
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

BVSHSSF SYRACUSE, LLC

TRANSCRIPT OF PROCEEDINGS

CLOSING DATE: MAY 19, 2017

(PEAK CAMPUS PROJECT)

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

BVSHSSF SYRACUSE, LLC (PEAK CAMPUS PROJECT)

INDEX OF CLOSING DOCUMENTS

<u>Tab No.</u>	<u>Documents</u>
1	Project Agreement
2	Company Lease Agreement
3	Memorandum of Company Lease Agreement with TP-584
4	Bill of Sale
5	Agency Lease Agreement
6	Memorandum of Agency Lease Agreement with Form TP-584
7	Company Certification re: Local Labor Policy
8	Certificates of casualty, liability, workers' compensation and other required insurance
9	Environmental Compliance and Indemnification Agreement
10	Closing Receipt
11	Sales Tax Exemption Letter
12	Form ST-60 indicating appointment of the Company to act as the agent of the Agency
13	Building Loan Mortgage
14	Assignment of Leases and Rents (Building Loan Mortgage)
15	Project Loan Mortgage
16	Assignment of Lease and Rents (Project Loan Mortgage)
17	UCC-1 Financing Statement(s)
18	Survey

- 19 General Certificate of the Agency relating to incumbency and signatures of officers, execution and delivery of Agency Documents to which it is a party, no litigation and continued existence, with the following items included as exhibits:
- Exhibit “A” Chapter 641 of the Laws of 1979 of the State of New York, as amended
 - Exhibit “B” Certificate of Establishment of the Agency and Certificates of appointment of current members
 - Exhibit “C” By-laws
 - Exhibit “D” Public Hearing Resolution
 - Exhibit “E” Notice of Public Hearing with evidence of publication and copies of letters to affected tax jurisdictions
 - Exhibit “F” SEQRA Resolution
 - Exhibit “G” Inducement Resolution
 - Exhibit “H” Final Approving Resolution
- 20 Mortgage Recording Tax Affidavit
- 21 General Certificate of the Company relating to capacity and signatures of officers, execution and delivery of the Documents to which it is a party, no litigation and approval, with the following items included as exhibits:
- Exhibit “A” Certificate of Formation (DE)
 - Exhibit “B” Limited Liability Company Agreement
 - Exhibit “C” Certificates of Good Standing (DE & NY)
 - Exhibit “D” Resolution
 - Exhibit “E” Local Access Agreement
- 22 Opinion of Barclay Damon, LLP, counsel to the Agency, addressed to the Company and the Agency
- 23 Opinion of Costello, Cooney & Fearon, PLLC, counsel to the Company, addressed to the Agency and the Company.
- 24 Closing Memorandum

1

PROJECT AGREEMENT

THIS PROJECT AGREEMENT (the “*Project Agreement*”), made as of May 1, 2017, by and between the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, with offices at 201 East Washington Street, 7th Floor, Syracuse, New York 13202 (the “*Agency*”) and **BVSHSSF SYRACUSE, LLC**, a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and authorized to do business in the State of New York, with offices at 353 North Clark Street, Chicago, Illinois 60654 (the “*Company*”).

WITNESSETH:

WHEREAS, Title I of Article 18-A of the General Municipal Law of the State of New York (the “*Enabling Act*”) was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York; and

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the “*State*”) and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any building or other improvement, and all real and personal properties, including, but not limited to machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter 641 of the Laws of 1979 of the State, as amended (collectively, with the Enabling Act, the “*Act*”) and is empowered under the Act to undertake the Project (as hereinafter defined) in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, the Company submitted an application (the “*Application*”) to the Agency requesting the Agency’s assistance with respect to a certain project (the “*Project*”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street), in the City of Syracuse, New York (the “*Land*”); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet consisting of new four and five story buildings for use as a mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and

(vi) approximately 274 parking spaces , all located on the Land (collectively, the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, by resolutions of its members adopted on January 24, 2017 (collectively, the “**Resolutions**”), the Agency agreed to confer on the Company, in connection with the Project, certain financial assistance consisting of: (a) an exemption from New York State and local sales and use taxes for purchases and rentals related to the Project with respect to qualifying personal property included in or incorporated into the Project Facility or used in the acquisition, construction or equipping of the Project Facility; and (b) an exemption from mortgage recording tax (except as may be limited by Section 874 of the General Municipal Law); (collectively, the sales and use tax exemption benefit and the mortgage recording tax benefit are hereinafter collectively referred to as the “**Financial Assistance**”); and

WHEREAS, by resolution of its members adopted on March 21, 2017 (the “**Temporary Appointment Resolution**” and together with the Inducement Resolution, collectively, the “**Resolutions**”), the Agency authorized the Company to act as its agent for the purposes of undertaking and completing the Project and the Agency delegated to the Company the authority to appoint sub-agents subject to the execution of this Interim Project Agreement and compliance with the terms set forth herein and in the Resolutions; and

WHEREAS, it has been estimated and confirmed by the Company that the Company has included within its Application for Financial Assistance that: (i) the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated to be an amount up to **\$17,000,000**; and therefore, the value of the State and local sales and use tax exemption benefits authorized and approved by the Agency cannot exceed **\$1,360,000**; and (ii) the mortgage recording tax exemption amount shall be approximately **\$485,000** (except as may be limited by Section 874 of the General Municipal Law). There are no real property tax abatement benefits to be provided to the Company; and

WHEREAS, the Agency previously provided to the Company a temporary sales tax appointment letter (the “**Letter**”) to provide for the granting of the sales tax exemption, in accordance with the terms of the Resolutions, prior to the execution of the Agency Lease (as defined herein) and other documents. In addition to the Letter, the parties executed and delivered an Interim Project Agreement dated April 1, 2017 (the “**Interim Agreement**”) which was intended to be superseded by this Project Agreement; and

WHEREAS, the Company proposes to lease the Land and Facility to the Agency, and the Agency desires to lease the Land and Facility from the Company pursuant to the terms of a certain Company Lease Agreement dated as of May 1, 2017 (the “*Company Lease*”), by and between the Company and the Agency; and

WHEREAS, the Agency proposes to acquire an interest in the Equipment pursuant to a bill of sale from the Company (the “*Bill of Sale*”); and

WHEREAS, the Agency proposes to sublease the Project Facility to the Company, and the Company desires to lease the Project Facility from the Agency, upon the terms and conditions set forth in a certain Agency Lease Agreement dated as of May 1, 2017 (the “*Agency Lease*”); and

WHEREAS, by its Resolutions, the Agency authorized the Company to act as its agent for the purposes of undertaking the Project and the Agency delegated to the Company the authority to appoint sub-agents subject to the execution of this Project Agreement and compliance with the terms set forth herein and in the Resolutions; and

WHEREAS, in order to define the obligations of the Company regarding its ability to utilize the Agency’s sales and use tax exemption benefit as agent of the Agency to acquire, construct, renovate, equip and complete the Project Facility and to undertake the Project, the Agency and the Company will enter into this Project Agreement; and

WHEREAS, the Agency requires, as a condition and as an inducement for it to enter into the transactions contemplated by the Resolutions, and as more particularly described in this Project Agreement, that the Company provide assurances with respect to the terms and conditions herein set forth; and

WHEREAS, this Project Agreement sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; and

WHEREAS, no Financial Assistance shall be provided to the Company prior to the effective date of this Project Agreement, except as provided for in and by the Interim Agreement.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

ARTICLE I

PURPOSE OF PROJECT

Section 1.01 Recitals. The foregoing recitals are incorporated herein as if fully set forth.

Section 1.02 Purpose of Project. It is understood and agreed by the parties that the purpose of the Agency’s provision of Financial Assistance with respect to the Project is to, and that the Agency is entering into the Company Lease, Agency Lease and this Project Agreement

in order to, promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping, furnishing and completing of the Project Facility to advance job opportunities, health, general prosperity and economic welfare of the people of the City of Syracuse and to otherwise accomplish the public purpose of the Act.

ARTICLE II

REAL PROPERTY TAX EXEMPTION

Section 2.01. PILOT Agreement. The Company is not receiving an exemption from real property taxes from the Agency; and notwithstanding the Agency's interest in the Project Facility, the Company shall pay real property taxes as if privately owned.

ARTICLE III

SALES AND USE TAX EXEMPTION

Section 3.01. Scope of Agency. The Company agrees to limit its activities as agents for the Agency under the authority of the Resolutions and this Project Agreement to acquisition, reconstruction, installation and completion of the Project Facility. The right of the Company to act as agent of the Agency shall expire on **September 30, 2018**, unless extended by a resolution adopted by the members of the Agency, or unless terminated early in accordance with the terms of the Agency Lease. The value of the sales and use tax exemption benefits shall not exceed the amounts described in the Application and as set forth in Section 3.03(b) unless approved by a resolution adopted by the members of the Agency. All contracts entered into by the Company as agent for the Agency shall include the following language:

“This contract is being entered into by _____ (the “*Agent*”), as agent for and on behalf of the City of Syracuse Industrial Development Agency (the “*Agency*”), in connection with a certain project of the Agency for the benefit of the Agent consisting in part of the acquisition and installation of certain machinery, equipment and building materials, all for incorporation and installation in certain premises located at 945 East Genesee Street, in the City of Syracuse, New York (the “*Premises*”). The machinery, equipment and building materials (collectively, the “*Equipment*”) to be incorporated and installed in the Premises shall be exempt from the sales and use taxes levied by the State of New York if the acquisition of the Equipment is effected in accordance with the terms and conditions set forth in the Project Agreement dated as of May 1, 2017 by and between the Agency and the Company (the “*Project Agreement*”); and the Agent represents that this contract is in compliance with the terms of the Project Agreement. This contract is non-recourse to the Agency, and the Agency shall not be directly, indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever. By execution or acceptance of this contract, the vendor/contractor acknowledges and agrees to the terms and conditions set forth in this paragraph.”

Section 3.02. Appointment of Sub-Agents. Subject to the terms and conditions of this Project Agreement and pursuant to the Resolutions, the Agency hereby delegates to the Company the authority to appoint sub-agents of the Agency in connection with the Project, which may be agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and other parties as the Company chooses (each, a “**Sub-Agent**”). The appointment of each such Sub-Agent will be effective only upon: (1) the execution by the Sub-Agent and the Company of the Sub-Agent Appointment Agreement attached as Exhibit F to the Agency Lease (the “**Sub-Agent Agreement**”), the terms and provisions of which are incorporated herein; (2) the receipt by the Agency of a completed Form ST-60 in accordance with Section 3.03(e) below; and (3) receipt of any required insurance as set forth in the Sub-Agent Agreement.

Section 3.03. Representations and Covenants of the Company.

(a) The Company hereby incorporates and restates its representations, covenants and warranties made in the Agency Lease.

(b) The Company further covenants and agrees that the purchase of goods and services relating to the Project and subject to State and local sales and use taxes are estimated in the amount up to \$17,000,000, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$1,360,000.

(c) The Company further covenants and agrees to complete “IDA Appointment of Project Operator or Agent For Sales Tax Purposes” (Form ST-60) for itself and each Sub-Agent and to provide said form to the Agency within fifteen (15) days of appointment such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment.

(d) The Company further covenants and agrees to file an annual statement with the State Department of Taxation and Finance an “Annual Report of Sales and Use Tax Exemptions” (Form ST-340) regarding the value of sales and use tax exemptions the Company and its Sub-Agents have claimed pursuant to the agency conferred on the Company with respect to the Project in accordance with Section 874(8) of the Act. The Company further covenants and agrees that it will, within thirty (30) days of each filing, provide a copy of their filed ST-340 to the Agency, but in no event later than March 29 of each year. The Company understands and agrees that the failure to file such annual statement will result in the removal of: (1) the Company’s authority to act as agents for the Agency; and (2) the authority of any Sub-Agent of the Agency appointed by the Company pursuant to Section 2 hereof to act as agent for the Agency.

(e) The Company further acknowledges and agrees that all purchases made in furtherance of the Project by the Company and any Sub-Agent shall be made using “IDA Agent or Project Operator Exempt Purchase Certificate” (Form ST-123, a copy of which is attached to the Sub-Agent Agreement), and it shall be the responsibility of the Company and the Sub-Agent, as the case may be, (and not the Agency) to complete Form ST-123. The Company acknowledges and agrees that it shall identify the Project on each bill and invoice for such

purchases and further indicate on such bills or invoices that the Company is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Company acknowledges and agrees that the bill of invoice should state, "I, [NAME OF AGENT], certify that I am a duly appointed agent of the City of Syracuse Industrial Development Agency and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my Project Agreement with the City of Syracuse Industrial Development Agency." The Company further acknowledges and agrees that the following information shall be used by the Company to identify the Project on each bill and invoice: BVSHSSF SYRACUSE, LLC – PEAK CAMPUS PROJECT, 945 East Genesee Street, Syracuse, New York; Project No. 31021705.

(f) The Company acknowledges and agrees that the Agency shall not be liable, either directly or indirectly or contingently, upon any contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company shall be the sole party liable thereunder.

Section 3.04. Hold Harmless Provisions.

(a) The Company releases the Agency and its members, officers, agents (other than the Company) and employees from, agrees that the Agency and its members, officers, agents (other than the Company) and employees shall not be liable for and agrees to indemnify, defend and hold the Agency and its members, officers, agents (other than the Company) and employees harmless from and against any and all claims, causes of action, judgments, liabilities, damages, losses, costs and expenses arising as a result of the Agency's undertaking the Project, including, but not limited to: (1) liability for loss or damage to property or bodily injury to or death of any and all persons that may be occasioned, directly or indirectly, by any cause whatsoever pertaining to the Project Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any person or property on, in or about the Project Facility; (2) liability arising from or expense incurred by the Agency's acquiring, constructing, equipping, installing, owning, leasing or selling the Project Facility, including, without limiting the generality of the foregoing, any sales or use taxes which may be payable with respect to goods supplied or services rendered with respect to the Project Facility, all liabilities or claims arising as a result of the Agency's obligations under this Project Agreement or the enforcement of or defense of validity of any provision of this Project Agreement; (3) all claims arising from the exercise by the Company of the authority conferred on it pursuant to Sections 1 and 2 hereof; and (4) all causes of action and reasonable attorneys' fees and other expenses incurred in connection with any suits or actions that may arise as a result of any of the foregoing; provided that any such claims, causes of action, judgments, liabilities, damages, losses, costs or expenses of the Agency are not incurred or do not result from the gross negligence or intentional wrongdoing of the Agency or any of its members, officers, agents (other than the Company) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency or any of its officers, members, agents (other than the Company) or employees and notwithstanding the breach of any statutory obligation or any rule of comparative or apportioned liability.

(b) In the event of any claim against the Agency or its members, officers, agents (other than the Company) or employees by any employee of the Company or any contractor of the Company or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Company or such contractor under workers' compensation laws, disability benefits laws or other employee benefit laws.

(c) To effectuate the provisions of this Section 3.04, the Company agrees to provide for and insure, in the liability policies required by Section 3.05 of this Project Agreement, its liabilities assumed pursuant to this Section 3.04.

(d) Notwithstanding any other provisions of this Project Agreement, the obligations of the Company pursuant to this Section 3.04 shall remain in full force and effect after the termination of this Project Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses, charges and costs incurred by the Agency, or its officers, members, agents (other than the Company) or employees, relating thereto.

Section 3.05. Insurance Required.

(a) The Company agrees that it shall maintain all insurance required under the Agency Lease.

