pay any of the foregoing items, Beneficiary may, but shall be under no obligation to, pay the same, after Beneficiary has notified Trustor of such failure to pay and Trustor fails to fully pay such items within seven (7) business days after receipt of such notice. Any amount so advanced by Beneficiary, together with interest thereon from the date of such advance at the same rate of interest as specified in the Note (unless payment of such an interest rate would be contrary to applicable law, in which event such sums shall bear interest at the highest rate then allowed by applicable law), shall become an additional obligation of Trustor to Beneficiary and shall be secured by this Deed of Trust.

20. **INSURANCE.** Trustor shall provide such insurance as required under the County Land Loan Agreement and the Regulatory Agreement. In the event Trustor fails to maintain the full insurance coverage required by this Deed of Trust, Beneficiary, after at least seven (7) business days prior notice to Trustor, may, but shall be under no obligation to, take out the required policies of insurance and pay the premiums on such policies. Any amount so advanced by Beneficiary, together with interest thereon from the date of such advance at the same rate of indebtedness as specified in the Note (unless payment of such an interest rate would be contrary to applicable law, in which event such sums shall bear interest at the highest rate then allowed by applicable law), shall become an additional obligation of Trustor to Beneficiary and shall be secured by this Deed of Trust.

21. **CONDEMNATION.** Subject to the rights of any senior lienholders, all judgments, awards of damages, settlements and compensation made in connection with or in lieu of taking all or any part of or interest in the Security under assertion of the power of eminent domain ("Funds") are hereby assigned to and shall be paid to Beneficiary. Beneficiary is authorized (but not required) to collect and receive any Funds and is authorized to apply them in whole or in part upon any indebtedness or obligation secured hereby, in such order and manner as Beneficiary shall determine at its sole option. All or any part of the amounts so collected and recovered by Beneficiary may be released to Trustor upon such conditions as Beneficiary may impose for its disposition. Application of all or any part of the Funds collected and received by Beneficiary or the release thereof shall not cure or waive any default under this Deed of Trust. Notwithstanding anything to the contrary set forth herein, Beneficiary shall, prior to the application of the Funds or any portion thereof to the indebtedness or other obligations, apply such portion of the Funds as is reasonable and necessary to repair and preserve the value, marketability and rentability of the Security. Trustor shall have the right to rebuild the Project, and to use all available condemnation proceeds therefor, provided that (a) such proceeds are sufficient to keep the County Land Loan and all other loans encumbering the Property in balance and rebuild the Project in a manner that provides adequate security to Beneficiary for repayment of the County Land Loan and all other loans encumbering the Property or, if such proceeds are insufficient or such security is inadequate, then Trustor shall fund any deficiency and/or provide additional security, which shall then become part of the Security; (b) Beneficiary shall have the right to approve plans and specifications for any major rebuilding and the right to approve disbursements of insurance or condemnation proceeds for rebuilding under a construction escrow or similar arrangement; and (c) no default then exists under the County Land Loan or all other loans encumbering the Property other than any default which is a direct result of the condemnation.

22. **ACCELERATION ON TRANSFER OF SECURITY; ASSUMPTION.** In the event that Trustor, without the prior written consent of the Beneficiary, sells, transfers or conveys, or

agrees to sell, transfer, or convey its interest in the Security or any part thereof or interest therein, Beneficiary may at its option declare all sums secured by this Deed of Trust to be immediately due and payable. This option shall not apply in case of:

A. The grant of a leasehold interest to qualifying households who will occupy units in the Project as provided for under the County Land Loan Documents and the County Land Loan Regulatory Agreement; or

B. The sale or transfer by Trustor of personal property of occupants of the Project. Consent to one (1) sale or transfer shall not be deemed to be a waiver of the right to require such consent to future or successive transactions.

C. Transfer of the Property pursuant to Section 5.7 of the County Land Loan Agreement governing the transfer of the Property.

23. **RECONVEYANCE BY TRUSTEE.** This trust is intended to continue for the entire term of the County Land Loan Regulatory Agreement. After the term of and full compliance with the County Land Loan Regulatory Agreement and upon written request of Beneficiary stating that all sums secured by this Deed of Trust have been paid and upon surrender of this Deed of Trust to Trustee for cancellation and retention, and upon payment by Trustor of Trustee' reasonable fees, Trustee shall reconvey the Security to Trustor, or to the person or persons legally entitled thereto.

DEFAULT AND REMEDIES

24. **EVENTS OF DEFAULT.** Any of the events listed in the County Land Loan Agreement and all other loans encumbering the Property as an Event of Default shall also constitute an Event of Default under this Deed of Trust.

25. **ACCELERATION OF MATURITY.** Upon the happening of an Event of Default which has not been cured within the times and in the manner provided in the County Land Loan Agreement, Beneficiary may declare all sums advanced to Trustor under the Note and this Deed of Trust immediately due and payable.

26. **BENEFICIARY'S REMEDIES.** Upon the happening of an Event of Default which has not been cured within the times and in the manner provided in the County Land Loan Agreement, Beneficiary may, in addition to other rights and remedies permitted by the County Land Loan Agreement, the Note, or applicable law, proceed with any or all of the following remedies:

A. Enforce the assignment of rents and right to possession as provided for in this Deed of Trust, and/or seek appointment of a receiver to take over possession of the Security and collect Rents;

B. Enter the Security and take any actions necessary in its judgment to complete construction on the Security, either in person or through a receiver appointed by a court;

C. Commence an action to foreclose this Deed of Trust pursuant to California Code of Civil Procedure Section 725a et seq., as amended, and/or seek appointment of a receiver from a court of competent jurisdiction with the authority to protect Beneficiary's interests in the Security, including the authority to complete construction of improvements;

D. Deliver to Trustee a written declaration of Default and demand for sale, and a written Notice of Default and election to cause Trustor's interest in the Security to be sold and exercise its power of sale as provided for below, as required by California Civil Code Section 2924a et seq.; or

F. Pursue any other rights and remedies allowed at law or in equity.

27. **FORECLOSURE BY POWER OF SALE.** Should Beneficiary elect to foreclose by exercise of the power of sale contained in this Deed of Trust, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust (the deposit of which shall be deemed to constitute evidence that the unpaid sums disbursed under the Notes are immediately due and payable), and such receipts and evidence of any expenditures made that are additionally secured hereby as Trustee may require.

Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Default and Election to sell as then required by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale having been given as required by law, sell the Security, at the time and place of sale fixed by it in said Notice of Sale, whether as a whole or in separate lots or parcels or items as Trustee shall deem expedient and in such order as they may determine unless specified otherwise by Trustor, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to the purchaser its deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee, or Beneficiary, may purchase at the sale.

Trustee may postpone the sale of all or any portion of the property by public announcement at such time and place of sale, and from time to time thereafter, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new Notice of Sale.

28. **APPLICATION OF SALE PROCEEDS.** After deducting all reasonable costs, fees and expenses of Trustee, including costs of evidence of title in connection with such sale, Trustee shall apply the proceeds of sale as follows: first, to the payment of all sums then secured by this Deed of Trust, in such order and amounts as Beneficiary in its sole discretion determines; and second, the remainder, if any, to the person or persons legally entitled thereto.

29. **REMEDIES CUMULATIVE.** No right, power or remedy conferred upon or reserved to Beneficiary by this Deed of Trust is intended to be exclusive of any other rights, powers or remedies, but each such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity.

GENERAL PROVISIONS

30. **GOVERNING LAW.** This Deed of Trust shall be interpreted under and governed by the laws of the State of California, except for those provisions relating to choice of law and those provisions preempted by federal law.

31. **STATEMENT OF OBLIGATION.** Beneficiary may collect a fee not to exceed the maximum allowable under applicable law for furnishing a statement of obligations, as provided in California Civil Code Section 2924c et seq.

32. **CONSENTS AND APPROVALS.** Any consent or approval of Beneficiary required under this Deed of Trust shall not be unreasonably withheld.

33. **TIME.** Time is of the essence in this Deed of Trust.

34. **NOTICES, DEMANDS AND COMMUNICATIONS.** Formal notices, demands and communications between Trustor and Beneficiary shall be sufficiently given and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the principal offices of Trustor and Beneficiary as follows:

BENEFICIARY: County of Santa Barbara
105 E. Anapamu Street, Room 105
Santa Barbara, CA 93101
Attn: Deputy Director

TRUSTOR: Hollister Lofts, L.P.
815 W. Ocean Ave.
Lompoc, CA 93436
ATTN: Executive Director

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section 34. Delivery shall be deemed to have occurred at the time indicated on the receipt for delivery or refusal of delivery.

35. **BINDING UPON SUCCESSORS.** All provisions of this Deed of Trust shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of Trustor, Trustee, and Beneficiary.

36. **WAIVER.** Any waiver by Beneficiary of any obligation of Trustor in this Deed of Trust must be in writing. No waiver will be implied from any delay or failure by Beneficiary to take action on any breach or default of Trustor or to pursue any remedy allowed under the Deed of Trust or applicable law. Any extension of time granted to Trustor to perform any obligation under this Deed of Trust shall not operate as a waiver or release Trustor from any of its obligations under this Deed of Trust. Consent by Beneficiary to any act or omission by Trustor shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for Beneficiary's written consent to future waivers.

37. **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to this Deed of Trust must be in writing, and shall be made only if executed by both Beneficiary and Trustor.

38. **LOAN AGREEMENT CONTROLS.** If there is any contradiction between this instrument and the County Land Loan Agreement, the terms of the County Land Loan Agreement shall control, except that Trustor shall have no defense or claim that this instrument does not establish a valid lien on the Property or the Security.

39. **DEFINITIONS.** Capitalized terms not otherwise defined in this Deed of Trust shall have the same meaning as defined terms in the County Land Loan Agreement.

40. **PROOFS OF CLAIM.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, re-composition or other proceedings affecting Trustor, its creditors or its property, Trustee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Beneficiary allowed in such proceedings and for any additional amount which may become due and payable by Trustor hereunder after such date.

41. **SEVERABILITY.** Every provision of this Deed of Trust is intended to be severable. If any term or provision of this Deed of Trust is declared to be illegal, invalid, or unenforceable by a court of competent jurisdiction, the legality, validity, and enforceability of the remaining provisions shall not be affected. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Security, the unsecured or partially secured portion of the debt and all payments made on the debt (whether voluntary or under foreclosure or other enforcement action or procedure) shall be considered to have been first paid or applied to the payment of that portion of the debt which is not secured or partially secured by the lien of this Deed of Trust.

42. **SUBSTITUTION OF TRUSTEE.** Beneficiary may from time to time appoint another trustee to act in the place and stead of Trustee or any successor. Upon such appointment and without conveyance, the successor trustee shall be vested with all title, powers, and duties conferred upon Trustee.

43. **ACCEPTANCE BY TRUSTEE.** Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law, the Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

44. **NONRECOURSE OBLIGATION.** Except as expressly provided in the second paragraph of this section, the Trustor, and the Trustor's officers, directors, employees and agents shall not have any direct or indirect personal liability for payment of the principal of, or interest on, the Note or the performance of the covenants of the Trustor under the Deed of Trust securing the Note. The sole recourse of the Beneficiary with respect to the principal of, or interest on, the Note shall be to the property securing the indebtedness evidenced by the Note. However, that nothing contained in the foregoing limitation of liability shall (a) limit or impair the enforcement against all such security for the Note of all the rights and remedies of the Beneficiary, or (b) be deemed in any way to impair the right of the Beneficiary to assert the unpaid principal amount of the Note as demand for money within the meaning and intent of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the Note, except as hereafter set forth; nothing contained herein is intended to relieve the Trustor of personal liability for (a) fraud or willful misrepresentation; (b) the failure to pay taxes, assessments or other charges (which are not contested by Trustor in good faith) which may create liens on the Property that are payable or

applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (c) the fair market value of any personal property or fixtures removed or disposed of by Trustor other than in accordance with the Deed of Trust; (d) the misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property; (e) the Trustor's indemnification obligations under Article 6 of the County Land Loan Agreement; and (f) payment to the Beneficiary of any rental income or other income arising with respect to the Property received by the Trustor after the Beneficiary has given notice to the Trustor of the occurrence of an Event of Default, subject to the rights of any lender providing a loan secured by the Property to which the Beneficiary has subordinated the Deed of Trust.

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EXHIBIT C - PROMISSORY NOTE
COUNTY LAND LOAN PROMISSORY NOTE

Santa Barbara, California

\$4,000,000.00

November 5, 2024

FOR VALUE RECEIVED, Hollister Lofts L.P., a California Limited Partnership (the "Borrower"), whose address is 815 W. Ocean Ave., Lompoc, CA 93436, hereby promises to pay to the order of the County of Santa Barbara, a political subdivision of the State of California, a public body corporate and politic (the "Lender"), whose address is 105 E Anapamu Street, Suite 105, Santa Barbara, CA 93101, the principal amount of Four Million Dollars and No Cents (\$4,000,000.00), or so much thereof as may be advanced by the Lender to the Borrower, together with interest thereon, as set forth below.

1. **BORROWER'S OBLIGATION.** This County Land Loan Promissory Note (the "County Land Loan Note") evidences the Borrower's obligation to pay the Lender the principal amount of Four Million Dollars and No Cents (\$4,000,000.00) for the funds loaned to the Borrower by the Lender (the "Loan") for the acquisition of certain real property located at 4540 Hollister Avenue, Goleta, California (the "Property").
2. **INTEREST.** Subject to Section 3 of this County Land Loan Note, the County Land Loan Note shall bear simple interest at a rate of three percent (3%) per annum on the outstanding principal balance of the County Land Loan Agreement until paid in full.
3. **DEFAULT INTEREST.** In the event of a default by Borrower of any of its obligations under this County Land Loan Note, the County Land Loan, or the County Land Loan Deed of Trust, Borrower shall pay to Lender interest on the outstanding principal of the County Land Loan, at an annual rate equal to the lesser of (i) ten percent (10%) or (ii) the highest interest allowed by law, from the date of the default until the date that the default is cured or the County Land Loan is repaid in full.
4. **AMOUNT AND TIME OF PAYMENT.** The principal and all current and accrued interest of the County Land Loan Agreement shall be due and payable the earlier of: (a) fifty-five (55) years from the date of the County Land Loan Note, (b) subject to the provisions of Section 5.8 of the County Land Loan Agreement by and between the Lender and the Borrower executed concurrently herewith, the date the Property is sold, or (c) upon an event of default by Borrower which has not been cured as provided for in the County Land Loan Agreement and all other loans encumbering the Property.
5. **DEFINITIONS.** All terms not defined in this County Land Loan Note shall have the meaning set forth in the County Land Loan Agreement.