(b) The Company agrees that it shall cause its general contractor for the Project to maintain, effective as of the date of the Sub-Agent Agreement until the expiration or termination of the general contractor's employment by the Company, or its designee, with respect to the Project Facility, all of the same insurance with respect to the Project Facility, as set forth in Article 6 of the Agency Lease as if the general contractor were the Company thereunder. The Company further agrees that it shall cause its general contractor for the Project to comply and abide, effective as of the date of the Sub-Agent Agreement and until the expiration or termination of the general contractor's employment by the Company, or its designee, with respect to the Project Facility, with all of the terms and conditions set forth in Article 6 of the Agency Lease with respect to the type, nature and proof of insurance required thereunder.

ARTICLE IV

COMMITMENTS AND REPORTING

Section 4.01. Compliance Commitments. The Company agrees and covenants that it shall meet and maintain the commitments set forth in (a) below beginning in the first year after completion of the Project. The Company further agrees and covenants that it shall meet and maintain the commitments set forth in (b) below with respect to retained jobs set forth in the Application starting in the first year in which Financial Assistance is claimed and/or provided; and with respect to new jobs, the Company shall create, in years one (1) through five (5) following completion of the Project the new jobs set forth in the Company's Application. The reporting of, and the commitment to, each of (a), (b) and (c) below continuing for a five (5) year period following completion of the Project (the "**Term**"):

(a) The total investment actually made with respect to the Project at the Project's completion date shall equal to or exceed \$56,616,251.75 (which represents the product of 85% multiplied by \$66,607,355, being the total project cost as stated in the Company's Application for Financial Assistance (the "**Investment Commitment**").

(b) At least fifteen (15) full time equivalent ("**FTE**") employees were retained by the Project Facility as of the date of the Application for Financial Assistance (the "**Baseline FTE**"). The Company agrees to maintain, as of the first year in which Financial Assistance is claimed and/or provided 12.75 of the Baseline FTE (representing the FTE multiplied by 85%). The Company's application estimated the creation of fifteen (15) new FTEs (the "**New FTEs**") at the Project Facility within the first five (5) years following completion of the Project Facility. The Company covenants and agrees to create 85% of the New FTEs set forth in each of the first five (5) years following completion of the Project Facility as of and in the years set forth in the Application. The Company shall be required to meet and maintain all of the foregoing employment commitments during the Term hereof (the "**Employment Commitment**").

(c) The Company shall annually provide to the Agency certain information to confirm that the Project is achieving the investment, job retention, job creation, and other objectives of the Project for the Term (the "**Reporting Commitment**").

Section 4.02. Reporting Requirement. As part of the commitments set forth in Section 4.01, the Company shall provide annually, to the Agency, a certified statement and supporting documentation: (i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the Financial Assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the Project location; and (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application for Financial Assistance is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. **Exhibit "A"** contains a form of annual certification that the Company must complete and submit to the Agency on an annual

basis. The Agency reserves the right to modify such form to require additional information that the Agency must have in order to comply with its reporting requirements under the Act.

ARTICLE V

SUSPENSION, DISCONTINUATION, RECAPTURE AND/OR TERMINATION OF FINANCIAL ASSISTANCE

Section 5.01. Suspension, Discontinuation, Recapture and/or Termination of Financial Assistance. It is understood and agreed by the Parties that the Agency is entering into the Company Lease, the Agency Lease and this Project Agreement in order to provide Financial Assistance to the Company for the Project Facility and to accomplish the public purposes of the Act.

(a) In accordance with Section 875(3) of the New York General Municipal Law, the policies of the Agency, and the Resolutions, the Company covenants and agrees that it is subject to recapture of all State sales and use tax exemption benefits if:

(1) the Company or its Subagents, if any, authorized to make purchases for the benefit of the Project is not entitled to the State sales and use tax exemption benefits; or

(2) the State sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its Subagents, if any; or

(3) the State sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or

(4) the Project has failed to comply with a material term or condition to use the property or services in the manner required by any project document between the Company and the Agency.

Each of the foregoing four events are referred to as a “*State-Mandated Recapture Event*”. The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency’s attention, whether a State-Mandated Recapture Event has occurred.

(b) In addition to Section 5.01(a), in accordance with the policies, including but not limited to the Agency’s Recapture Policy (the “*Recapture Policy*”), of the Agency and the Resolutions, the Company covenants and agrees that the Agency shall have the right to suspend, discontinue, recapture or terminate all or any portion of any Financial Assistance to the extent any of the following occur (each a “*Deficit*”):

a) for projects that utilized local sales and use tax exemptions, the project was not entitled to such exemptions, such exemptions were in excess of the amounts authorized by the Agency, and/or such exemptions were for property

or services not authorized by the Agency (each, a “**Local Sales Tax Benefit Violation**”);

- b) the company, upon completion of the project, fails to reach and maintain at least 85 percent of its employment requirements for job creation and/or retention (“**Job Deficit**”);
- c) the total investment actually made with respect to the project at the project’s completion date is less than 85 percent of its investment requirement (“**Investment Deficit**”);
- d) the company fails to provide annually to the Agency certain information to confirm that the project is achieving the investment, job retention, job creation, and other objectives of the Project (“**Reporting Failure**”); or
- e) there otherwise occurs any event of default under any project document (each, an “Event of Default”) or a material violation of the terms and conditions of any project document (a “**Material Violation**”).

The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency’s attention, whether a Local Sales Tax Benefit Violation, Job Deficit, Investment Deficit, Reporting Failure Event of Default or Material Violation (each a “**Noncompliance Event**”) has occurred. Notwithstanding the foregoing, the Agency may determine whether an Event of Default has occurred pursuant to any Project Document in accordance with the terms of the Project Document.

At the time of any Noncompliance Event, the Agency shall determine by resolution whether to exercise its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance in accordance with its Recapture Policy; and shall consider the following criteria in determining whether to proceed to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance:

- i. Whether the Company has proceeded in good faith.
- ii. Whether the Project has not performed as required due to economic issues, changes in market conditions or adverse events beyond the control of the Company.
- iii. Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance would create a more adverse situation for the Company, such as the Company going out of business or declaring bankruptcy, which would not occur if the Agency’s rights were not exercised.

- iv. Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance would create an adverse situation for the residents of the City of Syracuse.
- v. The assessment prepared in accordance with the Agency's Annual Assessment Policy.
- vi. Such other criteria as the Agency shall determine is a relevant factor in connection with any decision regarding the exercise of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance.

The Agency shall document its evaluation of the above criteria in writing and based upon its evaluation, the Agency shall determine whether to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance (the "**Determination**"). The Determination shall provide terms, if any, by which the Company may remedy any Noncompliance Event upon which the Determination was based. The Company must submit written documentation to the Agency of compliance with all terms and conditions of the Determination in order for the Agency to consider whether to resume Financial Assistance to the Company (which will be at the Agency's sole discretion).

(c) If a State-Mandated Recapture Event occurs or the Agency makes a Determination, the Company agrees and covenants that it will: (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company; and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith and that the Agency is entitled to recoup as a result thereof in accordance with the Enabling Act and the Recapture Policy. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdictions, unless agreed to otherwise by any local taxing jurisdiction. The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine the State sales and use tax due from the Company, together with any relevant penalties and interest due on such amounts.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.01. Survival. All warranties, representations, and covenants made by the Company herein shall be deemed to have been relied upon by the Agency and shall survive the delivery of this Project Agreement to the Agency regardless of any investigation made by the Agency.

Section 6.02. Notices. All notices, certificates and other communications under this Project Agreement shall be in writing and shall be deemed given when delivered personally or when sent by certified mail, postage prepaid, return receipt requested, or by overnight delivery service, addressed as follows:

If to the Agency: City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202
Attn: Chairman

With a copy to: Corporation Counsel
City of Syracuse
233 East Washington Street
Syracuse, New York 13202

If to the Company: BVSHSSF Syracuse, LLC
353 North Clark Street
Chicago, Illinois 60654
Attn: Ronald W. Koretz

With a copy to: Robert Smith, Esq.
Costello, Cooney and Fearon, PLLC
500 Plum Street, Suite 300
Syracuse, New York 13204

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when received or delivery of same is refused by the recipient or personally delivered in the manner provided in this Section.

Section 6.03. Amendments. No amendment, change, modification, alteration or termination of this Project Agreement shall be made except in writing upon the written consent of the Company and the Agency.

Section 6.04. Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Project Agreement or the application thereof shall not affect the validity or enforceability of the remaining portions of this Project Agreement or any part thereof.

Section 6.05. Counterparts. This Project Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

Section 6.06. Governing Law. This Project Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Onondaga County, New York.

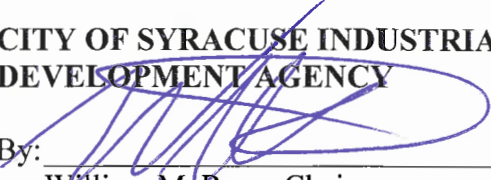
Section 6.07. Term. Except as specifically provided otherwise, the term of this Project Agreement shall be the longer of: (1) the term of the Agency Lease : or (2) five years following the Project’s substantial completion date as evidenced by a certificate of occupancy. The Project will remain “active” for purposes of Section 874(12) of General Municipal Law and the Agency’s Annual Assessment Policy during the term of this Project Agreement.

Section 6.08. Section Headings. The headings of the several Sections in this Project Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Project Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Project Agreement as of the day and year first above written.

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

By: 
William M. Ryan, Chairman

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company,
its sole Member

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

By: _____
Ronald W. Koretz, Senior Vice President

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:

Ronald W. Koretz, being first duly sworn, deposes and says:

- 1. That I am the Senior Vice President of Blue Vista Student Housing Select Strategies Manager, LLC, as the manager of BVSHSSF REIT, LLC, as sole Member of the Company, and duly authorized on behalf of the Company to bind the Company and to execute this Project Agreement.
- 2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

Ronald W. Koretz

Subscribed and affirmed to me under penalties of perjury this ___ day of May, 2017.

(Notary Public)

IN WITNESS WHEREOF, the parties hereto have executed this Project Agreement as of the day and year first above written.

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

By: _____
William M. Ryan, Chairman

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company,
its sole Member

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

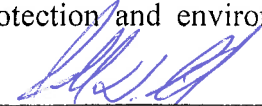
By: 

Ronald W. Koretz, Senior Vice President

STATE OF ILLINOIS)
COUNTY OF COOK) ss.:

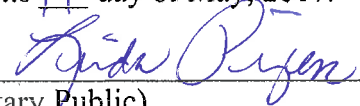
Ronald W. Koretz, being first duly sworn, deposes and says:

1. That I am the Senior Vice President of Blue Vista Student Housing Select Strategies Manager, LLC, as the manager of BVSHSSF REIT, LLC, as sole Member of the Company, and duly authorized on behalf of the Company to bind the Company and to execute this Project Agreement.
2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.



Ronald W. Koretz

Subscribed and affirmed to me under penalties of perjury this 17 day of May, 2017.



(Notary Public)

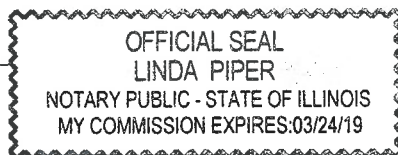


EXHIBIT A

FORM OF ANNUAL REPORTING QUESTIONNAIRE

SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY
201 East Washington Street, 7th Floor, Syracuse, New York 13202

Date

COMPANY
COMPANY ADDRESS

Dear _____:

Our auditors, _____, CPAs are conducting an audit of our financial statements for the year ended December 31, _____. In connection with that audit, we request that you furnish certain information directly to our auditor with regard to the following security issued by/through the City of Syracuse Industrial Development Agency:

Sale - Leaseback Financing

Project: _____

Date of Financing:

Principal Amount Financed:

Maturity Date:

Original Interest Rate:

Please provide the following information as of December 31, [year]:

Name of Lender

Debt Retired in [year] Yes/No

Debt Refinanced in [year] Yes/No

(If Yes, please update information in Paragraph 1 above)

Debt in Default as of [date] Yes/No

Current Interest Rate(s)

Rate range, if Variable

Principal balance outstanding as of [date]

Principal payments made during [year]

Payments in Lieu of Taxes (PILOT)

paid in [year]

Total cost of goods/services purchased: \$ _____

New York State Sales Tax Exemptions Claimed [year]

New York Local Sales Tax Exemptions Claimed: [year]

New York State Mortgage Recording

Tax Exemption: [year]

Form of Syracuse Industrial Development Agency — Project Jobs Data [year]

From:

To: _____, CPAs

Re:

The following jobs information is furnished to you with regard to the above cited project:

Full Time Equivalent (FTE) Jobs Created and Retained – [year]

of Current FTE Employees as of [closing date]

of FTE Jobs Created during [year]

of FTE Jobs Retained during [year]

of FTE Construction Jobs Created during [year]

Comments:

Signature

Print Name

Title

Date

2

BVSHSSF SYRACUSE, LLC

AND

**CITY OF SYRACUSE
INDUSTRIAL DEVELOPMENT AGENCY**

COMPANY LEASE AGREEMENT

DATED AS OF MAY 1, 2017

COMPANY LEASE AGREEMENT

THIS COMPANY LEASE AGREEMENT (the “*Company Lease*”), made and entered into as of May 1, 2107, by and between **BVSHSSF SYRACUSE, LLC** (the “*Company*”), a limited liability company organized under the laws of the State of Delaware and authorized to do business in the State of New York, with an office at 353 North Clark Street, Chicago, Illinois 60654 and **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY** (the “*Agency*”), a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York, with an office at 201 East Washington Street, 7th Floor, Syracuse, New York 13202.

WITNESSETH:

WHEREAS, Title 1 of Article 18-A of the New York General Municipal Law (the “*Enabling Act*”) was duly enacted into law as Chapter 1030 of the New York Laws of 1969; and

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages, and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip, and dispose of land and any buildings or other improvements, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, or industrial purposes, in order to advance the job opportunities, health, general prosperity, and economic welfare of the people of the State of New York and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease or sell any or all of its properties, to mortgage and pledge any or all of its properties, whether then owned or thereafter acquired, and to pledge the revenues and receipts from the lease or sale thereof; and

WHEREAS, the Agency was created pursuant to and in accordance with the provisions of the Enabling Act by Chapter 641 of the Laws of 1979 of the State of New York (collectively with the Enabling Act, the “*Act*”) and is empowered under the Act to undertake the Project (as hereinafter defined); and

WHEREAS, the Agency, by resolution adopted on January 24, 2017, agreed, at the request of the Company to undertake a project (the “*Project*”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street), in the City of Syracuse, New York (the “*Land*”); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet consisting of new four and five story buildings for use as a mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet

of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces , all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement..

WHEREAS, the Company is the current owner of the Project Facility; and

WHEREAS, the Agency proposes to assist the Company’s acquisition, construction and equipping of the Project Facility, and grant the Financial Assistance to the Project by, among other things: (1) appointing the Company, or its designee, as its agent with respect to the Project Facility; (2) accepting a leasehold interest in the Land and Facility from the Company pursuant to this Company Lease and acquiring an interest in the Equipment pursuant to a bill of sale from the Company; and (3) subleasing the Project Facility to the Company pursuant to the Agency Lease; and

WHEREAS, the Agency now proposes to lease the Land and Facility from the Company pursuant to the terms and conditions set forth herein; and

WHEREAS, all things necessary to constitute this Company Lease a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution and delivery of this Company Lease have, in all respects, been duly authorized.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows, to wit:

ARTICLE I

RECITALS AND DEFINITIONS

1.0 RECITALS.

The foregoing recitals are incorporated herein by reference as if fully set forth hereinbelow.

1.1 DEFINITIONS.

For all purposes of this Company Lease and any agreement supplemental thereto, all defined terms indicated by the capitalization of the first letter of such term shall have the meanings specified in the Table of Definitions which is attached to the Agency Lease as Exhibit "C" thereto except as otherwise expressly defined herein or the context hereof otherwise requires.