6. **PAYMENTS.** Borrower shall make annual payments to Lender equal to fifty percent (50%) of the Residual Receipts paid pro rata to all subordinate debt from other governmental lenders commencing on the first day of April following recordation of a notice of completion issued for the Project and on each April 1st thereafter until the County Land Loan is paid in full or otherwise terminated. Notwithstanding the Residual Receipts payments made pursuant to this Section 6, all outstanding interest and principal due under the County Land Loan Note shall be due and payable at the time set forth in Section 4 above.
7. **PLACE AND MANNER OF PAYMENT.** All amounts due and payable under this County Land Loan Note are payable at the office of the Lender at the address set forth above, or at such other place as the Lender may designate to the Borrower in writing from time to time, in any coin or currency of the United States which on the respective dates of payment thereof shall be legal tender for the payment of public and private debts.
8. **DEFAULT AND ACCELERATION.** This County Land Loan Note is secured by the County Land Loan Deed of Trust executed concurrently herewith. All covenants, conditions and agreements contained in the Deed of Trust and the County Land Loan Agreement are hereby made a part of this County Land Loan Note. The following shall constitute an "Event of Default" under this County Land Loan Note: a) Borrower's failure to pay when due any sums payable under this County Land Loan Note which has not been cured within three (3) days following written notice from Lender to Borrower of such failure; b) Borrower's failure to observe or to perform any of its other covenants, agreements or obligations under the County Land Loan Deed of Trust or Loan after the expiration of applicable cure periods, if any; and c) any other Event of Default as defined in the County Land Loan Agreement or the County Land Loan Deed of Trust, which has not been cured pursuant to the County Land Loan Agreement or the County Land Loan Deed of Trust. Borrower agrees that the unpaid balance of the then principal amount of this County Land Loan Note, shall, at the option of the Lender, become immediately due and payable upon any Event of Default. Upon any Event of Default, the Lender may exercise any other right or remedy permitted under the County Land Loan Agreement, this County Land Loan Note and the County Land Loan Deed of Trust, or by law or in equity.
9. **PREPAYMENT.** The Borrower may pay the principal and any interest due on the County Land Loan Note in advance of the time for payment thereof as provided in this County Land Loan Note, without penalty or premium.
10. **APPLICATION OF PAYMENTS.** Payments by Borrower pursuant to this County Land Loan Note shall be applied first to accrued interest then to current interest, then to other charges, if any, then to reduce the principal.
11. **NO OFFSET.** Borrower hereby waives any rights of offset it now has or may hereafter have against the Lender, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this County Land Loan Note.
12. **WAIVERS.** Presentment, notice of dishonor, and protest are waived by all makers, sureties, guarantors, and endorsers of this County Land Loan Note, if any.
13. **CONSENTS AND APPROVALS.** Any consent or approval of the Lender required under this County Land Loan Note shall not be unreasonably withheld or delayed.

14. **NOTICES.** Except as may be otherwise specifically provided herein, any approval, notice, direction, consent, request or other action by either party to this County Land Loan Note shall be in writing and may be communicated to the other party at its principal office as set forth in the County Land Loan Agreement, or at such other place or places as the parties may designate in writing, from time to time, for the receipt of communications.
15. **BINDING UPON SUCCESSORS.** All provisions of this County Land Loan Note shall be binding upon and inure to the benefit of the successors-in-interest, transferees, and assigns of the Borrower and the Lender.
16. **GOVERNING LAW.** This County Land Loan Note shall be interpreted under and governed by the laws of the State of California, except for those provisions relating to choice of law and those provisions preempted by federal law.
17. **SEVERABILITY.** Every provision of this County Land Loan Note is intended to be severable. If any provision of this County Land Loan Note shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.
18. **TIME.** Time is of the essence in this County Land Loan Note.
19. **WAIVER.** Any waiver by the Lender of any obligation in this County Land Loan Note must be in writing. No waiver shall be implied from any failure of the Lender to take, or any delay or failure by Lender to take action on any breach or default by the Borrower or to pursue any remedy allowed under this County Land Loan Note or applicable law. Any extension of time granted to the Borrower to perform any obligation under this County Land Loan Note shall not operate as a waiver or release from any of its obligations under this County Land Loan Note.
20. **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to this County Land Loan Note must be in writing, and shall be made only if executed by both the Borrower and the Lender.
21. **NONRECOURSE.** Except as expressly provided in the second paragraph of this Section 21, the Borrower, and the Borrower's partners, officers, directors, employees and agents shall not have any direct or indirect personal liability for payment of the principal of, or interest on, this County Land Loan Note. The sole recourse of the Lender with respect to the principal of, or interest on, the County Land Loan Note shall be to the property securing the indebtedness evidenced by the County Land Loan Note. However, nothing contained in the foregoing limitation of liability shall (i) limit or impair the enforcement against all such security for the County Land Loan Note of all the rights and remedies of the Lender, or (ii) be deemed in any way to impair the right of the Lender to assert the unpaid principal amount of the County Land Loan Note as demand for money within the meaning and intent of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the County Land Loan Note, except as hereafter set forth; nothing contained herein is intended to relieve the Borrower of personal liability to the extent of actual damages for (i) Borrower's fraud or willful misrepresentation; (ii) the failure to pay taxes, assessments or other charges (which are not contested by the Borrower in good faith) which may create liens on the Property that are payable or applicable

prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the fair market value of any personal property or fixtures removed or disposed of by the Borrower other than in accordance with the Deed of Trust; (iv) the material misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property; (v) the Borrower's indemnification obligations under the County Land Loan Agreement; and (vi) payment to the Lender of any rental income or other income arising with respect to the Property received by the Borrower after the Lender has given notice to the Borrower of the occurrence of an Event of Default and after the expiration of all applicable notice and cure periods, subject to the rights of any lender providing a loan secured by the Property to which the Lender has subordinated the Deed of Trust.

22. **LOAN AGREEMENT CONTROLS.** In the event that any provisions of this County Land Loan Note and the County Land Loan Agreement conflict, the terms of the County Land Loan Agreement shall control.

IN WITNESS WHEREOF, Borrower has executed this County Land Loan Promissory Note as of the day and year first above written.

BORROWER:

Hollister Lofts L.P., a California
Limited Partnership

By: Surf Development Company,
a California nonprofit public benefit
corporation, its managing general
partner

By: _____
Robert P. Havlicek, Jr, CEO

By: Housing Authority of the
County of Santa Barbara, a public
body, corporate and politic, its
administrative general partner

By: _____
Robert P. Havlicek Jr
Executive Director

EXHIBIT D – Regulatory Agreement

NO FEE DOCUMENT

**Recording requested by and
When recorded, mail to:**

County of Santa Barbara
Housing and Community Development
105 East Anapamu Street, Room 105
Santa Barbara, CA 93101
Attn: Deputy Director

NO FEE DOCUMENT PURSUANT TO
CALIFORNIA GOVERNMENT CODE SECTIONS 6103 AND 27383

COUNTY LAND LOAN REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

This County Land Loan Regulatory Agreement and Declaration of Restrictive Covenants (this “Agreement”) is made as of this ___ day of March, 2025 (“Effective Date”) by and between the County of Santa Barbara, a political subdivision of the State of California (the “Lender” or “County”), and Hollister Lofts, L.P., a California limited partnership (the “Owner” or “Borrower” and, together with the County, collectively, the “Parties” and each individually a “Party”).

RECITALS

A. The Owner owns a parcel of real property located at 4540 Hollister Avenue, Goleta, California, as more particularly described in Exhibit A, attached hereto and incorporated herein by reference (the “Property”), upon which the Owner intends to construct thirty-four (34) units of affordable rental housing subject to tenant income and rent restrictions as set forth in this Agreement, and one unrestricted manager’s unit (the “Project”).

B. Lender sold the Property to Owner, and Lender and Owner entered into a purchase money transaction by which Lender is financing Owner’s purchase of the Property with an acquisition loan of Four Million Dollars and No Cents (\$4,000,000.00) (“County Land Loan”), as evidenced by that certain County Land Loan Promissory Note of even date herewith executed by Borrower in favor of Lender in the amount of \$4,000,000.00 (“County Land Loan Note”) and that certain County Land Loan Agreement of even date herewith by and between Lender and Borrower (“County Land Loan Agreement”), and secured by that certain Deed of Trust of even date herewith, to be recorded as a lien against the Property (“County Land Loan Deed of Trust”).

C. As additional consideration for the County Land Loan, and to further the interests of the Lender, the Owner has agreed to enter into and record this Agreement as a lien against title to the Property. The Agreement shall be recorded in the Office of the Santa Barbara County

Recorder in the grantor-grantee index to the name of the Owner as grantor and to the name of the County as grantee. The purpose of this Agreement is to regulate and restrict the occupancy, rents, operation, ownership, and management of the Project. The covenants in this Agreement are intended to run with the land and be binding on the Owner and its successors and assigns with respect to the Property.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, obligations, and representations, and in further consideration for the aforementioned County Land Loan, the Owner and the Lender hereby agree as follows:

DEFINITIONS

All capitalized terms used but not defined in this Agreement shall have the respective meanings ascribed to such terms in the County Land Loan Agreement. Some of the following terms are defined in the County Land Loan Agreement and repeated herein for convenience of reference.

“AFFORDABILITY PERIOD” means the period commencing upon the date of Project Completion and terminating on the date that is 55 years thereafter.

1.2 **“ANNUAL INCOME”** means the definition of Annual Income as more particularly defined at 24 CFR 5.609.

1.3 **“AREA MEDIAN INCOME”** or **“AMI”** means the area median income for the Santa Barbara/Santa Maria/Lompoc Primary Metropolitan Statistical Area, as determined annually by the United States Department of Housing and Urban Development (“HUD”) and adjusted for household size by the California Department of Community Services and Development in accordance with adjustment factors adopted and amended from time to time by HUD pursuant to Section 8 of the United States Housing Act of 1937.

1.4 **“ASSISTED UNIT”** means any one of the thirty four (34) Units designated by Borrower as an Assisted Unit subject to the requirements of this Agreement.

1.5 **“COUNTY LAND LOAN”** means the County loan in the amount of Four Million Dollars and No Cents (\$4,000,000.00), made by the Lender to the Borrower as provided in the County Land Loan Agreement and the County Land Loan Note to finance the acquisition of the Property.

1.6 **“COUNTY LAND LOAN AGREEMENT”** means the County Land Loan Agreement executed concurrently herewith by and between the Owner and the Lender, setting forth the terms and conditions governing the County Land Loan.

1.7 **“COUNTY LAND LOAN DEED OF TRUST”** means that certain deed of trust, assignment of rents, and security agreement, executed concurrently herewith by the Owner, as trustor, and the Lender, as beneficiary, to be recorded as a lien against the Property and the improvements to be constructed thereon as security for the County Land Loan Note that evidences the County Land Loan, as it may be amended from time to time during the Term in accordance

with the provisions thereof. The terms of the County Land Loan Deed of Trust are hereby incorporated into this Agreement.

1.8 **“COUNTY LAND LOAN DOCUMENTS”** means, collectively, the County Land Loan Agreement, the County Land Loan Note, the County Land Loan Deed of Trust, and this Agreement, including all exhibits hereto and thereto, as such documents may be amended from time to time in accordance with the provisions hereof and thereof.

1.9 **“COUNTY LAND LOAN NOTE”** means the promissory note executed by the Owner concurrently herewith in favor of the Lender in the amount of Four Million Dollars and No Cents (\$4,000,000.00), incorporated herein by reference, evidencing the County Land Loan, which is secured by the County Land Loan Deed of Trust, as may be amended from time to time during the Term in accordance with the provisions thereof.

1.10 **“LENDER”** means the County of Santa Barbara, a political subdivision of the State of California.

1.11 **“LOW-INCOME HOUSEHOLD”** means a household, as defined in 24 CFR 92.2, whose annual income does not exceed seventy-five percent (75%) of the Area Median Income.

1.12 **“MANAGER’S UNIT”** means the one unit on the Property designated by Owner to be occupied by the resident manager of the Project.

1.13 **“OWNER”** means Hollister Lofts, L.P., a California limited partnership.

1.14 **“PROJECT”** means the construction, operation management, and maintenance of the Property and the improvements thereon, including, but not limited to, improvements constructed thereon during the Term.

1.15 **“PROJECT COMPLETION”** means the first date as of which a certificate of occupancy has been issued for all of the Assisted Units by the applicable government agency.

1.16 **“PROPERTY”** means that certain real property and improvements thereon located at 5440 Hollister Avenue, Goleta, California, as more particularly described in Exhibit A, attached hereto and incorporated herein by this reference, and all improvements thereon, including, but not limited to, improvements constructed thereon during the Term.

1.17 **“QUALIFYING HOUSEHOLD”** means a household that qualifies as a Low-Income Household or Very Low-Income Household.

1.18 **“QUALIFYING RENT”** means the total monthly charges for rent of an Assisted Unit, which shall not exceed the lower of:

a) the fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111 and 24 CFR 888.113, or

b) for Low-Income Household units, one twelfth (1/12th) of thirty percent (30%) of the Annual Income of a family whose gross annual income equals seventy-five percent (75%) of Area Median Income for the Santa Barbara/Santa Maria/Lompoc Primary Metropolitan Statistical Area

as determined by HUD annually with adjustments for household size in accordance with 24 CFR 92.252(b), or

c) for the seven (7) Very Low-Income Household units, one twelfth (1/12th) of thirty percent (30%) of the Annual Income of a family whose gross annual income equals fifty percent (50%) of Area Median Income for the Santa Barbara/Santa Maria/Lompoc Primary Metropolitan Statistical Area as determined by HUD annually with adjustments for household size in accordance with 24 CFR 92.252(b).

In accordance with 24 CFR 92.252(d), if the Tenant of an Assisted Unit pays for utilities and services (excluding telephone), then the Qualifying Rent for such Assisted Unit shall be reduced by the maximum monthly allowance for utilities and services using the annual HUD Utility Schedule Model, or other annual utility schedule as determined annually by the Housing Authority of the County of Santa Barbara and approved by the County Community Services Department Division of Housing and Community Development.

1.19 **“TENANT”** means a household occupying a Unit.

1.20 **“TERM”** means the term of this Agreement, which shall commence upon the Effective Date and shall terminate upon termination of the Affordability Period.