1.2 INTERPRETATION.

In this Company Lease, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "herein," "hereunder," and any similar terms as used in this Company Lease refer to this Company Lease; the term "heretofore" shall mean before and the term "hereafter" shall mean after the date of this Company Lease;

(b) Words of masculine gender shall mean and include correlative words of feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa; and

(c) Any certificates, letters, or opinions required to be given pursuant to this Company Lease shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law, or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Company Lease.

ARTICLE II

DEMISE; PREMISES; TERM

2.1 DEMISE.

The Company hereby leases to the Agency, and the Agency hereby leases from the Company, the Land and the Facility for the stated term for the rents, covenants and conditions set forth herein subject only to the Permitted Encumbrances.

2.2 DESCRIPTION OF PREMISES LEASED.

The leased premises is the Land and the Facility described in the recitals of this Company Lease and as more fully described on **Exhibit "A"** attached hereto.

2.3 TERM.

The Project is leased for a term which shall commence as of May 1, 2017, and shall end on the expiration or earlier termination of the Agency Lease.

2.4 MANDATORY CONVEYANCE.

At the expiration of the term hereof or any extension thereof by mutual agreement, or as otherwise provided in the Agency Lease, this Company Lease shall automatically expire without any further action by the parties hereto. The Company hereby irrevocably designates the Agency as its attorney-in-fact, coupled with an interest, for the purpose of executing, delivering and recording terminations of leases and bill of sale together with any other documents therewith and to take such other and further actions reasonably necessary to confirm the termination of the Agency's interest in the Project, all at the Company's sole cost and expense.

2.5 CONSIDERATION.

The Agency is paying to the Company concurrently with the execution hereof consideration of \$1.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Company.

2.6 REPRESENTATIONS AND COVENANTS OF THE COMPANY.

The Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Company is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware and authorized to do business in the State of New York, has the power to enter into this Company Lease and the other Company Documents and to carry out its obligations hereunder and thereunder, and has duly authorized the execution, delivery, and performance of this Company Lease and the other Company Documents.

(b) This Company Lease and the other Company Documents constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid and legally binding obligations of the Company, enforceable in accordance with their respective terms.

(c) The Company has a valid and enforceable fee interest in the Land and the Facility and shall remain and retain such interests for the term of this Company Lease unless otherwise consented to in writing by the Agency.

(d) Neither the execution and delivery of this Company Lease and the other Company Documents, the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the provisions thereof will:

(1) Result in a breach of, or conflict with any term or provision in, the Company's Articles of Organization and Operating Agreement;

(2) Require consent under (which has not been heretofore received) or result in a breach of or default under any credit agreement, indenture, purchase agreement, mortgage, deed of trust indenture, commitment, guaranty or other agreement or instrument to which the Company is a party or by which the Company or any of its property may be bound or affected; or

(3) Conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction, or decree of any Governmental Authority or court (domestic or foreign) having jurisdiction over the Company or any of the property of the Company.

(g) So long as the Agency holds an interest in the Project Facility, the Project Facility is and will continue to be a "project" (as such quoted term is defined in the Act), and the Company will not take any action (or omit to take any action required by the Company Documents or which the Agency, together with Agency's counsel, advise the Company in writing should be taken), or allow any action to be taken, which action (or omission) would in any way cause the Project Facility not to constitute a "project" (as such quoted term is defined in the Act).

(h) The Company shall cause all notices as required by law to be given and shall comply or cause compliance with all laws, ordinances, municipal rules, and regulations and requirements of all Governmental Authorities applying to or affecting the construction, equipping and operation of the Project Facility (the applicability of such laws, ordinances, rules, and regulations to be determined both as if the Agency were the owner of the Project Facility and as if the Company, were the owner of the Project Facility), and the Company will defend and save the Agency and its officers, members, agents (other than the Company), and employees harmless from all fines and penalties due to failure to comply therewith.

(i) The Company shall perform, or cause to be performed, for and on behalf of the Agency, each and every obligation of the Agency (which is within the control of the Company) under and pursuant to the Agency Lease, this Company Lease and the other Company Documents and shall defend, indemnify, and hold harmless the Agency and its members, officers, agents (other than the Company), servants and employees from and against every expense, liability, or claim arising out of the failure of the Company to fulfill its obligations under the provisions of this Section 2.6.

(j) The Company acknowledges, restates and affirms the obligations, representations, warranties and covenants set forth in Sections 2.2 and 11.12 of the Agency Lease as if fully set forth herein.

ARTICLE III

DISPUTE RESOLUTION

3.1 GOVERNING LAW.

This Company Lease shall be governed in all respects by the laws of the State of New York.

3.2 WAIVER OF TRIAL BY JURY.

THE COMPANY AND THE AGENCY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY DISPUTE ARISING UNDER THIS COMPANY LEASE, AND THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS COMPANY LEASE.

ARTICLE IV

MISCELLANEOUS CLAUSES

4.1 NOTICES.

All notices, certificates, and other communications hereunder shall be in writing, shall be sufficiently given, and shall be deemed given when (a) sent to the applicable address stated below by registered or certified mail, return receipt requested, and actually received by the intended recipient or by overnight courier or such other means as shall provide the sender with documentary evidence of such delivery, or (b) delivery is refused by the addressee as evidenced by the affidavit of the Person who attempted to effect such delivery. The addresses to which notices, certificates, and other communications hereunder shall be delivered are as follows:

(a) To the Agency:

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202
Attn: Chairman

With copies to:

Corporation Counsel
City of Syracuse
233 East Washington Street
Syracuse, New York 13202

(b) To the Company:

BVSHSSF Syracuse, LLC
353 North Clark Street
Chicago, Illinois 60654
Attn: Ronald W. Koretz

With a copy to:

Robert Smith, Esq.
Costello, Cooney and Fearon, PLLC
500 Plum Street, Suite 300
Syracuse, New York 13204

4.2 NO RECOURSE UNDER THIS COMPANY LEASE.

No provision, covenant or agreement contained herein, in any other agreement entered into in connection herewith, or any obligations herein imposed, upon the Agency, or any breach thereof, shall constitute or give rise to or impose upon the Agency, a debt or other pecuniary liability or a charge upon its general credit, and all covenants, stipulations, promises, agreements and obligations of the Agency contained in this Company Lease shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency in his individual capacity.

4.3 ENTIRE AGREEMENT.

This Company Lease contains the entire agreement between the parties and all prior negotiations and agreements are merged in this Company Lease. This Company Lease may not be changed, modified or discharged, in whole or in part, except by a written instrument executed by the party against whom enforcement of the change, modification or discharge is sought.

4.4 AGENCY REPRESENTATIONS.

The Company expressly acknowledges that neither the Agency nor the Agency's directors, members, employees or agents has made or is making, and the Company, in executing and delivering this Company Lease, is not relying upon warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Company Lease, and no rights, easements or licenses are or shall be acquired by the Company by implication or otherwise unless expressly set forth in this Company Lease.

4.5 BINDING EFFECT.

This Company Lease shall be binding upon and inure to the benefit of the parties, their respective successors and assigns.

4.6 PARAGRAPH HEADINGS.

Paragraph headings are for convenience only and shall not affect the construction or interpretation of this Company Lease.

4.7 CONSENT TO AGENCY LEASE; SUBORDINATION.

The Company hereby consents to the sublease by the Agency of the Project Facility to the Company pursuant to the Agency Lease. The Company acknowledges and agrees that this Company Lease and the Agency Lease shall be subordinate in all respects to the Mortgages.

4.8 HOLD HARMLESS PROVISIONS.

(a) The Company hereby releases the Agency and its members, officers, agents, and employees from, agree that the Agency and its members, officers, agents, and employees shall not be liable for, and agree to indemnify, defend, and hold the Agency and its members, officers, agents, and employees harmless from and against any and all claims arising as a result of the Agency's undertaking of the Project, including, but not limited to:

(1) Liability for loss or damage to Property or bodily injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Project Facility, or arising by reason of or in connection with the occupation or the use thereof, or the presence on, in, or about the Project Facility;

(2) Liability arising from or expense incurred by the Agency's acquisition of a leasehold interest in the Project Facility and the subleasing of the Project Facility, including, without limiting the generality of the foregoing, all liabilities or claims arising as a result of the Agency's obligations under the Agency Lease, the Company Lease or the Mortgage;

(3) All claims arising from the exercise by the Company of the authority conferred upon it and performance of the obligations assumed under Article II hereof;

(4) All causes of action and attorneys' fees and other expenses incurred in connection with any suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities, or expenses of the Agency are not incurred or do not result from the intentional wrongdoing of the Agency or any of its members, officers, agents, or employees.

The foregoing indemnities shall apply notwithstanding the fault or negligence (other than gross negligence or willful misconduct) on the part of the Agency or any of its officers, members, agents, servants, or employees and irrespective of any breach of statutory obligation or any rule of comparative or apportional liability.

(b) In the event of any claim against the Agency or its members, officers, agents, or employees by any employee of the Company, or any contractor of the Company, or

anyone directly or indirectly employed by any of them, or any one for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Company such contractor under workers' compensation laws, disability benefit laws, or other employee benefit laws.

(c) Notwithstanding any other provisions of this Company Lease, the obligations of the Company pursuant to this Section 4.8 shall remain in full force and effect after the termination of the Agency Lease and this Company Lease until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action, or prosecution relating to the matters herein described may be brought, and the payment in full or the satisfaction of such claim, cause of action, or prosecution, and the payment of all expenses and charges incurred by the Agency, or its officers, members, agents (other than the Company), or employees, relating thereto.

(d) For purposes of this Section 4.8, the Company shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

4.9 NO RECOURSE; SPECIAL OBLIGATION.

The obligations and agreements of the Agency contained herein and in the other Agency Documents and in any other instrument or document executed in connection herewith or therewith, and any instrument or document supplemental hereto or thereto, shall be deemed the obligations and agreements of the Agency and not of any member, officer, agent, or employee of the Agency in his individual capacity; and the members, officers, agents, and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of the Agency contained herein or therein shall not constitute or give rise to an obligation of the State New York or of the City of Syracuse, and neither the State of New York nor the City of Syracuse shall be liable hereon or thereon. Further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, payable solely from the revenues of the Agency derived, and to be derived from, the lease, sale, or other disposition of the Project Facility, other than revenues derived from or constituting Unassigned Rights. No order or decree of specific performance with respect to any of the obligations of the Agency hereunder or thereunder shall be sought or enforced against the Agency unless:

(a) The party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and thirty (30) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or if compliance therewith would reasonably be expected to take longer than thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period; and

(b) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party

seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses; and

(c) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents, or employees shall be subject to potential liability, the party seeking such order or decree shall (1) agree to indemnify and hold harmless the Agency and its members, officers, agents, and employees against any liability incurred as a result of its compliance with such demand; and (2) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents, and employees against all liability expected to be incurred as a result of compliance with such request.

Any failure to provide notice, indemnity, or security to the Agency pursuant to this Section 4.9 shall not alter the full force and effect of any Event of Default under the Agency Lease.

(d) For purposes of this Section 4.9, the Company shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

4.10 MERGER OF AGENCY.

(a) Nothing contained in this Company Lease shall prevent the consolidation of the Agency with, or merger of the Agency into, or assignment by the Agency of its rights and interests hereunder to any other body corporate and politic and public instrumentality of the State of New York, or political subdivision thereof, which has the legal authority to perform the obligations of the Agency hereunder, provided that upon any such consolidation, merger, or assignment, the due and punctual performance and observance of all the agreements and conditions of this Company Lease to be kept and performed by the Agency shall be expressly assumed in writing by the public instrumentality or political subdivision resulting from such consolidation or surviving such merger or to which the Agency's rights and interests hereunder shall be assigned.

(b) As of the date of any such consolidation, merger, or assignment, the Agency shall give notice thereof in reasonable detail to the Company. The Agency shall promptly furnish to the Company such additional information with respect to any such consolidation, merger, or assignment as the Company reasonably may request.

4.11 EXECUTION OF COUNTERPARTS.

This Company Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

4.12 EVENT OF DEFAULT.

A default in the performance or the observance of any covenants, conditions, or agreements on the part of the Company in this Company Lease.

4.13 REMEDIES.

Whenever any Event of Default shall have occurred and be continuing, the Agency may, to the extent permitted by law, take any one or more of the following remedial steps:

- 1) Terminate the Company Lease; or
- 2) Take any other action at law or in equity, which may appear necessary or desirable to collect any amounts then due, or thereafter to become due, hereunder.

4.14 AMENDMENTS, CHANGES AND MODIFICATIONS.

This Company Lease may not be amended, changed, modified, altered, or terminated except by an instrument in writing signed by the parties hereto.


[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Company and the Agency have duly executed this Company Lease, as of the day and year first above written.

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company,
its sole Member

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

By: 

Ronald W. Koretz, Senior Vice President

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
William M. Ryan, Chairman

IN WITNESS WHEREOF, the Company and the Agency have duly executed this Company Lease, as of the day and year first above written.

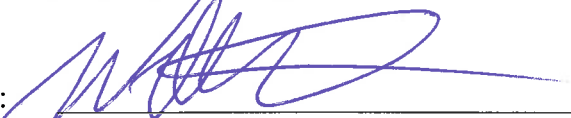
BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company,
its sole Member

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

By: _____
Ronald W. Koretz, Senior Vice President

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By:  _____
William M. Ryan, Chairman

STATE OF ILLINOIS)
) SS.:
COUNTY OF COOK)

On the 17 day of May, 2017, before me, the undersigned, personally appeared **Ronald W. Koretz**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Linda Piper

Notary Public

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

On the 9th day of May, 2017, before me, the undersigned, personally appeared **William M. Ryan**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Lori McRobbie

Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20____

EXHIBIT A

LEGAL DESCRIPTION

NEW LOT No. 100, RESUBIVISION OF PART OF LOT Nos. 18, 19, 21, LOT Nos. 22, 23, 24, 25, 26, 27 & 28 AND ADDITIONAL LANDS PART OF BLOCK No. 240, CITY OF SYRACUSE

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block No. 240 in said City, being New Lot No. 100 of Resubivision of Part of Lot Nos. 18, 19, 21, Lot Nos. 22, 23, 24, 25, 26, 27 & 28 and additional lands according to a map by Ianuzi & Romans Land Surveying, P.C. dated August 11, 2016, last revised December 12, 2016 filed in the Onondaga County Clerk's Office on February 28, 2017, as Map No. 12334, bounded and described as follows:

Beginning at the intersection of the northerly boundary of East Genesee Street with the westerly boundary of South Crouse Avenue (Chestnut Street, formerly), said point being the southeasterly corner of said Block No. 240; running thence N 83°37'20" W along said northerly boundary of East Genesee Street, a distance of 155.32 feet to the easterly boundary of lands conveyed to Caserta, LLC by deed recorded in the Onondaga County Clerk's Office in Book 4912 of Deeds at page 523; thence N 00°29'40" E along said easterly boundary of lands conveyed to Caserta, LLC, a distance of 84.87 feet to the northeasterly corner thereof; thence N 89°30' 50" W along the northerly boundary of said lands conveyed to Caserta, LLC, a distance of 100.51 feet to the easterly boundary of Irving Avenue; thence N 00°29'40" E along said easterly boundary of Irving Avenue, a distance of 240.42 feet to a southerly boundary of lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 69; thence S 89°30'50" E along said southerly boundary

of lands conveyed to 900 East Fayette Group, LLC, a distance of 123.01 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC, a distance of 65.00 feet to a southwesterly corner of other lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 78; thence S 89°30'50" E along the southerly boundary of said other lands conveyed to 900 East Fayette Group, LLC and along a southerly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 42.0 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 100.0 feet to the southerly boundary of East Fayette Street; thence S 89°30'50" E along said southerly boundary of East Fayette Street, a distance of 90.0 feet to the aforementioned westerly boundary of South Crouse Avenue (Chestnut Street, formerly); thence S 00°29'40" W along said westerly boundary of South Crouse Avenue (Chestnut Street, formerly), a distance of 506.23 feet to the point of beginning.