1.21 **“UNIT”** means a housing unit in the Project.

1.22 **“VERY LOW-INCOME HOUSEHOLD”** means a household, as defined in Health & Safety Code 50105, whose annual income does not exceed fifty percent (50%) of the Area Median Income for the Santa Barbara/Santa Maria/Lompoc Primary Metropolitan Statistical Area with adjustments for household size.

TERM AND COMPLIANCE

COMPLIANCE WITH COUNTY LAND LOAN DOCUMENTS. The Owner's actions with respect to the Property and the use of funds from the County Land Loan shall at all times be in full conformity with all of the requirements of the County Land Loan Documents, including, but not limited to, the insurance requirements contained herein and therein.

TERM OF AGREEMENT. This Agreement shall remain in full force and effect for the entirety of the Term. The requirements of this Agreement shall apply throughout the Term without regard to the term of any loan or mortgage or any Transfer.

COMPLIANCE WITH NPLH PROGRAM REQUIREMENTS. At all times during the Term, the Owner shall comply with all No Place Like Home (“NPLH”) program requirements, including, but not limited to, the NPLH Standard Agreement by and among the State Department of Housing and Community Development, the County, Owner, the Housing Authority of the County of Santa Barbara, and Surf Development Company with respect to the Project (the “Standard Agreement”), all of the California State Department of Housing and Community Development's NPLH program guidelines, policies and procedures in effect during the Term, and (collectively the “NPLH Requirements”).

PROJECT OCCUPANCY AND RENTS

OCCUPANCY OF PROJECT. A total of thirty four (34) Units in the Project shall be designated by Owner as Assisted Units. Each Assisted Unit must be occupied, or reserved for occupancy, by a Qualifying Household at all times during the Term, in accordance with Section 3.2, below.

OCCUPANCY DEADLINES. Each Assisted Unit shall be occupied by a Qualifying Household within six (6) months after the date of Project Completion ("Occupancy Deadline"), which Project Completion shall be evidenced by the recording of a notice of completion with the Santa Barbara County Clerk-Recorder's Office and the issuance of a Certificate of Occupancy with respect to each of the Assisted Units. In the event that any Assisted Unit is not occupied by a Qualifying Household by the Occupancy Deadline ("Assisted Unit Vacancy"), Owner shall (i) deliver to Lender, within five (5) days after the Occupancy Notice Date, written notice of each such Assisted Unit Vacancy, (ii) submit to Lender, within ten (10) days after the Occupancy Notice Date, a detailed record of Owner's marketing efforts with respect to the Project and the Assisted Units, and (iii) comply with Lender's reasonable requests for additional information pertaining to such marketing efforts. Any Assisted Unit vacancy on the date that is six (6) months after the date of the issuance of a Certificate of Occupancy shall constitute an Event of Default by Owner. On or before the date that is three (3) days after the last day of the sixth (6th) month after the date of Project Completion, Owner shall provide to Lender written notice of each such Assisted Unit vacancy and its marketing plan to Lender to evidence ongoing efforts to occupy the Assisted Units. Within five (5) days of receipt of such notice of Assisted Unit vacancy from Owner, Lender shall give written notice to Owner of such Event of Default in accordance with Section 6.2, below. Owner shall cure such Event of Default before the last day of the twelfth (12th) month after the date of Project Completion. Notwithstanding any other provision of this Agreement, or any provision of any other County Land Loan Document or subordination agreement to the contrary, Owner shall immediately repay to Lender all County Land Loan funds invested in Units that are not rented to Qualifying Households within 12 months of Project Completion.

3.2 ASSISTED UNITS. At all times during the Term, the Owner shall limit rental and occupancy of thirty-four (34) Assisted Units to Qualifying Households at Qualifying Rents that do not exceed the maximum rental charges for each Assisted Unit as set forth herein. At least seven (7) of the Assisted Units must be affordable to Very Low-Income Households. The Assisted Units shall be designated as "floating," such that which of the Units are designated as affordable to Low Income Households and Very Low-Income Households may change from time to time, provided that there shall be no fewer than seven (7) of the thirty (34) Assisted Units in the Project affordable to Very Low-Income Households at all times during the Term.

All Assisted Units shall meet the following standards:

- A. The Assisted Units shall be similarly constructed and of comparable quality to all other Units in the Project, and shall be dispersed throughout the Project; and
- B. All Tenants of Assisted Units shall be provided with access to and enjoyment of all common areas and facilities of the Project on the same basis as Tenants of other Units.

3.3 OTHER PROJECT UNITS.

Owner must maintain and operate the Project in compliance with all applicable federal, state, and local requirements for access for disabled persons, including, but not limited to, Section 504 of the Rehabilitation Act of 1973 (29 USC 794), as amended, and with implementing regulations at 24 CFR, Part 8, and the Fair Housing Act (42 USC 3601-3619), implemented at 24 CFR Part 100, Subpart D. Within thirty (30) days after Borrower has completed the construction of the Project, Borrower shall submit to Lender documentation satisfactory to Lender evidencing compliance with all such requirements, including, but not limited to, a certification from the Project architect documenting the Unit numbers and type of accessibility features of no less than two (2) Units accessible for persons with mobility impairments and one (1) Unit accessible for persons with either hearing or visual impairments.

MAXIMUM RENTAL CHARGES.

Maximum rental charges for each Assisted Unit shall not exceed the Qualifying Rent as defined above.

B. The Qualifying Rent for each Assisted Unit shall be set by the Lender at the time of initial occupancy of the Project. Annual increases in Qualifying Rents shall be calculated based on the change in Area Median Income published annually by HUD. Owner shall not increase Qualifying Rents charged to any Tenant occupying an Assisted Unit without the prior written approval of the County in each instance. Owner shall submit to the County a written request for approval of each such increase at least sixty (60) calendar days prior to the requested effective date of such increase. Lender may approve such request if such increased Qualifying Rents would comply with all applicable laws and this Agreement. Owner must deliver to the Tenants of each Assisted Unit written notice of each such County-approved increase at least thirty (30) days prior to any increase in Qualifying Rents, consistent with State law.

3.5 INCOME CERTIFICATION.

A. The Annual Income levels and other qualifications of each applicant for an Assisted Unit shall be certified by Owner no earlier than six (6) months prior to such Qualifying Household applicant's expected occupancy of an Assisted Unit, and recertified annually thereafter by the Owner, in compliance with 24 CFR 92.203. Before an applicant occupies an Assisted Unit, the Owner shall verify that the Annual Income calculated in an Annual Income certification for such applicant is accurate by taking both of the following steps as a part of the verification process:

- (1) Third Party Verification: Owner shall contact, in writing, all third parties referenced in such Qualifying Household's Annual Income Certification (e.g., employer, Social Security Administration, public assistance agency) to obtain written verification from each such third party of such Qualifying Household's Annual Income; and
- (2) Review of Documents: Owner shall require each Qualifying Household to provide documents verifying such Qualifying Household's Annual Income (e.g., pay stubs, tax returns), and shall retain all such Qualifying Household Annual Income verification documents in the Project files.

Annual Income Recertification. At the time of each Assisted Unit lease renewal, or pursuant to an annual schedule adopted by the Owner, and in no event later than the one-year anniversary of the initial Annual Income verification for each Assisted Unit, and annually thereafter during the Affordability Period, Owner shall recertify the Annual Income of each Tenant

occupying an Assisted Unit using the method described in Section 3.5.A, above. Such annual recertification shall be used in order to determine 30% of each Qualifying Household's Tenant portion of rent payment for such Assisted Unit.

3.6 INCREASES IN QUALIFYING HOUSEHOLD INCOMES. In the event that recertification of the Annual Income of a Tenant who previously qualified as a Qualifying Household ("Previously-Qualifying Household") indicates that such Tenant's Annual Income exceeds the maximum designated for a Unit reserved for a Very Low-Income Household hereunder and pursuant to the NPLH Requirements, the Owner may increase the amount of rent payable by such Tenant for such Unit only as permitted by HUD in accordance with regulations regarding "over-income tenants" at 24 CFR 92.252(i). If such Previously-Qualifying Household's income exceeds eighty-percent (80%) of AMI, then the Unit occupied by such Previously-Qualifying Household no longer qualifies as an Assisted Unit, and the next available Unit of comparable size and amenities or larger must be designated as the replacement Assisted Unit.

4. LEASING THE PROJECT

4.1 TENANT LEASES. The Owner shall execute a written lease agreement ("Lease") with Tenant(s) of each Assisted Unit for a term of at least one year, unless the Owner and such Tenant(s) mutually agree to a shorter Lease term; provided, however, that no such Lease agreement may be for a term of less than thirty (30) days. Each Lease shall be in the form of the Form of Lease approved by Lender ("Form of Lease"), and each deviation from or change thereto in any Lease must be approved in writing in advance by Lender.

A. The Owner shall include in each Lease for each Assisted Unit provisions which provide that a Qualifying Household occupying such Assisted Unit is subject to annual certification of such Qualifying Household's Annual Income, and that the tenancy of such Qualifying Household shall be terminated as soon as possible in accordance with State law should one or more of such Qualifying Household's members misrepresent any material fact regarding such Qualifying Household's qualification as a Low-Income Household. The Owner shall include in each Lease for each Assisted Unit provisions which prohibit Qualifying Household occupying such Assisted Unit from subleasing such Assisted Unit.

B. In addition to executing a Lease for each Assisted Unit, the Owner shall require that each Qualifying Household leasing an Assisted Unit execute a Declaration of Intent to Occupy, which shall require the Qualifying Household to occupy such Assisted Unit as the Qualifying Household's primary residence.

C. The Lease for each Assisted Unit shall **not** contain any of the prohibited provisions identified at 24 CFR §92.253(b), including, but not limited to, the following:

1. *Agreement to be sued.* Agreement by the Tenant to be sued, to admit guilt, or to a judgment in favor of the Owner in a lawsuit brought in connection with the lease;

2. *Treatment of property.* Agreement by the Tenant that the Owner may take, hold or sell personal property of Qualifying Household members without notice to the Tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the Tenant concerning disposition of personal property remaining in the Assisted Unit after the Tenant has

moved out of the Assisted Unit. The Owner may dispose of such personal property in accordance with State law;

3. *Excusing Owner from responsibility.* Agreement by the Tenant not to hold the Owner or the Owner's agents legally responsible for any action or failure to act, whether intentional or negligent;

4. *Waiver of notice.* Agreement of the Tenant that the Owner may institute a lawsuit without notice to the Tenant;

5. *Waiver of legal proceedings.* Agreement by the Tenant that the Owner may evict the Tenant or Qualifying Household members without instituting a civil court proceeding in which the Tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;

6. *Waiver of a jury trial.* Agreement by the Tenant to waive any right to a trial by jury;

7. *Waiver of right to appeal court decision.* Agreement by the Tenant to waive the Tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the Lease;

8. *Tenant chargeable with cost of legal actions regardless of outcome.* Agreement by the Tenant to pay attorney's fees or other legal costs even if the Tenant wins in a court proceeding by the Owner against the Tenant. The Tenant, however, may be obligated to pay costs if the Tenant loses; and

9. *Mandatory support services.* Agreement by the Tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

D. Owner shall not terminate the tenancy or refuse to renew the Lease of a Tenant of an Assisted Unit except for serious or repeated violations of the terms and conditions of such Lease, for violation of applicable Federal, State, or local law, or for other good cause. To terminate or refuse to renew such tenancy, the Owner shall serve written notice upon such Tenant specifying the grounds for such action at least thirty (30) days prior to termination of such tenancy.

E. Owner shall comply with all requirements of the Violence Against Women Act ("VAWA") set forth in 24 CFR part 5, subpart L. Owner shall provide the notice and certification form described in 24 CFR 5.2005(a) to an applicant for an Assisted Unit at the time such applicant is offered a lease for an Assisted Unit, or denied admission to an Assisted Unit based on the Owner's tenant selection policies and criteria. Owner shall further provide the notice and certification form described in 24 CFR 5.2005 with any notification of eviction from an Assisted Unit. If a family living in an Assisted Unit separates under 24 CFR 5.2009(a), the remaining Tenant(s) may remain in the Unit. All Leases for an Assisted Units must include a VAWA lease term/addendum to incorporate all requirements that apply to the Owner or Lease under 24 CFR part 5, subpart L, and 24 CFR 92.359, including the prohibited bases for eviction and restrictions on construing lease terms under 24 CFR 5.2005(b) and (c). The VAWA lease term/addendum must also provide that the Tenant may terminate the Lease without penalty if it is determined that the Tenant has met the conditions for an emergency transfer under 24 CFR 5.2005(e). Each Lease must require the Owner to notify the participating jurisdiction before the Owner bifurcates the Lease or provides notification of eviction to the Tenant(s) subject to such Lease. Owner shall comply with all other applicable VAWA requirements, regardless of whether specified herein.

F. Owner and Lender shall work together to comply with the requirements of the Coordinated Entry System under the Continuum of Care ("CoC") program, as set forth at 24 CFR Part 578, PIH Notice 2013-15 and other guidance from HUD on CoC and NPLH collaboration.

4.2 SECTION 8 CERTIFICATE HOLDERS. The Owner will accept as Tenants, on the same basis as all other prospective Tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. The Owner shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective Tenants, nor shall the Owner apply or permit the application of management policies or lease provisions with respect to the Project which have the effect of precluding occupancy of Units by such prospective Tenants.

4.3 CONDOMINIUM CONVERSION. During the Term, the Owner shall not convert Units to condominium or cooperative ownership or sell condominium or cooperative conversion rights in the Property.

4.4 NONDISCRIMINATION. The Owner shall not discriminate or segregate, or allow discrimination or segregation, in the use, enjoyment, occupancy, conveyance, lease, sublease, or rental of Units on the basis of race, color, ancestry, national origin, religion, sex, gender, gender identity or expression, sexual preference, age, marital status, family status, source of income, military or veteran status, physical or mental disability, medical condition, genetic information, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), or any basis prohibited by law. The Owner shall include a statement in all advertisements, notices and signs for the availability of Units for rent to the effect that the Owner is an Equal Housing Opportunity Provider.

4.5 MARKETING PLAN. Prior to occupancy, Owner shall submit to the Lender for approval its plan for marketing the Units, including information on affirmative marketing efforts and compliance with fair housing laws and the Lender's affirmative fair marketing guidelines ("Proposed Marketing Plan"). Upon receipt of the Proposed Marketing Plan, the Lender shall promptly review the Proposed Marketing Plan and shall approve or disapprove of it within thirty (30) days after submission. If the Proposed Marketing Plan is not approved, Lender shall specify its reasons for disapproval in a notice of disapproval to Owner, and Owner shall submit a revised marketing Plan to Lender within thirty (30) days of such notice of disapproval. Lender's disapproval of such revised marketing plan shall constitute an Event of Default under the County Land Loan Agreement.