Section: 48

Block: 5

Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

Common Address: 919 East Genesee Street, Syracuse, New York

3

**MEMORANDUM OF
COMPANY LEASE AGREEMENT**

NAME AND ADDRESS OF LESSOR: BVSHSSF Syracuse, LLC
353 North Clark Street
Chicago, Illinois 60654

NAME AND ADDRESS OF LESSEE: City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202

DESCRIPTION OF LEASED PREMISES:

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being more particularly described in **Exhibit "A"** annexed hereto, together with the improvements thereon.

DATE OF EXECUTION OF COMPANY LEASE AGREEMENT:

As of May 1, 2017.

TERM OF COMPANY LEASE AGREEMENT:

The term of this Company Lease shall commence on the date hereof and continue in full force and effect until the earlier of: (1) September 30, 2018; or (2) the issuance of a certificate of occupancy by the City of Syracuse, New York, unless earlier terminated as provided in that certain Agency Lease dated of even date herewith between the same parties hereto.

27043

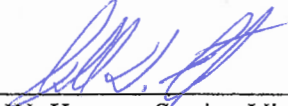
10147 05/26/17 1722017 NM DB-5426P-572

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum as of the 1st day of May, 2017.

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company,
its sole Member

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

By: 

Ronald W. Koretz, Senior Vice President

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
William M. Ryan, Chairman

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum as of the 1st day of May, 2017.


BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company,
its sole Member

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

By: _____
Ronald W. Koretz, Senior Vice President

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

William M. Ryan, Chairman

STATE OF ILLINOIS)
) SS.:
COUNTY OF COOK)

On the 17 day of May, 2017, before me, the undersigned, personally appeared **Ronald W. Koretz**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Linda Piper

Notary Public

3-24-19
Illinois

STATE OF NEW YORK)
) ss.:
COUNTY OF ONONDAGA)

On this 9th day of May, 2017, before me, the undersigned, personally appeared **William M. Ryan**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Lori L. McRobbie

Notary Public
Lori McRobbie
LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

2-12-18
ONONDAGA
CO

EXHIBIT A

LEGAL DESCRIPTION

NEW LOT No. 100, RESUBIVISION OF PART OF LOT Nos. 18, 19, 21, LOT Nos. 22, 23, 24, 25, 26, 27 & 28 AND ADDITIONAL LANDS PART OF BLOCK No. 240, CITY OF SYRACUSE

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block No. 240 in said City, being New Lot No. 100 of Resubivision of Part of Lot Nos. 18, 19, 21, Lot Nos. 22, 23, 24, 25, 26, 27 & 28 and additional lands according to a map by Ianuzi & Romans Land Surveying, P.C. dated August 11, 2016, last revised December 12, 2016 filed in the Onondaga County Clerk's Office on February 28, 2017, as Map No. 12334, bounded and described as follows:

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of lands conveyed to 900 East Fayette Group, LLC, a distance of 123.01 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC, a distance of 65.00 feet to a southwesterly corner of other lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 78; thence S 89°30'50" E along the southerly boundary of said other lands conveyed to 900 East Fayette Group, LLC and along a southerly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 42.0 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 100.0 feet to the southerly boundary of East Fayette Street; thence S 89°30'50" E along said southerly boundary of East Fayette Street, a distance of 90.0 feet to the aforementioned westerly boundary of South Crouse Avenue (Chestnut Street, formerly); thence S 00°29'40" W along said westerly boundary of South Crouse Avenue (Chestnut Street, formerly), a distance of 506.23 feet to the point of beginning.

Section: 48

Block: 5

Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

Common Address: 919 East Genesee Street, Syracuse, New York



Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax

See Form TP-584-I, Instructions for Form TP-584, before completing this form. Print or type.

Schedule A – Information relating to conveyance

Grantor/Transferor	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantor) BVSHSSF Syracuse, LLC	Social security number
<input type="checkbox"/> Individual	Mailing address	Social security number
<input type="checkbox"/> Corporation	353 North Clark Street	
<input type="checkbox"/> Partnership	City State ZIP code	Federal EIN
<input type="checkbox"/> Estate/Trust	Chicago IL 60654	611800386
<input type="checkbox"/> Single member LLC	Single member's name if grantor is a single member LLC (see instructions)	Single member EIN or SSN
<input checked="" type="checkbox"/> Other		
Grantee/Transferee	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantee) City of Syracuse Industrial Development Agency	Social security number
<input type="checkbox"/> Individual	Mailing address	Social security number
<input type="checkbox"/> Corporation	201 East Washington Street, 7th Floor	
<input type="checkbox"/> Partnership	City State ZIP code	Federal EIN
<input type="checkbox"/> Estate/Trust	Syracuse NY 13202	52-1380308
<input type="checkbox"/> Single member LLC	Single member's name if grantee is a single member LLC (see instructions)	Single member EIN or SSN
<input checked="" type="checkbox"/> Other		

Location and description of property conveyed

Tax map designation – Section, block & lot (include dots and dashes)	SWIS code (six digits)	Street address	City, town, or village	County
see Schedule A attached	311500	see Schedule A attached	Syracuse	Onondaga

Type of property conveyed (check applicable box)

1 <input type="checkbox"/> One- to three-family house 2 <input type="checkbox"/> Residential cooperative 3 <input type="checkbox"/> Residential condominium 4 <input type="checkbox"/> Vacant land	5 <input checked="" type="checkbox"/> Commercial/Industrial 6 <input type="checkbox"/> Apartment building 7 <input type="checkbox"/> Office building 8 <input type="checkbox"/> Other _____	Date of conveyance <table style="border: 1px solid black; width: 100%; text-align: center;"> <tr> <td style="width: 33%;">05</td> <td style="width: 33%;"> </td> <td style="width: 33%;">2017</td> </tr> <tr> <td>month</td> <td>day</td> <td>year</td> </tr> </table>	05		2017	month	day	year	Percentage of real property conveyed which is residential real property _____ % (see instructions)
05		2017							
month	day	year							

Condition of conveyance (check all that apply)

- | | | |
|--|--|--|
| a. <input type="checkbox"/> Conveyance of fee interest

b. <input type="checkbox"/> Acquisition of a controlling interest (state percentage acquired _____ %)

c. <input type="checkbox"/> Transfer of a controlling interest (state percentage transferred _____ %)

d. <input type="checkbox"/> Conveyance to cooperative housing corporation

e. <input type="checkbox"/> Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E) | f. <input type="checkbox"/> Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)

g. <input type="checkbox"/> Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)

h. <input type="checkbox"/> Conveyance of cooperative apartment(s)

i. <input type="checkbox"/> Syndication

j. <input type="checkbox"/> Conveyance of air rights or development rights

k. <input type="checkbox"/> Contract assignment | l. <input type="checkbox"/> Option assignment or surrender

m. <input type="checkbox"/> Leasehold assignment or surrender

n. <input checked="" type="checkbox"/> Leasehold grant

o. <input type="checkbox"/> Conveyance of an easement

p. <input checked="" type="checkbox"/> Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part III)

q. <input type="checkbox"/> Conveyance of property partly within and partly outside the state

r. <input type="checkbox"/> Conveyance pursuant to divorce or separation

s. <input type="checkbox"/> Other (describe) _____ |
|--|--|--|

<i>For recording officer's use</i>	Amount received	Date received	Transaction number
	Schedule B., Part I \$ _____		
	Schedule B., Part II \$ _____		

Schedule B – Real estate transfer tax return (Tax Law, Article 31)

Part I – Computation of tax due

1	Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, check the exemption claimed box, enter consideration and proceed to Part III) <input checked="" type="checkbox"/> Exemption claimed	1.	0	00
2	Continuing lien deduction (see instructions if property is taken subject to mortgage or lien)	2.	0	00
3	Taxable consideration (subtract line 2 from line 1)	3.	0	00
4	Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3	4.	0	00
5	Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G)	5.	0	00
6	Total tax due* (subtract line 5 from line 4)	6.	0	00

Part II – Computation of additional tax due on the conveyance of residential real property for \$1 million or more

1	Enter amount of consideration for conveyance (from Part I, line 1)	1.		
2	Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A) ...	2.		
3	Total additional transfer tax due* (multiply line 2 by 1% (.01))	3.		

Part III – Explanation of exemption claimed on Part I, line 1 (check any boxes that apply)

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

- a. Conveyance is to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada)..... a
- b. Conveyance is to secure a debt or other obligation..... b
- c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance..... c
- d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts d
- e. Conveyance is given in connection with a tax sale..... e
- f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F..... f
- g. Conveyance consists of deed of partition..... g
- h. Conveyance is given pursuant to the federal Bankruptcy Act h
- i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property i
- j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment..... j
- k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, section 1401(e) (attach documents supporting such claim) k

*The total tax (from Part I, line 6 and Part II, line 3 above) is due within 15 days from the date conveyance. Please make check(s) payable to the county clerk where the recording is to take place. If the recording is to take place in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, make check(s) payable to the **NYC Department of Finance**. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)

Complete the following only if the interest being transferred is a fee simple interest.

I (we) certify that: (check the appropriate box)

- 1. [] The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. [] The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
[] The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
[] The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
[] The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
[] The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is not principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

Please note: for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

[] Other (attach detailed explanation).

- 3. [] The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
[] A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
[] A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.

- 4. [] The real property being transferred is subject to an outstanding credit line mortgage recorded in (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is . No exemption from tax is claimed and the tax of is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the NYC Department of Finance.)

Signature (both the grantor(s) and grantee(s) must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

BVSHSSF Syracuse, LLC, by its sole Member, BVSHSSF REIT, LLC, City of Syracuse Industrial Development Agency
by its Manager, Blue Vista Student Housing Select Strategies Manager, LLC Chairman
Grantor signature Title Grantee signature Title
Ronald W. Koretz, Senior Vice President William M. Ryan
Grantor signature Title Grantee signature Title

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the NYC Department of Finance? If no recording is required, send your check(s), made payable to the Department of Taxation and Finance, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)

Complete the following only if the interest being transferred is a fee simple interest.

I (we) certify that: (check the appropriate box)

1. The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
 - The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
 - The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
 - The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
 - The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is **not** principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

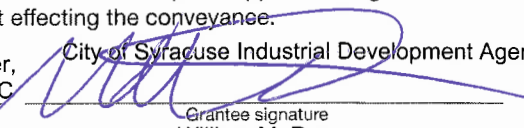
Please note: for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

Other (attach detailed explanation).

3. The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
 - A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
 - A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4. The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the **NYC Department of Finance**.)

Signature (both the grantor(s) and grantee(s) must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

BVSHSSF Syracuse, LLC, by its sole Member, BVSHSSF REIT, LLC, by its Manager, Blue Vista Student Housing Select Strategies Manager, LLC _____ Grantor signature	City of Syracuse Industrial Development Agency  _____ Grantee signature	_____ Chairman Title
Ronald W. Koretz, Senior Vice President	William M. Ryan	

_____	_____	_____
Grantor signature	Title	Grantee signature
_____	_____	_____
Grantor signature	Title	Grantee signature

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the **NYC Department of Finance**? If no recording is required, send your check(s), made payable to the **Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule D - Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, section 663)

Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

If the property is being conveyed by a referee pursuant to a foreclosure proceeding, proceed to Part II, and check the second box under Exemptions for nonresident transferor(s)/seller(s) and sign at bottom.

Part I - New York State residents

If you are a New York State resident transferor(s)/seller(s) listed in Schedule A of Form TP-584 (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, each resident transferor/seller must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

Certification of resident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, section 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Note: A resident of New York State may still be required to pay estimated tax under Tax Law, section 685(c), but not as a condition of recording a deed.

Part II - Nonresidents of New York State

If you are a nonresident of New York State listed as a transferor/seller in Schedule A of Form TP-584 (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, section 663(c), check the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, section 663. Each nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on page 1 of Form TP-584-I.

Exemption for nonresident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, section 663 due to one of the following exemptions:

- The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from _____ to _____ (see instructions).
Date Date
- The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Schedule "A"
to BVSHSSF Syracuse, LLC TP-584s

Address	Tax Map No.
1. 938 E. Fayette	048.-04-04.0
2. 310 S. Crouse	048.-04-05.0
3. 941-949 E. Genesee	048.-04-06.0
4. 325-327 Irving Ave	048.-04-10.0
5. 313 Irving Ave	048.-04-11.0
6. 311 Irving Ave	048.-04-12.0
7. 309 Irving Ave	048.-04-13.0

4

BILL OF SALE TO AGENCY

BVSHSSF SYRACUSE, LLC, a limited liability company organized under the laws of the State of Delaware, authorized to do business in the State of New York, with an office to conduct business at 353 North Clark Street, Chicago, Illinois 60654 (the "**Company**"), for the consideration of One Dollar (\$1.00), cash in hand paid, and other good and valuable consideration received by the Company from the City of Syracuse Industrial Development Agency, a public benefit corporation organized and existing pursuant to the laws of the State of New York (the "**Agency**"), having its office at 201 East Washington Street, 7th Floor, Syracuse, New York 13202, the receipt of which is hereby acknowledged by the Company, hereby sells, transfers, and delivers unto the Agency, its successors and assigns, all those materials, machinery, equipment, fixtures and furnishings now owned or hereafter acquired by the Company in connection with the Project Facility, as described in the Agency Lease entered between the Agency and the Company dated as of May 1, 2017 (the "**Agency Lease**"), and as listed on "**Exhibit A**" attached hereto.

TO HAVE AND HOLD the same unto the Agency, its successors and assigns, forever.

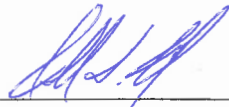
The Company hereby represents and warrants that it is the true and lawful owner of the personal property being conveyed hereby, that all of the foregoing are free and clear of all liens, security interests, and encumbrances, except for Permitted Encumbrances, as defined in the Agency Lease, and that the Company has the right to sell the same as aforesaid; and the Company covenants that it will warrant and defend title to the same for the benefit of the Agency and its successors and assigns against the claims and demands of all persons.

IN WITNESS WHEREOF, the Company has caused this instrument to be executed by its duly authorized representative on the date indicated beneath the signature of such representative and dated as of the 1st day of May, 2017.

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: **BVSHSSF REIT, LLC**,
a Delaware limited liability company,
its sole Member

By: **Blue Vista Student Housing Select
Strategies Manager, LLC**,
a Delaware limited liability company,
its Manager

By: 

Ronald W. Koretz, Senior Vice President

EXHIBIT "A"

DESCRIPTION OF THE EQUIPMENT

All articles of personal property, all machinery, apparatus, equipment, appliances, floor coverings, furniture, furnishings, supplies, materials, fittings and fixtures of every kind and nature whatsoever and all appurtenances acquired by **BVSHSSF SYRACUSE, LLC** (the "*Company*") and now or hereafter attached to, contained in or used or acquired in connection with the Project Facility (as defined in the Agency Lease) or placed on any part thereof, though not attached thereto, including, but not limited to, pipes, screens, fixtures, furniture, heating, lighting, plumbing, ventilation, air conditioning, compacting and elevator plants, call systems, stoves, rugs, movable partitions, cleaning equipment, maintenance equipment, shelving, racks, flagpoles, signs, waste containers, drapes, blinds and accessories, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors, machinery; and together with any and all products of any of the above, all substitutions, replacements, additions or accessions therefor, and any and all cash proceeds or non-cash proceeds realized from the sale, transfer or conversion of any of the above.

5

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

AND

BVSHSSF SYRACUSE, LLC

AGENCY LEASE AGREEMENT

DATED AS OF MAY 1, 2017

TABLE OF CONTENTS

	Page
TABLE OF CONTENTS.....	i
ARTICLE I RECITALS AND DEFINITIONS.....	2
1.0 RECITALS	2
1.1 DEFINITIONS.....	3
1.2 INTERPRETATION.....	3
ARTICLE II REPRESENTATIONS AND COVENANTS	3
2.1 REPRESENTATIONS OF THE AGENCY.....	3
2.2 REPRESENTATIONS AND COVENANTS OF THE COMPANY.....	4
ARTICLE III CONVEYANCE OF LEASEHOLD INTEREST IN PROJECT FACILITY	7
3.1 AGREEMENT TO CONVEY LEASEHOLD INTEREST TO COMPANY.....	7
3.2 USE OF PROJECT FACILITY.....	7
ARTICLE IV CONSTRUCTION AND EQUIPPING OF THE PROJECT	8
4.1 CONSTRUCTION, AND EQUIPPING OF THE PROJECT FACILITY	8
4.2 COMPLETION OF PROJECT FACILITY.....	9
4.3 COSTS OF COMPLETION PAID BY COMPANY	10
4.4 REMEDIES TO BE PURSUED AGAINST CONTRACTORS, SUBCONTRACTORS, MATERIALMEN AND THEIR SURETIES.....	10
4.5 COOPERATION IN EXECUTION OF ADDITIONAL MORTGAGES AND MODIFICATIONS OF MORTGAGES.	11
ARTICLE V AGREEMENT TO LEASE PROJECT FACILITY; RENTAL PAYMENTS	11
5.1 AGREEMENT TO LEASE PROJECT FACILITY	11
5.2 TERM OF LEASE; EARLY TERMINATION; SURVIVAL	12
5.3 RENTAL PAYMENTS AND OTHER AMOUNTS PAYABLE	14
5.4 NATURE OF OBLIGATIONS OF COMPANY HEREUNDER	14
ARTICLE VI MAINTENANCE, MODIFICATIONS, TAXES, AND INSURANCE.....	15
6.1 MAINTENANCE AND MODIFICATIONS OF PROJECT FACILITY	15
6.2 TAXES, ASSESSMENTS, AND UTILITY CHARGES.....	15
6.3 INSURANCE REQUIRED	16

6.4	ADDITIONAL PROVISIONS RESPECTING INSURANCE.....	17
6.5	APPLICATION OF NET PROCEEDS OF INSURANCE.....	18
ARTICLE VII	DAMAGE, DESTRUCTION, AND CONDEMNATION	18
7.1	DAMAGE OR DESTRUCTION.....	18
7.2	CONDEMNATION.....	19
7.3	ADDITIONS TO PROJECT FACILITY	20
ARTICLE VIII	SPECIAL COVENANTS	21
8.1	NO WARRANTY OF CONDITION OR SUITABILITY BY THE AGENCY; ACCEPTANCE "AS I.....	21
8.2	HOLD HARMLESS PROVISIONS	21
8.3	RIGHT OF ACCESS TO PROJECT FACILITY.....	22
8.4	MAINTENANCE OF EXISTENCE	22
8.5	AGREEMENT TO PROVIDE INFORMATION	23
8.6	BOOKS OF RECORD AND ACCOUNT; FINANCIAL STATEMENTS.....	23
8.7	COMPLIANCE WITH ORDERS, ORDINANCES, ETC.....	23
8.8	DISCHARGE OF LIENS AND ENCUMBRANCES.....	24
8.9	PERFORMANCE BY AGENCY OF COMPANY'S OBLIGATIONS.....	24
8.10	DEPRECIATION DEDUCTIONS AND TAX CREDITS	24
8.11	EMPLOYMENT OPPORTUNITIES.....	24
8.12	SALES AND USE EXEMPTION.....	24
8.13	IDENTIFICATION OF THE EQUIPMENT.....	26
ARTICLE IX	ASSIGNMENTS; TRANSFERS; MERGER OF AGENCY	26
9.1	ASSIGNMENT OF AGENCY LEASE.....	26
9.2	TRANSFERS OF INTERESTS.....	26
9.3	MERGER OF AGENCY	27
ARTICLE X	EVENTS OF DEFAULT AND REMEDIES.....	28
10.1	EVENTS OF DEFAULT DEFINED.....	28
10.2	REMEDIES ON DEFAULT.....	29
10.3	REMEDIES CUMULATIVE.....	30
10.4	AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES.....	30
10.5	NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.....	30
ARTICLE XI	MISCELLANEOUS	30
11.1	NOTICES.....	30
11.2	BINDING EFFECT	31
11.3	SEVERABILITY.....	31
11.4	AMENDMENTS, CHANGES AND MODIFICATIONS	32
11.5	EXECUTION OF COUNTERPARTS	32
11.6	APPLICABLE LAW	32

11.7	WAIVER OF TRIAL BY JURY	32
11.8	SUBORDINATION.....	32
11.9	SURVIVAL OF OBLIGATIONS	32
11.10	TABLE OF CONTENTS AND SECTION HEADINGS NOT CONTROLLING	33
11.11	NO RECOURSE; SPECIAL OBLIGATION.....	33
11.12	OBLIGATION TO SELL AND PURCHASE THE EQUIPMENT	34
11.13	ENTIRE AGREEMENT.....	34
11.14	DISCLOSURE.....	34

EXHIBIT “A”	REAL PROPERTY DESCRIPTION
EXHIBIT “B”	DESCRIPTION OF EQUIPMENT
EXHIBIT “C”	TABLE OF DEFINITIONS
EXHIBIT “D”	FORM OF CONTRACT STATUS REPORT
EXHIBIT “E”	FORM OF ANNUAL REPORTING REQUIREMENTS
EXHIBIT “F”	FORM OF SUB-AGENT AGREEMENT
EXHIBIT “G”	RECAPTURE POLICY

AGENCY LEASE AGREEMENT

THIS AGENCY LEASE AGREEMENT, dated as of May 1, 2017 (the "**Agency Lease**"), by and between the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a body corporate and politic and a public instrumentality of the State of New York, having its office at 201 East Washington Street, 7th Floor, Syracuse, New York 13202 (the "**Agency**"), and **BVSHSSF SYRACUSE, LLC**, a Delaware limited liability company authorized to do business in New York, having its office at 353 North Clark Street, Chicago, Illinois 60654 (the "**Company**").

WITNESSETH:

WHEREAS, the Agency is authorized and empowered by Title I of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act, among other things, to: (i) make contracts and leases, and to execute such documents as necessary or convenient, with a public or private person, firm, partnership, or corporation; (ii) to acquire, construct, reconstruct, lease, improve, maintain, equip or furnish one or more projects (as defined in the Act); and (iii) to sell, lease and otherwise dispose of any such property; and

WHEREAS, the Agency, by resolution adopted on January 24, 2017, agreed, at the request of the Company to undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of a leasehold interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street), in the City of Syracuse, New York (the "**Land**"); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet containing new four and five story buildings to be used as mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces , all located on the Land (collectively, the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and

use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency proposes to assist the Company’s acquisition, construction and equipping of the Project Facility and grant the Financial Assistance to the Project by, among other things: (1) appointing the Company and/or its designee as its agent with respect to completing the Project; (2) accepting a leasehold interest in the Land and the Facility from the Company and a fee interest in the Equipment pursuant to a bill of sale from the Company; and (2) subleasing the Project Facility to the Company pursuant to this Agency Lease; and

WHEREAS, the Company is the current owner of the Land and the Facility and has leased the Land and the Facility to the Agency pursuant to the Company Lease Agreement dated as of May 1, 2017 (the “*Company Lease*”); and

WHEREAS, the Company has conveyed title to the Equipment to the Agency pursuant to the Bill of Sale dated as of May 1, 2017 (the “*Bill of Sale*”); and

WHEREAS, the Agency now proposes to sublease the Project Facility to the Company pursuant to the terms and conditions herein set forth; and

WHEREAS, all things necessary to constitute this Agency Lease a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution, and delivery of this Agency Lease have, in all respects, been duly authorized.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows, to wit:

ARTICLE I

RECITALS AND DEFINITIONS

1.0 RECITALS.

The foregoing recitals are incorporated herein by reference as if fully set forth hereinbelow.

1.1 DEFINITIONS.

For all purposes of this Agency Lease and any agreement supplemental thereto, all defined terms indicated by the capitalization of the first letter of such term shall have the meanings specified in the Table of Definitions attached hereto as **Exhibit "C"** except as otherwise expressly defined herein or the context hereof otherwise requires.

1.2 INTERPRETATION.

In this Agency Lease, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "herein," "hereunder," and any similar terms as used in this Agency Lease refer to this Agency Lease; the term "heretofore" shall mean before and the term "hereafter" shall mean after the date of this Agency Lease;

(b) Words of masculine gender shall mean and include correlative words of feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa; and

(c) Any certificates, letters, or opinions required to be given pursuant to this Agency Lease shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law, or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Agency Lease.

ARTICLE II

REPRESENTATIONS AND COVENANTS

2.1 REPRESENTATIONS OF THE AGENCY.

The Agency makes the following representations to the Company as the basis for the undertakings on its part herein contained:

(a) The Agency is duly established under the provisions of the Act and has the power to enter into this Agency Lease and to carry out its obligations hereunder. Based upon the representations of the Company as to the utilization of the Project Facility, the Project Facility will constitute a "project," as such quoted term is defined in the Act. By proper official action, the Agency has been duly authorized to execute, deliver, and perform this Agency Lease and the other Agency Documents.

(b) Neither the execution and delivery of this Agency Lease, the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the provisions of this Agency Lease and the other Agency Documents by the Agency will conflict with or result in a breach by the Agency of any of the terms, conditions, or provisions of the Act, the By-Laws of the Agency, or any order, judgment, restriction, agreement, or

instrument to which the Agency is a party or by which it is bound or will constitute a default by the Agency under any of the foregoing.

(c) This Agency Lease and the other Agency Documents constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid and legally binding obligations of the Agency, enforceable in accordance with their respective terms.

2.2 REPRESENTATIONS AND COVENANTS OF THE COMPANY.

The Company acknowledges, represents, warrants and covenants to the Agency as follows:

(a) The Company is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Delaware, authorized to do business in the State of New York, has the power to enter into this Agency Lease and the other Company Documents and to carry out its obligations hereunder and thereunder, and has duly authorized the execution, delivery, and performance of this Agency Lease and the other Company Documents.

(b) This Agency Lease and the other Company Documents constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid and legally binding obligations of the Company, enforceable in accordance with their respective terms.

(c) Subject only to the Agency's interests in the Equipment, the Company is the present fee owner of the Project Facility and shall remain the fee owner of the Project Facility for the term of this Agency Lease unless otherwise consented to in writing by the Agency.

(d) Neither the execution and delivery of this Agency Lease and the other Company Documents, the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the provisions thereof will:

(1) Result in a breach of, or conflict with any term or provision in, the Company's Articles or Organization and Operating Agreement;

(2) Require consent under (which has not been heretofore received) or result in a breach of or default under any credit agreement, indenture, purchase agreement, mortgage, deed of trust, commitment, guaranty or other agreement or instrument to which the Company is a party or by which the Company or any of its property may be bound or affected; or

(3) Conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction, or decree of any Governmental Authority or court (domestic or foreign) having jurisdiction over the Company or any of the property of the Company.

(e) The providing of Financial Assistance to the Project by the Agency:

(1) Has been an important consideration in the Company's decision to acquire, reconstruct, renovate and equip the Project Facility in the City of Syracuse;

(2) Will not result in the removal of an industrial or manufacturing plant or commercial activity of any Project Facility occupant from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of any user, occupant, or proposed user or occupant of the Project Facility located within the State, except as permitted by the Act; and

(3) Will help eliminate blight and advance job opportunities, prosperity and standard of living and help prevent economic deterioration.

(f) So long as the Agency holds a leasehold interest in the Project Facility, the Project Facility is and will continue to be a "project" (as such quoted term is defined in the Act), and the Company will not take any action (or omit to take any action required by the Company Documents or which the Agency, together with Agency's counsel, advise the Company in writing should be taken), or allow any action to be taken, which action (or omission) would in any way cause the Project Facility not to constitute a "project" (as such quoted term is defined in the Act).

(g) The Company shall cause all notices as required by law to be given and shall comply or cause compliance with all laws, ordinances, municipal rules, and regulations and requirements of all Governmental Authorities applying to or affecting the construction, equipping and operation of the Project Facility (the applicability of such laws, ordinances, rules, and regulations to be determined both as if the Agency were the owner of the Project Facility and as if the Company, were the owner of the Project Facility), and the Company will defend and save the Agency and its officers, members, agents (other than the Company), and employees harmless from all fines and penalties due to failure to comply therewith.

(h) The Project will not have a significant effect on the environment" (within the meaning of such term as used in SEQRA) and the Company hereby covenants to comply with all mitigating measures, requirements and conditions, if any, enumerated in the SEQR Resolution under SEQRA applicable to the acquisition, construction and installation of the Project Facility and in any other approvals issued by any other Governmental Authority to which the Project Facility or Company are subject with respect to the Project. No material changes with respect to any aspect of the Project Facility have arisen from the date of the issuance of such negative declaration which would cause the determination contained therein to be untrue.

(i) The Company understands and agrees that it is the preference of the Agency that the Company provide opportunities for the purchase of goods and services from: (i) business enterprises located in the City; (ii) certified minority and or women-owned business enterprises; and (iii) business enterprises that employ residents of the City. The Company further understands and acknowledges that consideration will be given by the Agency to the Company's efforts to comply, and compliance, with this objective at any time an extension of benefits is sought or involvement by the Agency with the Project is requested by the Company.

(j) The Agency's undertaking of the Project and the provision of Financial Assistance for the Project will not have a significant impact on the environment within the meaning of SEQRA.

(k) The acquisition, construction and equipping of the Project Facility will promote employment opportunities and help prevent economic deterioration in the City by the creation and/or preservation of both full and part-time jobs.

(l) The Company has, or will have as of the first date of construction and equipping, all then necessary permits, licenses, and governmental approvals and consents (collectively, "**Approvals**") for the construction and equipping of the Project Facility and has or will have such Approvals timely for each phase of, and throughout the, construction and equipping of the Project Facility.

(m) The Company will not sublease the whole or any portion of the Project Facility for an unlawful purpose.

(n) No part of the Project Facility will be located outside of the City.

(o) The Company shall perform, or cause to be performed, for and on behalf of the Agency, each and every obligation of the Agency (which is within the control of the Company) under and pursuant to this Agency Lease, the Company Lease and the other Company Documents and shall defend, indemnify, and hold harmless the Agency and its members, officers, agents (other than the Company), servants and employees from and against every expense, liability, or claim arising out of the failure of the Company to fulfill its obligations under the provisions of this Section 2.2.

(p) The Company agrees that except as is otherwise provided by collective bargaining contracts or agreements applicable to the Project, new employment opportunities created as a result of the Project shall be listed with the New York State Department of Labor Community Services Division, and with the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Project is located. The Company further agrees that except as is otherwise provided by collective bargaining contracts or agreements applicable to the Project, it will first consider persons eligible to participate in the Federal Job Training Partnership (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the Community Services Division of the Department of Labor for such new employment opportunities.

(p) The Company shall provide to the Agency any and all documentation or information requested by the Agency so that the Agency can comply with all of its reporting requirements under the Act.