5. PROPERTY MANAGEMENT

5.1 MANAGEMENT RESPONSIBILITIES. The Owner shall be solely responsible for management of the Project, including all management functions with respect to the Project, including without limitation the selection of Tenants, certification and recertification of Qualifying Household size and Annual Income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The Owner shall submit its proposed Property Manager for the Project to Lender for Lender's approval. The Owner must not remove or replace the Property Manager without the prior written consent of the Lender in each instance, which consent shall not be unreasonably withheld.

5.2 APPROVAL OF MANAGEMENT POLICIES. The Owner shall submit its written management policies with respect to the Project (“Management Policies”) to the Lender for Lender’s review and approval prior to Project occupancy. Owner shall amend the Management Policies in any way directed by the County to ensure that the Management Policies comply with the provisions of this Agreement, the other County Land Loan Documents, the NPLH Requirements, and the requirements of all lenders providing financing for the Project; provided, however, that in the event of any conflict between (a) the NPLH Requirements or the provisions of this Agreement and the other County Land Loan Documents, and (b) the requirements of any lender providing financing for the Project, the NPLH Requirements and the County Land Loan Documents provisions shall prevail and control, and the Management Policies shall comply with the NPLH Requirements and the County Land Loan Documents.

5.3 INSPECTION AND RECORDS. The Owner shall maintain records for a period of five (5) years after the Term which clearly document the Owner’s performance of its obligations under this Agreement. The Owner shall submit all requested records to the Lender within ten (10) business days of the Lender’s request. The Owner shall permit the Lender to enter and inspect the Property for compliance with Owner’s obligations under this Agreement upon twenty-four (24) hours’ advance notice of such visit by the Lender to the Owner or the Owner’s Property Manager. Owner must include provisions in all Tenant leases that allow for County inspections of the Units.

5.4 COMPLIANCE MONITORING. The Owner shall, at all times during the Term, operate the Property and the Project in full compliance with this Agreement, the NPLH Requirements, as may be enacted or amended from time to time, and shall remain in compliance therewith throughout the entirety of the Term. The Owner shall permit the Lender to conduct compliance monitoring, including performing on-site records review and inspections of the Property, as required by applicable laws and regulations, the NPLH Requirements, and/or as requested by Lender.

5.5 ANNUAL REPORT. On or before March 1st of each year during the Term following Project Completion, the Owner shall submit to the Lender a report, in a form approved by Lender, for the immediately preceding calendar year, containing all information requested by Lender so as to allow the Lender to determine the Owner’s compliance with this Agreement (“Annual Report”). The Annual Report shall include, at a minimum: (i) an Annual Financial Statement, as defined in the County Land Loan Agreement, (ii) a report on the occupancy of the Project, (iii) a report on the physical condition of the Project, (iv) a report on the general management of the Project, (v) for each Assisted Unit, the rent, Annual Income, and household size of the Tenant household in occupancy of such Unit, as well as the date such tenancy commenced, and (vi) all other information requested by Lender.

Within thirty (30) days after receipt of a written request, Owner shall submit all information and completed forms requested by the Lender in connection with reporting requirements of HUD, the State of California, or the Lender. The Lender shall have the right to examine and make copies of all books, records and other documents and data in Owner’s possession, custody, or control which pertain to the Project, Property, or any Unit to determine compliance with this Agreement.

5.6 FEES, TAXES, AND OTHER LEVIES. The Owner shall be responsible for payment of all fees, assessments, taxes, charges and levies imposed by any public authority or utility company with respect to the Property, and shall pay such charges prior to delinquency.

5.7 PROPERTY TAX EXEMPTION. The Owner shall not apply for a property tax exemption for the Property under any provision of law other than California Revenue and Taxation Code Section 214(g) without the Lender's prior written consent in each instance.

5.8 MAINTENANCE OF PROJECT. Owner shall maintain all buildings on the Property in good condition, in good repair, ordinary wear and tear excepted, and in a decent, safe, sanitary, habitable and tenantable condition. All Units in the Project must meet the standards set forth in 24 CFR 92.251(f)(2), as well as the standards in the NPLH Requirements, at all times during the Term. In the event that Lender establishes property standards in accordance with 24 CFR 92.251(f)(1), and determines in its sole discretion that such standards are applicable to the Project, Lender shall send written notice of such determination to Owner. Upon Owner's receipt of such written notice, the property standards established by Lender pursuant to 24 CFR 92.251(f)(1) shall apply to all Units in the Project throughout the Term of this Agreement. Owner shall not cause or permit any violations of any laws, ordinances, regulations, covenants, conditions, restrictions, or equitable servitudes as they pertain to improvements, alterations, maintenance or demolition on the Property. Owner shall be solely responsible for maintenance of the Property.

6. GENERAL PROVISIONS

6.1 SUBORDINATION. This Agreement shall be senior to all, and shall not be subordinate to any, deeds of trust, notes, agreements, and other obligations of Lender concerning the Property, and may be subordinated in priority only as to liens and encumbrances otherwise approved in advance in writing by the Lender in each instance, in Lender's sole and absolute discretion.

6.2 DEFAULT AND REMEDIES In the event of any breach of any provision(s) of this Agreement by or on behalf of the Owner, the Lender shall provide written notice to the Owner of such breach; provided, however, that if Owner has actual or constructive knowledge of such breach and has not received written notice of such breach from Lender, Owner shall immediately provide written notice to Lender of such breach. If Lender determines that such breach is capable of cure, Lender shall provide written notice to Owner stating that such breach is capable of cure, the actions required to effect such a cure, and the date by which such cure must be completed ("Opportunity to Cure Notice"), provided that the Owner diligently undertakes to cure such breach in accordance with such Opportunity to Cure Notice. Lender shall accept a cure of such breach by the Owner's limited partner on the same basis as Lender would accept a cure of such breach by the Owner. If the Owner fails to perform a timely cure of the specified breach in accordance with such Opportunity to Cure Notice, or immediately upon the occurrence of a breach that the Lender determines to be incapable of cure, the Lender may proceed with any or all of the following remedies:

A. Bring an action in equitable relief seeking the specific performance by the Owner of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of said terms and conditions, and/or seeking declaratory relief;

B. Enter upon, take possession of, and manage the Property and the Project, either in person, by agent, or by a receiver appointed by a court, and collect any rents, income, deposits, or reserves and apply them to operate the Property;

C. After notice provided for herein, make such repairs or replacements to the Property and Project as are necessary and provide for payment thereof;

D. Pursue any other remedy provided under the County Land Loan Documents or allowed at law or in equity.

6.3 EVENT OF DEFAULT. In the event that, at any time during the Term, any of Owner or the Project are not in compliance with any of the NPLH Requirements or any provision of this Agreement, subject to applicable notice and cure periods as provided herein, such failure shall constitute an Event of Default hereunder and under the County Land Loan Agreement. In the event that Owner or the Project fails to comply with any of the provisions of the Tax Credit Regulatory Agreement, such failure shall constitute an Event of Default hereunder and under the County Land Loan Agreement.