(q) As a condition precedent to receiving or benefiting from any State sales and use tax exemption benefits, the Company acknowledges and agrees to all terms and conditions of Section 875(3) of the Act. Section 875(3) of the Act is herein incorporated by reference. As part of such conditions precedent:

(1) The Company shall not take any State or local Sales and Use Tax exemptions to which it is not entitled, which are in excess of the amount authorized by the Agency in reliance on the Company's Application or which are for property or services not authorized.

(2) The Company shall comply with all material terms and conditions to use property or services in the manner required by the Agency Documents.

(3) The Company shall cooperate with the Agency in the Agency's efforts to recover, recapture, receive or otherwise obtain from the Company any Recapture Amount (as defined in Section 8.12(g) hereof), and shall, upon the Agency's request, promptly pay to the Agency any Recapture Amount, together with any interest or penalties thereon imposed by the Agency or by operation of law or by judicial order or otherwise, as provided in Section 8.12(g) hereof. The Company acknowledges and agrees that the failure of the Company to promptly pay such Recapture Amount to the Agency will be grounds for the State Commissioner of Taxation and Finance to collect sales and use taxes from the Company under Article 28 of the State Tax Law, together with interest and penalties.

(r) The amount of State and local sales and use tax benefits comprising the Financial Assistance approved by the Agency shall not exceed **\$1,360,000**. The Company shall not request, obtain nor claim State and local sales and use tax exemptions in excess of this amount.

(s) The Company hereby acknowledges that the exemption from mortgage recording tax authorized by the Agency as part of the Financial Assistance is limited by Section 874 of the Act.

ARTICLE III

CONVEYANCE OF LEASEHOLD INTEREST IN PROJECT FACILITY

3.1 AGREEMENT TO CONVEY LEASEHOLD INTEREST TO COMPANY.

The Company has conveyed to the Agency, pursuant to the Company Lease, a leasehold interest in the Land and Facility, as more fully described in **Exhibit "A"** attached hereto, any improvements now or hereafter constructed and installed thereon, subject to Permitted Encumbrances and all of its right, title and interest in the Equipment via a Bill of Sale, as more fully described in **Exhibit "B"** attached hereto. Under this Agency Lease, the Agency will convey, or will cause to be conveyed, to the Company, a subleasehold interest in the Project Facility subject to Permitted Encumbrances and exclusive of the Agency's Unassigned Rights.

3.2 USE OF PROJECT FACILITY.

Subsequent to the Closing Date, the Company shall be entitled to use the Project Facility in any manner not otherwise prohibited by this Agency Lease, the Company Lease and

other Company Documents, provided that such use causes the Project Facility to qualify or continue to qualify as a “project” under the Act.

ARTICLE IV

RECONSTRUCTION, RENOVATION, CONSTRUCTION AND EQUIPPING OF THE PROJECT

4.1 RECONSTRUCTION, RENOVATION, CONSTRUCTION AND EQUIPPING OF THE PROJECT FACILITY.

(a) The Company shall promptly construct and equip the Project Facility, all in accordance with the Plans and Specifications. Unless a written waiver is first obtained from the Agency, in accordance with the Agency’s Local Access Policy, the Company and its Additional Agents (as defined herein), shall utilize local labor, contractors and suppliers for the construction and equipping of the Project Facility. For purposes of this Agency Lease, and in particular this Section 4.1, the term “*local*” shall mean Onondaga, Oswego, Oneida, Madison, Cayuga and Cortland Counties. Failure to comply with the local labor requirements of this Section 4.1 (collectively, “*Local Labor Requirements*”) may result in the revocation or recapture of all benefits provided/approved to the Project by the Agency. The Company further agrees to complete and supply the Agency, quarterly, starting the first quarter following the date hereof, the “Contract Status Report” the form of which is attached hereto at **Exhibit “D”**. Failure to comply with any portion of Article 4 may result in the loss of all benefits provided to or for the benefit of the Project in the Agency’s sole discretion.

(b) The Agency hereby confirms the appointment of the Company as its true and lawful agent to perform the following in compliance with the terms, purposes, and intent of this Agency Lease, the Act and the other Company Documents, and the Company hereby accepts such appointment:

(1) To construct, equip and complete the Project Facility and to acquire the Equipment in accordance with the terms hereof;

(2) To make, execute, acknowledge, and deliver any contracts, orders, receipts, writings, and instructions with any other Persons and, in general, to do all things which may be requisite or proper, all for the constructions, equipping and completion of the Project Facility with the same powers and with the same validity as the Agency could do if acting in its own behalf, provided that the Agency shall have no liability for the payment of any sums due thereunder;

(3) To pay all fees, costs and expenses incurred in the construction, equipping and completion of the Project Facility from funds made available therefore from the funds of the Company; and

(4) To ask, demand, sue for, levy, recover, and receive all such sums of money, debts, dues, and other demands whatsoever which may be due, owing, and payable to

the Agency under the terms of any contract, order, receipt, or writing in connection with the construction, equipping and completion of the Project Facility and to enforce the provisions of any contract, agreement, obligation, bond, or other performance security.

(c) The Agency shall enter into, and accept the assignment of, such contracts as the Company may request in order to effectuate the purposes of this Section 4.1, provided, however, that the Agency shall have no liability for the payment of any sums due thereunder.

(d) The Company has given, or will give or cause to be given, all notices and have complied, or will comply or cause compliance with, all laws, ordinances, rules, regulations, and requirements of all Governmental Authorities applying to or affecting the conduct of work on the Project Facility (the applicability of such laws, ordinances, rules, and regulations to be determined both as if the Agency were the owner of the Project Facility and as if the Company were the owner of the Project Facility), and the Company will defend, indemnify, and save the Agency and its officers, members, agents, servants, and employees harmless from all fines and penalties due to failure to comply therewith. All permits and licenses necessary for the prosecution of work on the Project Facility shall be procured promptly by the Company.

(e) The Company understands and agrees that it is the preference of the Agency that the Company provide opportunities for the purchase of goods and services relative to the Project from: (i) business enterprises located in the City; (ii) certified minority and/or women-owned business enterprises; and (iii) business enterprises that employ residents of the City. Consideration will be given by the Agency to the Company's efforts to comply, and compliance with, this objective at any time an extension of benefits is requested, or further involvement by the Agency with the Project, is requested by the Company.

4.2 COMPLETION OF PROJECT FACILITY.

(a) The Company will proceed with due diligence to acquire, construct, equip and complete the Project Facility. Completion of the acquisition, construction and equipping of the Project Facility shall be evidenced by a certificate signed by an Authorized Representative of the Company and approved by the Agency, stating:

- (1) The date of such completion;
- (2) That all labor, services, materials, and supplies used therefor and all costs and expenses in connection therewith have been paid;
- (3) That the Company has good and valid title to all Property constituting the Project Facility subject to the interest of the Agency therein and to this Agency Lease, the Company Lease and the Bill of Sale; and
- (4) That the Project Facility is ready for occupancy, use and operation for its intended purposes.

(b) Notwithstanding the foregoing, such certificate may state that (1) it is given without prejudice to any rights of the Company against third parties which exist at the date of such certificate or which may subsequently come into being; (2) it is given only for the purposes of this Section 4.2; and (3) no Person other than the Agency may benefit therefrom.

(c) Such certificate shall be accompanied by (1) copy of a certificate of occupancy, if required, and any and all permissions, licenses, or consents required of Governmental Authorities for the occupancy, operation, and use of the Project Facility for its intended purposes; and (2) Lien releases from the Company's contractor and any subcontractors under a contract with a price in excess of \$100,000.

4.3 COSTS OF COMPLETION PAID BY COMPANY.

(a) The Company agrees to complete the Project and to pay in full all costs of the construction, equipping and completion of the Project Facility.

(b) No payment by the Company pursuant to this Section 4.3 shall entitle the Company to any diminution or abatement of any amounts payable by the Company under this Agency Lease.

4.4 REMEDIES TO BE PURSUED AGAINST CONTRACTORS, SUBCONTRACTORS, MATERIALMEN AND THEIR SURETIES.

In the event of a default by any materialman or Additional Agent (as defined herein) under any contract made by them in connection with construction, equipping and completion of the Project Facility or in the event of a breach of warranty or other liability with respect to any materials, workmanship, or performance guaranty, the Company shall proceed, either separately or in conjunction with others, to exhaust the remedies of the Company against the materialman or Additional Agent so in default and against each surety for the performance of such contract. The Company may prosecute or defend any action or proceeding or take any other action involving any such materialman or Additional Agent or surety which the Company deems reasonably necessary. The Company shall advise the Agency of any actions or proceedings taken hereunder. No such suit shall relieve the Company of any of its obligations under this Agency Lease and the other Company Documents.

4.5 COOPERATION IN EXECUTION OF ADDITIONAL MORTGAGES AND MODIFICATIONS OF MORTGAGES.

The Agency agrees, upon written request of an Authorized Representative of the Company and subject to the provisions of the Act, to use its commercially reasonable efforts to execute and deliver one or more Mortgages and such additional instruments and documents may be requested by the Company and approved by counsel to the Agency and as may be required in connection with the Company's financing or refinancing for the costs of construction and equipping of the Project Facility, provided that:

(a) No Event of Default under this Agency Lease, the Company Lease or the Mortgage shall have occurred and be continuing; and

(b) The execution and delivery of such documents by the Agency (i) is permitted by law in effect at the time; and (ii) will serve the public purposes of the Act; and

(c) The Company will be responsible for and shall pay, from the proceeds thereof or otherwise, the Agency's fee and the costs and expenses of the Agency incidental to such additional financing, refinancing or modification thereof, including without limitation the reasonable attorneys' fees of the Agency; and

(d) The documents to be signed by the Agency shall contain the provisions set forth in Sections 8.2 and 11.11 hereof, and shall not impose any duties or obligations upon the Agency except as may be acceptable to the Agency.

ARTICLE V

AGREEMENT TO LEASE PROJECT FACILITY; RENTAL PAYMENTS

5.1 AGREEMENT TO LEASE PROJECT FACILITY.

In consideration of the Company's covenant herein to make rental payments, and the other covenants of the Company contained herein, including the covenant to make additional rent and other payments required hereby, the Agency hereby agrees to lease to the Company, and the Company hereby agrees to lease from the Agency, the Project Facility for and during the term provided herein and upon and subject to the terms and conditions herein set forth and subject to Permitted Encumbrances.

The Agency's acceptance of the leasehold interest in and to the Land and Facility pursuant to the Company Lease, and its acquisition of an interest in the Equipment pursuant to the Bill of Sale, and the holding of said interests were effected and performed solely at the request of the Company pursuant to the requirements of the Act. The Agency hereby transfers and conveys all of its beneficial and equitable interests, if any, in the Project Facility to the Company, except for its Unassigned Rights. As a result, the parties hereby acknowledge and agree that subject to the terms and conditions of this Agency Lease, the Company has all of the equitable and beneficial ownership and other interest in the Project Facility (except for the Unassigned Rights), and will have all the equitable and beneficial ownership and other interest in the Project Facility (except for the Unassigned Rights), such that the Company, and not the Agency, shall have an:

(i) unconditional obligation to bear the economic risk of depreciation and diminution in value of the Project Facility due to obsolescence or exhaustion, and shall bear the risk of loss if the Project Facility is destroyed or damaged;

(ii) unconditional obligation to keep the Project Facility in good condition and repair;

(iii) unconditional and exclusive right to the possession of the Project Facility, and shall have sole control of and responsibility for the Project Facility;

(iv) unconditional obligation to maintain insurance coverage on, and such reserves with respect to, the Project Facility as may be required by the Company, the Agency and the Mortgagee with respect to the Project;

(v) unconditional obligation to pay all taxes levied on, or payments in lieu thereof, and assessments made with respect to, the Project Facility;

(vi) subject to the Unassigned Rights, unconditional and exclusive right to receive rental and any other income and other benefits of the Project Facility and from the operation of the Project;

(vii) unconditional obligation to pay for all of the capital investment in the Project Facility;

(viii) unconditional obligation to bear all expenses and burdens of the Project Facility and to pay for all maintenance and operating costs in connection with the Project Facility; and

(ix) unconditional and exclusive right to include all income earned from the operation of the Project Facility and claim all deductions and credits generated with respect to the Project Facility on its annual federal, state and local tax returns.

5.2 TERM OF LEASE; EARLY TERMINATION; SURVIVAL.

(a) The term of this Agency Lease shall commence on the date hereof and continue in full force and effect until the earlier of: (1) September 30, 2018; or (2) the issuance of a certificate of occupancy by the City of Syracuse, New York, unless earlier terminated as provided herein.

(b) The Company hereby irrevocably designates the Agency as its attorney-in-fact, coupled with an interest, for the purpose of executing, delivering and recording terminations of the Agency Lease, the Company Lease, preparing a bill of sale together with any other documents therewith and to take such other and further actions reasonably necessary to confirm the termination of the Agency's interest in the Project.

(c) The Company shall have the option, at any time during the term of this Agency Lease, to terminate this Agency Lease. In the event that the Company shall exercise its option to terminate this Agency Lease pursuant to this Section 5.2(c), the Company shall file with the Agency a certificate stating the Company's intention to do so pursuant to this Section 5.2(c) and to comply with the requirements set forth in Section 5.2(d) hereof.

(d) As a condition to the effectiveness of the Company's exercise of its right to early termination, the following payments shall be made:

(1) **To the Agency:** an amount certified by the Agency as sufficient to pay all unpaid fees and expenses of the Agency incurred under this Agency Lease and the Company Lease (including, but not limited to those in connection with the early termination of this Agency Lease); and

(2) **To the Appropriate Person:** an amount sufficient to pay all other fees, expenses or charges, if any, then due and payable under this Agency Lease and the other Agency Documents.

(e) The certificate required to be filed pursuant to Section 5.2(c), setting forth the provision thereof permitting early termination of this Agency Lease shall also specify the date upon which the payments pursuant to subdivision (d) of this Section 5.2 shall be made, which date shall not be less than thirty (30) nor more than sixty (60) days from the date such certificate is filed with the Agency.

(f) Contemporaneously with the termination of this Agency Lease in accordance with Sections 5.1 or 5.2 hereof, the Agency shall transfer, and the Company shall accept, all of the Agency's right, title and interest in the Project Facility, including the Equipment, for a purchase price of One Dollar (\$1.00) plus the payment of all other sums due hereunder and all legal fees and costs associated therewith. Contemporaneously with the termination of this Agency Lease and the Company Lease shall terminate.

(g) The Agency shall, upon payment by the Company of the amounts pursuant hereto and to Sections 5.2(d) above and Section 5.3, deliver to the Company all documents furnished to the Agency by the Company, or prepared by the Agency at the sole expense of the Company, and reasonably necessary to evidence termination of the Company Lease and the Agency Lease, including, but not limited to, lease terminations and a bill of sale from the Agency with respect to its interest in the Equipment, without representation or warranty, subject to the following: (1) any Liens to which such Project Facility was subject when conveyed to the Agency, (2) any

Liens created at the request of the Company or to the creation of which the Company consented or in the creation of which the Company acquiesced, (3) any Permitted Encumbrances, and (4) any Liens resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Agency Lease.

(h) The obligation of the Agency under this Section 5.2 to convey the Project Facility to the Company will be subject to: (i) there being no Event of Default existing hereunder or under any payment in lieu of tax agreement now or hereafter entered into with respect to all or any portion of the Project Facility or under any other Company Documents, or any other event which would, but for the passage of time or the giving of notice, or both, be such an Event of Default; and (ii) the Company's payment of all expenses, fees and taxes, if any, applicable to or arising from such transfer.

5.3 RENTAL PAYMENTS AND OTHER AMOUNTS PAYABLE.

(a) The Company shall pay basic rental payments for the Project Facility consisting of: (i) to the Agency in an amount sufficient to pay any and all other amounts due hereunder; and (ii) to the Mortgagee, an amount equal to the debt service and amounts becoming due and payable under the Mortgage and the indebtedness secured thereby on the due date thereof.

(b) The Company shall pay to the Agency, as additional rent, within ten (10) days after the receipt of a demand therefor from the Agency, any annual administrative fees of the Agency, the sum of the reasonable fees, costs and expenses of the Agency and the officers, members, agents, and employees thereof incurred by the reason of the Agency's lease or sublease of the Project Facility or in connection with the carrying out of the Agency's duties and obligations under this Agency Lease, the Company Lease or any of the other Agency Documents and any other fee or expense of the Agency with respect to the Project Facility, or any of the other Agency Documents, the payment of which is not otherwise provided for under this Agency Lease, including, without limitation, reasonable fees and disbursements of Agency counsel, including fees and expenses incurred in connection with the Agency's enforcement of any rights hereunder or incurred after the occurrence and during the continuance of an Event of Default, in connection with any waiver, consent, modification or amendment to this Agency Lease or any other Agency Document that may be requested by the Company, or, in connection with any action by the Agency at the request of or on behalf of the Company hereunder or under any other Agency Document. Any additional rent not received within ten (10) business days after demand shall accrue interest after the expiration of such ten days at a rate of ten percent (10%) per annum or the highest rate permitted by law, whichever is less.

(c) The administrative fee payable by the Company to the Agency in conjunction with this Project and the Agency's granting of Financial Assistance and all outstanding counsel fees and costs shall be paid at closing.

(d) The Company agrees to make the above-mentioned payments, without any further notice, in lawful money of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts. In the event that the Company shall fail to make or cause to be made any of the payments required under this Agency Lease, the item or installment not so paid shall continue as an obligation of the Company until such item or installment is paid in full.

5.4 NATURE OF OBLIGATIONS OF COMPANY HEREUNDER.

(a) The obligations of the Company to make the payments required by this Agency Lease and to perform and observe any and all of the other covenants and agreements on its part contained herein are general obligations of the Company and are absolute and unconditional irrespective of any defense or any rights of set-off, recoupment, or counterclaim it may otherwise have against the Agency. The Company agrees that it will not suspend, discontinue, or abate any payment required by, or fail to observe any of its other covenants or agreements contained in this Agency Lease for any cause whatsoever, including, without limiting the generality of the foregoing, failure to complete the construction and equipping of the Project

Facility, any defect in the title, design, operation, merchantability, fitness, or condition of the Project Facility, or any part thereof, or in the suitability of the Project Facility, or any part thereof, for the Company's purposes or needs, or failure of consideration for, destruction of or damage to, or Condemnation of title to, or the use of all or any part of the Project Facility, any change in the tax or other laws of the United States of America or of the State of New York, or any political subdivision thereof, or any failure of the Agency to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or in connection with this Agency Lease or the Company Lease.

(b) Nothing contained in this Section 5.4 shall be construed to release the Agency from the performance of any of the agreements on its part contained in this Agency Lease or the Company Lease, and in the event the Agency should fail to perform any such agreement, the Company may institute such action against the Agency as the Company may deem necessary to compel performance (subject to the provisions of Section 11.11).

ARTICLE VI

MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

6.1 MAINTENANCE AND MODIFICATIONS OF PROJECT FACILITY.

The Company shall:

(a) Keep the Project Facility in good condition and repair and preserve the same against waste, loss and damage, ordinary wear and tear excepted;

(b) Make all necessary repairs and replacements to the Project Facility or any part thereof (whether ordinary or extraordinary, structural, or non-structural, foreseen or unforeseen) which is damaged, destroyed, or condemned; and

(c) Operate the Project Facility in a sound and economic manner in general accordance with the Project pro-forma statements Company previously provided to the Agency.

6.2 TAXES, ASSESSMENTS AND UTILITY CHARGES.

(a) The Company shall pay as the same respectively become due:

(1) Any and all taxes and governmental charges of any kind, whatsoever which may at any time be lawfully assessed or levied against or with respect to the Project Facility;

(2) All utility and other charges, including "service charges," incurred or imposed for the operation, maintenance, use, occupancy, upkeep, and improvement of the Project Facility, the non-payment of which would create, or entitle the obligee to impose, a Lien on the Project Facility;

(3) All assessments and charges of any kind whatsoever lawfully made by any Governmental Authority for public improvements; and

(4) All payments in lieu of taxes, if any, required to be made to the Agency under the terms of any agreement with respect thereto.

(b) Subject to the terms of any payment in lieu of taxes agreement, the Company may in good faith actively contest any such taxes, assessments, and other charges, provided that: (1) the Company shall have first notified the Agency of such contest; (2) no Event of Default under this Agency Lease or any of the other Company Documents shall have occurred and be continuing; and (3) the Company shall have set aside adequate reserves for any such taxes, assessments and other charges. If the Company demonstrates to the reasonable satisfaction of the Agency and certifies to the Agency by delivery of a written certificate, that the non-payment of any such items will not endanger any part of the Project Facility or subject the Project Facility, or any part thereof, to loss or forfeiture, the Company may permit the taxes, assessments, and other charges so contested to remain unpaid during the period of such contest and any appeal therefrom. Otherwise, such taxes, assessments, or charges shall be paid promptly by the Company or secured by the Company's posting a bond in form and substance satisfactory to the Agency.

(c) Notwithstanding anything herein to the contrary, and notwithstanding the Agency's interest in the Project Facility, the Company shall pay taxes as if privately owned.

6.3 INSURANCE REQUIRED.

During the term of this Agency Lease, the Company shall maintain or cause to be maintained insurance with respect to the Project Facility against such risks and for such amounts as are customarily insured against by businesses of like size and type and as required of the Agency, paying (as the same becomes due and payable) all premiums with respect thereto, including:

(a) Insurance against loss or damage by fire, lightning, and other casualties customarily insured against (with a uniform standard extended coverage endorsement), such insurance to be in an amount not less than the full replacement value of the completed Project Facility, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Company.

(b) Workers' compensation insurance, disability benefits' insurance, and each other form of insurance which the Company is required by law to provide covering loss resulting from injury, sickness, disability, or death of employees of the Company who are located at or assigned to the Project Facility;

(c) A policy of commercial general liability insurance with a \$1,000,000 combined single limit for bodily injury including death and property damage, including but not limited to, contractual liability under this Agency Lease and personal injury, with blanket excess liability coverage in an amount not less than \$2,000,000, covering the Project Facility and

Equipment and the Company's and the Agency's use or occupancy thereof against all claims on account of bodily injury or death and property damage occurring upon, in or about the Project Facility or in connection with the ownership, maintenance, use and/or occupancy of the Project Facility and all appurtenant areas.

6.4 ADDITIONAL PROVISIONS RESPECTING INSURANCE.

All insurance required by Section 6.3 shall be with insurance companies of recognized financial standing selected by the Company and licensed to write such insurance in the State of New York. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other Persons engaged in businesses similar in size, character, and other respects to those in which the Company are engaged. All policies evidencing such insurance except the Workers' Compensation policy shall name the Company as insured and the Agency as an additional insured, as its interests may appear, and shall provide that such coverage with respect to the Agency be primary and non-contributory with any insurance secured by the Agency and require at least thirty (30) days' prior written notice to the Agency of cancellation, reduction in policy limits, or material change in coverage thereof.

Prior to the Closing Date, the Company shall deliver to the Agency, satisfactory to the Agency in form and substance: (i) certificates evidencing all insurance required hereby; (ii) the additional insured endorsement(s) applicable to the Agency; (iii) the final insurance binder addressed to the Company covering the Project Facility; and (iv) evidence that the insurance so required is on a primary and non-contributory basis. In addition, the Company shall provide, if so requested by the Agency, a final and complete copy of each insurance policy within thirty (30) days of the Closing Date.

The Company shall deliver or cause to be delivered to the Agency on or before the first business day of each January thereafter each of the items set forth in the immediately preceding paragraph, dated not earlier than the immediately preceding month, reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance in the amounts and of the types required by Sections 6.3 and 6.4. The Company shall furnish to the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agency Lease each year throughout the term of this Agency Lease.

All premiums with respect to the insurance required by Section 6.3 shall be paid by the Company, provided, however, that, if the premiums are not timely paid, the Agency may pay such premiums and the Company shall pay immediately upon demand all sums so expended by the Agency, together with interest at a rate of ten percent (10%) per annum or the highest rate permitted by law, whichever is less.

6.5 APPLICATION OF NET PROCEEDS OF INSURANCE.

The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.3 shall be applied as follows:

(a) The Net Proceeds of the insurance required by subsection 6.3(a) shall be paid and applied as provided in Section 7.1 hereof; and

(b) The Net Proceeds of the insurance required by subsections 6.3(b) and 6.3(c) shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

ARTICLE VII

DAMAGE, DESTRUCTION, AND CONDEMNATION

7.1 DAMAGE OR DESTRUCTION.

(a) If the Mortgage shall be in effect or the Mortgagee shall have any interest in the Project Facility arising under or related to the Mortgage, whether by foreclosure or otherwise and the Project Facility shall be damaged or destroyed, in whole or in part, then insurance proceeds shall be paid in accordance with the relevant provisions of the Mortgage regarding the distribution of such insurance proceeds, provided that there shall be no abatement or reduction in amounts payable to the Agency hereunder. If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility and the Project Facility shall be damaged or destroyed, in whole or in part:

(1) There shall be no abatement or reduction in the amounts payable by the Company under this Agency Lease or otherwise (whether or not the Project Facility is replaced, repaired, rebuilt, or restored); and

(2) The Company shall promptly give notice thereof to the Agency;
and

(3) Except as otherwise provided in subsections 7.1(b) and 7.1(c) hereof, upon receipt of the insurance proceeds, the Company shall promptly replace, repair, rebuild, or restore the Project Facility to substantially the same condition as existed prior to such damage or destruction, with such changes, alterations, and modifications as may be desired by the Company and consented to in writing by the Agency, provided that such changes, alterations, or modifications do not change the nature of the Project Facility, such that it does not constitute a "project" (as such quoted term is defined in the Act); and in the event such Net Proceeds are not sufficient to pay in full the costs of such replacement, repair, rebuilding, or restoration, the Company shall nonetheless complete such work and shall pay from its own moneys that portion of the costs thereof in excess of such Net Proceeds.

(b) If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility, then notwithstanding anything to the contrary contained in subsection 7.1(a), the Company shall not be obligated to replace, repair, rebuild, or restore the Project Facility, and the Net Proceeds of any insurance settlement shall not be applied as provided in subsection 7.1(a) if the Company shall notify the Agency that, in the Company's sole judgment, the Company does not deem it practical or desirable to replace, repair, rebuild, or

restore the Project Facility. In such event, the lesser of (1) the total amount of the Net Proceeds collected under any and all policies of insurance covering the damage to or destruction of the Project Facility, or (2) any other sums payable to the Agency pursuant to this Agency Lease and the other Agency and Company Documents, shall be applied to the repayment of all amounts due to the Agency under this Agency Lease, the Company Lease and other Agency Documents. If the Net Proceeds collected under any and all policies of insurance are less than the amount necessary to repay any and all amounts payable to the Agency, the Company shall pay the difference between such amounts and the Net Proceeds of all such insurance settlements so that any and all amounts payable under this Agency Lease, the Company Lease and the other Agency Documents to the Agency shall be paid in full. If all amounts due under this Agency Lease, the Company Lease, the Mortgage and the other Agency Documents are paid in full, all such Net Proceeds, or the balance thereof, shall be paid to the Company for its purposes.

(c) The Company and the Mortgagee may adjust all claims under any policies of insurance required by subsections 6.3(a) and 6.3(c) hereof with the prior written consent of the Agency, which consent shall not be unreasonably withheld.

7.2 CONDEMNATION.

(a) If the Mortgage shall be in effect or the Mortgagee shall have any interest in the Project Facility arising under or related to the Mortgage, whether by foreclosure or otherwise and title to, or the use of, all, substantially all or less than substantially all of the Project Facility shall be taken by Condemnation, then Condemnation proceeds shall be paid in accordance with the relevant provisions of the Mortgage regarding the distribution of such Condemnation proceeds, provided that there shall be no abatement or reduction in amounts payable to the Agency hereunder. If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility and if title to, or the use of, less than substantially all of the Project Facility shall be taken by Condemnation:

(1) There shall be no abatement or reduction in the amounts payable by the Company under this Agency Lease or otherwise (whether or not the Project Facility is restored); and

(2) The Company shall promptly give notice thereof to the Agency;
and

(3) Except as otherwise provided in subsections 7.2(b) and 7.2(c) hereof, upon receipt of the Condemnation proceeds, the Company shall promptly restore the Project Facility (excluding any part of the Project Facility taken by Condemnation) to substantially the condition and value as an operating entity as existed prior to such Condemnation; and the Company shall nonetheless complete such restoration and shall pay from its own moneys that portion of the costs thereof in excess of such Net Proceeds.

(b) If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility and if title to, or the use of, less than substantially all of the Project Facility shall be taken by Condemnation, then notwithstanding anything to the contrary

contained in subsection 7.2(a), the Company shall not be obligated to restore the Project Facility, and the Net Proceeds of any Condemnation award shall not be applied as provided in subsection 7.2(a) if the Company shall notify the Agency that, in the Company's sole judgment, the Company does not deem it practical or desirable to restore the Project Facility. In such event, the lesser of (1) the Net Proceeds of any Condemnation award, or (2) the amount necessary to pay the Agency pursuant to this Agency Lease, the Company Lease and the other Agency Documents, shall be applied to payment of all amounts due to the Agency under this Agency Lease, the Company Lease and other Agency Documents. If the Net Proceeds of any Condemnation award are less than the amount necessary to pay any and all amounts payable to the Agency, the Company shall pay the difference between such amounts and the Net Proceeds of such Condemnation award so that any and all amounts payable under this Agency Lease, the Company Lease and other Agency Documents to the Agency shall be paid in full. If all amounts due under this Agency Lease, the Company Lease, the Mortgage and the other Agency Documents have been paid in full, all such Net Proceeds or the balance thereof shall be paid to the Company for its purposes.

(c) The Company and the Mortgagee with the prior written consent of the Agency (which consent shall not be unreasonably withheld), shall have sole control of any Condemnation proceeding with respect to the Project Facility, or any part thereof, and may negotiate the settlement of any such proceeding.

7.3 ADDITIONS TO PROJECT FACILITY.

All replacements, repairs, rebuilding, or restoration made pursuant to Sections 7.1 or 7.2 hereof, whether or not requiring the expenditure of the Company's own moneys, shall automatically become part of the Project Facility as if the same were specifically described herein.