6.4 NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS. No official elected or appointed, officer, director, employee, or agent of the Lender shall be personally liable to the Owner for any obligation created under this Agreement.

6.5 INSURANCE AND INDEMNITY. Owner shall, at all times, comply with all of the insurance and indemnification provisions set forth in Exhibit E to the County Land Loan Agreement.

6.6 GOVERNING LAW. This Agreement shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law and those provisions preempted by federal law.

6.7 AGREEMENT CONTROLS. In the event of any conflict between any provision of this Agreement and any provision contained in any of the other County Land Loan Documents, the terms of this Agreement shall control and prevail.

6.8 TIME. Time is of the essence in this Agreement.

6.9 CONSENTS AND APPROVALS. Any consent or approval of the Lender required under this Agreement shall not be unreasonably withheld. No Lender consent or approval shall be effective unless in writing and executed by a duly authorized representative of the Lender.

6.10 NOTICES, DEMANDS AND COMMUNICATIONS. Formal notices, demands and communications to a Party hereunder shall be sufficiently given if, and shall not be deemed given unless, dispatched by U.S. Postal Service registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the such Party at the address set forth for such Party as follows, or to such other address as such Party may from time to time designate in writing delivered to the other Party in accordance with this Section 6.10:

Lender: County of Santa Barbara
Housing and Community Development
105 E Anapamu Street, Room 105
Santa Barbara, CA 93101
Attn: Deputy Director

With copy to: Office of County Counsel
County of Santa Barbara
105 E Anapamu Street, Room 201
Santa Barbara, CA 93101

Owner: Hollister Lofts, L.P.
815 W Ocean Avenue
Lompoc, CA 93436
Attn: Managing General Partner

With copy to: Price, Postel & Parma LLP
Attn: Mark S. Manion
200 East Carrillo Street, Fourth Floor
Santa Barbara, CA 93101

6.11 BINDING UPON SUCCESSORS. This Agreement shall be recorded in the official records of the Santa Barbara County Clerk-Recorder's Office, and all provisions of this Agreement shall be binding upon and inure to the benefit of the permitted successors-in-interest, permitted transferees, and permitted assigns of the Owner, as permitted in accordance with the County Land Loan Documents, and the Lender, and shall run with the land with respect to the Property for the full Term of this Agreement, regardless of any assignment, payment, prepayment, expiration, or extinguishment of the County Land Loan or the County Land Loan Note, any reconveyance of the County Land Loan Deed of Trust, or any conveyance or Transfer of the Property or any portion thereof or any interest therein; provided, however, that Owner shall not shall not assign or otherwise transfer, directly or indirectly, whether by operation of law or otherwise ("Transfer"), this Agreement or the Property, or any of Owner's interest herein or therein, or any of Owner's rights or obligations hereunder, without the prior written consent of Lender in each instance. Any purported Transfer in violation of the foregoing provisions of this Section 6.11 shall be void *ab initio*.

6.12 RELATIONSHIP OF PARTIES. The relationship of the Owner and the Lender during the Term of this Agreement is solely that of lender and borrower and shall not be construed as a joint venture, equity venture, or partnership.

6.13 WAIVER. No waiver, consent, or approval by the Lender with respect to this Agreement shall be effective unless in writing executed by a duly authorized representative of Lender. No waiver shall be implied from any delay or failure by the Lender to take action on any breach or default of the Owner, or to pursue any remedy allowed under this Agreement or any of the other County Land Loan Documents, or under applicable law. No extension of time granted by Lender to the Owner to perform an instance of an obligation under this Agreement shall operate as a waiver or release with respect to any other instance or obligation under this Agreement or any of the other County Land Loan Documents. No consent by the Lender to an act or omission by the Owner shall be construed to constitute consent by Lender to any other or subsequent act or

omission, or to waive the requirement that all waivers by Lender hereunder must be in writing executed by a duly authorized representative of Lender.

6.14 AMENDMENTS AND MODIFICATIONS. No amendment to or modification of this Agreement shall be effective unless in writing and duly executed by both the Owner and the Lender.

6.15 SEVERABILITY. Each provision of this Agreement is intended to be severable in the event that any provision of this Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, in which case, the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

Signatures appear on following page. No further text appears here.

EXHIBIT E

STANDARD INDEMNIFICATION AND INSURANCE PROVISIONS for contracts NOT requiring professional liability insurance

I. INDEMNITY

Borrower hereby agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless County and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by County on account of any claim except where such indemnification is caused by the sole negligence of the County.

II INSURANCE

Borrower hereby covenants and agrees to provide the insurance coverage with limits as specified below. Borrower shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the County Home Loan Agreement as follows:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$2,000,000 per occurrence and \$4,000,000 in the aggregate.
2. **Automobile Liability:** Insurance Services Office Form CA 0001 covering Code 1 (any auto), with limits no less than \$2,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Pollution Legal Liability and/or Asbestos Legal Liability:** (if project involves environmental hazards) with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

If the Borrower maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the Borrower. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

5. **Builders Risk Insurance:** Borrower shall obtain a Builders Risk Policy that provides 100% Replacement Cost. Coverage is to be effective upon the date of the Notice to Proceed, the date of site mobilization or the start of any shipment of materials, machinery or equipment to the site, whichever is earlier, and to remain in effect until replaced by permanent All Risk Property Insurance. The policy must include a Loss Payable Endorsement, including mortgage clause (CP 12 18 or similar) in favor of the County. The policy must not contain a coinsurance clause or self-insured retention. The policy must provide coverage for vandalism and Malicious Mischief Coverage.
6. **All Risk Property Insurance:** Borrower shall obtain and maintain in full force during the entire time of its ownership of the property described in this Agreement an

All Risk Property Insurance policy that provides 100% Replacement Cost. The policy must contain a Lender's Loss Payable Endorsement, including mortgage clause (CP 12 18 or similar) in favor of the County. The policy may not contain a co-insurance clause or self-insured retention. Earthquake and fire coverage must be included.

7. **Flood Insurance:** If the property is deemed to be in an area identified by FEMA as a "special Flood Hazard area," Borrower must obtain flood insurance coverage with limits of at least the \$2,000,000 County is lending to Borrower.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – County, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Borrower including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Borrower's insurance at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).
2. **Primary Coverage** – For any claims related to this Agreement, the Borrower's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, agents or volunteers shall be excess of the Borrower's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the County.
4. **Waiver of Subrogation Rights** – **Borrower hereby agrees to waive rights of subrogation which any insurer of Borrower may acquire** from Borrower by virtue of the payment of any loss. Borrower agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation** in favor of the County for all work performed by the Borrower, its employees, agents and subcontractors. This provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County, either: the Borrower shall cause the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees, agents and volunteers; or the Borrower shall provide a financial guarantee satisfactory to the County guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – Borrower shall furnish the County with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Borrower's obligation to provide them. The Borrower shall furnish evidence of renewal of coverage throughout the term of the Agreement. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, County has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by County as a material breach of contract.
9. **Subcontractors** – Borrower shall require and verify that all contractors maintain insurance meeting all the requirements stated herein, and Borrower shall ensure that County is an additional insured on insurance required from contractors. For CGL coverage contractors shall provide coverage with a format least as broad as CG 20 38 04 13.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Borrower must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
11. **Special Risks or Circumstances** – County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Borrower agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of County.