ARTICLE VIII

SPECIAL COVENANTS

8.1 NO WARRANTY OF CONDITION OR SUITABILITY BY THE AGENCY; ACCEPTANCE "AS IS."

THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY, OR FITNESS OF THE PROJECT FACILITY, OR ANY PART THEREOF, OR AS TO THE SUITABILITY OF THE PROJECT FACILITY OR ANY PART THEREOF FOR THE COMPANY'S PURPOSES OR NEEDS. NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY IS MADE. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE AGENCY SHALL NOT HAVE ANY RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

8.2 HOLD HARMLESS PROVISIONS.

(a) The Company hereby releases the Agency and its members, officers, agents and employees from, agrees that the Agency and its members, officers, agents and employees shall not be liable for, and agrees to indemnify, defend, and hold the Agency and its members, officers, agents and employees harmless from and against any and all claims arising as a result of the Agency's undertaking the Project, including, but not limited to:

(1) Liability for loss or damage to Project Facility or bodily injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Project Facility, or arising by reason of or in connection with the occupation or the use thereof, or the presence on, in, or about the Project Facility;

(2) Liability arising from or expense incurred by the Agency's acquisition of a leasehold interest in the Project Facility and the subleasing of the Project Facility, including, without limiting the generality of the foregoing, all liabilities or claims arising as a result of the Agency's obligations under this Agency Lease, the Company Lease, the Mortgage or any other documents executed by the Agency at the direction of the Company in conjunction with the Project Facility;

(3) All claims arising from the exercise by the Company, and or its Additional Agents (as defined herein) of the authority conferred upon it and performance of the obligations assumed under Section 4.1 hereof;

(4) Any and all claims arising from the non-disclosure of information, if any, requested by the Company in accordance with Section 11.14 hereof;

(5) All causes of action and attorneys' fees and other expenses incurred in connection with any suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities, or expenses of the Agency are not incurred or do not result from the intentional wrongdoing of the Agency or any of its members, officers, agents or employees.

To the fullest extent permitted by law, the foregoing indemnities shall apply notwithstanding the fault or negligence (other than gross negligence or willful misconduct) on the part of the Agency or any of its officers, members, agents, servants or employees and irrespective of any breach of statutory obligation or any rule of comparative or apportioned liability.

(b) In the event of any claim against the Agency or its members, officers, agents, or employees by any employee of the Company, or any materialman or Additional Agent of the Company, or anyone directly or indirectly employed by any of them, or any one for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Company or such contractor under workers' compensation laws, disability benefit laws, or other employee benefit laws.

(c) To effectuate the provisions of this Section 8.2, the Company agrees to provide for and insure, in the liability policies required by Section 6.3, its liabilities assumed pursuant to this Section 8.2.

(d) Notwithstanding any other provisions of this Agency Lease, the obligations of the Company pursuant to this Section 8.2 shall remain in full force and effect after the termination of this Agency Lease and the Company Lease until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action, or prosecution relating to the matters herein described may be brought, and the payment in full or the satisfaction of such claim, cause of action, or prosecution, and the payment of all expenses and charges incurred by the Agency, or its officers, members, agents or employees relating thereto.

(e) For purposes of this Section 8.2 and Section 11.11 hereof, the Company shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

8.3 RIGHT OF ACCESS TO PROJECT FACILITY.

During the term of this Agency Lease, the Company agrees that the Agency and its duly authorized agents shall have the right to enter upon and to examine and inspect the Project Facility upon reasonable notice to the Company and with the least disturbance of Project Facility tenants as reasonably possible.

8.4 MAINTENANCE OF EXISTENCE.

During the term of this Agency Lease, the Company will maintain its existence and will not dissolve or otherwise dispose of all or substantially all of its assets.

8.5 AGREEMENT TO PROVIDE INFORMATION.

During the term of this Agency Lease, and no less frequently than annually, the Company agrees, whenever reasonably requested by the Agency or the Agency's auditor, to provide and certify, or cause to be certified, such information concerning the Project and/or the Company, its finances, and for itself and each of its Additional Agents, information regarding job creation¹, Local Labor Requirements, exemptions from State and local sales and use tax, real property and mortgage recording taxes and other topics as the Agency from time to time reasonably considers necessary or appropriate including, but not limited to those reports, in substantially the form as set forth in **Exhibit "E"** attached hereto, and such other information necessary as to enable the Agency to monitor and/or make any reports required by law or

¹ To the extent the Project includes commercial space and/or tenants for which the Company calculated job creation as part of its projections in its Application, the Company is obligated, through its lease or other rental agreement with those commercial tenants, to require that such tenants report to the Company, in accordance with the terms of Section 8.5 hereof, the number of full and part time jobs created and maintained by each such tenant for inclusion in the Company's reporting to or at the request of the Agency.

governmental regulation, including but not limited to §875 of the Act. Notwithstanding anything in this Section 8.5 to the contrary, the Company shall provide the Contract Status Report in accordance with Section 4.1 hereof.

8.6 BOOKS OF RECORD AND ACCOUNT; FINANCIAL STATEMENTS.

During the term of this Agency Lease, the Company agrees to maintain proper accounts, records, and books, in which full and correct entries shall be made in accordance with generally accepted accounting principles, of all business and affairs of the Company.

8.7 COMPLIANCE WITH ORDERS, ORDINANCES, ETC.

(a) The Company agrees that it will, during any period in which the amounts due under this Agency Lease remain unpaid, promptly comply with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions, and requirements of all Governmental Authorities, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter affect the Company's obligations hereunder or be applicable to the Project Facility, or any part thereof, or to any use, manner of use, or condition of the Project Facility, or any part thereof, the applicability of the same to be determined both as if the Agency were the owner of the Project Facility and as if the Company were the owner of the Project Facility.

(b) Notwithstanding the provisions of subsection 8.7(a), the Company may, in good faith, actively contest the validity or the applicability of any requirement of the nature referred to in said subsection 8.7(a), provided that the Company shall have first notified the Agency of such contest, no Event of Default shall be continuing under this Agency Lease, or any of the other Company Documents; and such contest and failure to comply with such requirement shall not subject the Project Facility to loss or forfeiture. In such event, the Company may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom unless the Agency or its members, officers, agents, or employees may be liable for prosecution for failure to comply therewith, in which event the Company shall promptly take such action with respect thereto as shall be satisfactory to the Agency.

8.8 DISCHARGE OF LIENS AND ENCUMBRANCES.

During the term of this Agency Lease, the Company hereby covenants that, except for Permitted Encumbrances, the Company agrees not to create, or suffer to be created, any Lien on the Project Facility, or any part thereof without the prior written consent of the Agency. The Company shall promptly notify the Agency of any Permitted Encumbrances created, or suffered to be created, on the Project Facility.

8.9 PERFORMANCE BY AGENCY OF COMPANY'S OBLIGATIONS.

Should the Company fail to make any payment or to do any act as herein provided, the Agency may, but need not, upon ten (10) days' prior written notice to or demand on the Company, and without releasing the Company from any obligation herein, make or do the

same, including, without limitation, appearing in and defending any action purporting to affect the rights or powers of the Company, or the Agency, and paying all expenses, including, without limitation, reasonable attorneys' fees; and the Company shall pay immediately upon demand all sums so expended by the Agency under the authority hereof, together with the interest thereon from the date of demand at a rate of ten percent (10%) per annum or the highest rate permitted by law, whichever is greater.

8.10 DEPRECIATION DEDUCTIONS AND TAX CREDITS.

The parties agree that as between them, the Company shall be entitled to all depreciation deductions and accelerated cost recovery system deductions with respect to any portion of the Project Facility pursuant to Sections 167 and 168 of the Code and to any investment credit pursuant to Section 38 of the Code with respect to any portion of the Project Facility which constitutes "Section 38 Property" and to all other State and/or federal income tax deductions and credits which may be available with respect to the Project Facility.

8.11 EMPLOYMENT OPPORTUNITIES.

The Company shall insure that all employees and applicants for employment with regard to the Project are afforded equal employment opportunities without discrimination.

8.12 SALES AND USE TAX EXEMPTION.

(a) Pursuant to Section 874 of the Act, the parties understand that the Agency is exempt from certain State and local sales use taxes imposed by the State and local governments in the State, and that the Project may be exempted from those taxes due to the involvement of the Agency in the Project. The Agency makes no representations or warranties that any property is exempt from the payment of State or local sales or use taxes. Any exemption from the payment of State or local sales or use taxes resulting from the involvement of the Agency with the Project shall be subject to Section 875 of the Act and shall be limited to purchases of services and tangible personal property conveyed to the Agency or utilized by the Agency or by the Company as agent of the Agency as a part of the Project prior to the Completion Date, or incorporated within the Project Facility prior to the Completion Date. No operating expenses of the Project Facility, and no other purchases of services or property shall be subject to an exemption from the payment of State sales or use tax. It is the intention of the parties hereto that the Company will receive a State and local sales and use tax exemption with respect to the Project, said sales tax exemption to be evidenced by a letter to be issued by the Agency on the date of the execution of this Agency Lease. The Company acknowledges that as an agent of the Agency, it must complete and provide to each vendor Form ST-123 for purchases. The failure to furnish a completed Form ST-123 (IDA Agent or Project Operator Exempt Purchase Certificate) with each purchase will result in loss of the exemption for that purchase.

(b) The Company may use and appoint a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "***Additional Agents***") in furtherance of the completion of the Project. However, for each Additional Agent, the Company must first: (i) cause the each such appointed Additional

Agent to execute and deliver a sub-agent agreement, in the form attached hereto at **Exhibit “F”**, and provide a fully executed copy to the Agency; and (ii) submit a completed Form ST-60 to the Agency for execution and filing with the New York State Department of Taxation and Finance.

(c) The Company acknowledges and agrees that an Additional Agent must be appointed as an agent of the Agency in order to avail itself of the Agency’s sales and use tax exemption for purchases or rentals of equipment, tools and supplies with respect to the Project Facility.

(d) Pursuant to Section 874(8) of the Act, the Company agrees to annually file and cause each Additional Agent or other operator of the Project Facility to file annually, with the New York State Department of Taxation and Finance, and provide the Agency with a copy of same, on a form and in such manner as is prescribed by the New York State Commissioner of Taxation and Finance (the “**Annual Sales Tax Report**”), a statement of the value of all sales and use tax exemptions claimed by the Company and all other Additional Agents under the authority granted to the Company pursuant to Section 4.1(b) of this Agency Lease. Pursuant to Section 874(8) of the Act, the penalty for failure to file the Annual Sales Tax Report shall be removal of authority to act as agent of the Agency. Therefore, if the Company shall fail to comply with the requirements of this subsection (d), irrespective of any notice and cure period afforded, the Company and each Additional Agent shall immediately cease to be the agent of the Agency in connection with the Project. The Company is responsible for obtaining from the New York State Department of Taxation and Finance the current version of such Annual Sales Tax Report.

(e) The Company agrees to furnish to the Agency a copy of each such Annual Sales Tax Report submitted to the New York State Department of Taxation and Finance by the Company pursuant to Section 874(8) of the Act for itself and any Additional Agent.

(f) Pursuant to Section 874(9) of the Act, the Agency agrees to file within thirty (30) days of the Closing Date with the New York State Department of Taxation and Finance, on a form and in such manner as is prescribed by the New York State Commissioner of Taxation and Finance (the “**Thirty-Day Sales Tax Report**”), a statement identifying the Company, or 30 days from the appointment of any Additional Agent appointed in accordance with the terms herein, as agent of the Agency, setting forth the taxpayer identification number of the Company, giving a brief description of the goods and/or services intended to be exempted from sales taxes as a result of such appointment as agent, indicating the estimated value of the goods and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.

(g) Pursuant to Section 875(3) of the Act, and in conjunction with Agency policy, the Agency shall, and in some circumstances may, recover, recapture, receive or otherwise obtain from the Company the portion of the Financial Assistance (the “**Recapture Amount**”) consisting of State and local sales and use tax exemption in accordance with the Agency’s Recapture Policy, a copy of which is attached hereto at **Exhibit “G”**, and the Project Agreement.

8.13. IDENTIFICATION OF THE EQUIPMENT.

All Equipment which is or may become part of the Project Facility pursuant to the provisions of this Lease Agreement shall be properly identified by the Company by such appropriate records, including computerized records, as may be approved by the Agency.

ARTICLE IX

ASSIGNMENTS; TRANSFERS; MERGER OF AGENCY

9.1 ASSIGNMENT OF AGENCY LEASE.

This Agency Lease may not be assigned by the Company, in whole or in part, nor all or any part of the Project Facility subleased, nor any part of the Project Facility sold, leased, transferred, conveyed or otherwise disposed of without the prior written consent of the Agency, which consent shall be in the Agency's sole and absolute discretion; provided however, that the Company may enter into leases for individual rental units that are part of the Project Facility without the consent of the Agency. Any assignment or sublease of this Agency Lease shall not effect a release of the Company from its obligations hereunder.

9.2 TRANSFERS OF INTERESTS.

Except as provided herein, the Company shall not assign or otherwise transfer or allow an assignment or transfer, of a controlling interest in the Company, whether by operation of law or otherwise (including, without limitation, by way of a merger, consolidation or a change of control whereby the current existing equity holders of the Company, as of the date of the application to the Agency, would own, in the aggregate, less than a majority of the total combined voting power of all classes of equity interest of the Company or any surviving entity), without the prior written consent of Agency, which consent shall be in the Agency's sole and absolute discretion.

Notwithstanding anything herein to the contrary, the Permitted Transfers (as defined below) absent an event of default and except as provided for below, shall be permitted without notice to or consent from the Agency and without any transfer or assumption fee or change in any lease terms. "Permitted Transfers" shall mean, absent of an event of default under the Company Documents: (a) any transfer, directly as a result of the death of a natural person holding a membership interest in the Company or in the sole member of the Company, of stock, membership interests or other ownership interests previously held by the decedent in question to the person or persons lawfully entitled thereto; (b) a transfer by an individual of any direct or indirect interest in the Company in connection with the estate planning of such individual transferor to: (1) an immediate family member (i.e., a sibling, parent, spouse, child (or step-child), grandchild or other lineal descendant of the related person) of such interest holder, (2) a trust established for the benefit of such immediate family member, or (3) partnerships or limited

liability companies of which the partners or members, respectively, are comprised entirely of the transferor and immediate family members of the transferor; (c) transfers of direct or indirect ownership interests in the Company to a person that is, at all times, wholly owned by the transferor; (d) other transfers of direct or indirect ownership interests in the Company, provided that if any such transfer under this clause (d) would cause any transferee, or group of transferees, to hold a 20% or greater direct or indirect interest in the Company (which transferee did not previously hold a 20% or greater interest), the Company shall give notice to the Agency of such transfer together with copies of all instruments effecting such transfer not less than forty-five (45) days prior to the date of such transfer. Provided however, that, after giving effect to any and all such transfers, none of the foregoing shall result in a Change of Control.

9.3 MERGER OF AGENCY.

(a) Nothing contained in this Agency Lease shall prevent the consolidation of the Agency with, or merger of the Agency into, or assignment by the Agency of its rights and interests hereunder to any other body corporate and politic and public instrumentality of the State of New York, or political subdivision thereof, which has the legal authority to perform the obligations of the Agency hereunder, provided that upon any such consolidation, merger, or assignment, the due and punctual performance and observance of all the agreements and conditions of this Agency Lease to be kept and performed by the Agency shall be expressly assumed in writing by the public instrumentality or political subdivision resulting from such consolidation or surviving such merger or to which the Agency's rights and interests hereunder shall be assigned.

(b) Promptly following the effective date of any such consolidation, merger, or assignment, the Agency shall give notice thereof in reasonable detail to the Company. The Agency shall promptly furnish to the Company such additional information with respect to any such consolidation, merger, or assignment as the Company reasonably may request.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

10.1 EVENTS OF DEFAULT DEFINED.

The following shall be "Events of Default" under this Agency Lease, and the terms "Event of Default" or "Default" shall mean, whenever they are used in this Agency Lease, any one or more of the following events:

(a) A default by the Company in the due and punctual payment of the amounts specified to be paid pursuant to subsection 5.3 or 8.12(g); or

(b) Failure by the Company to maintain the insurance required by Section 6.3;
or

(c) A default in the performance or the observance of any other of the covenants, conditions, or agreements on the part of the Company in this Agency Lease and the

continuance thereof for a period of thirty (30) days after written notice is given by the Agency or, if such covenant, condition, or agreement is capable of cure but cannot reasonably be cured within such thirty-day period, the failure of the Company to commence to cure within such thirty-day period and to prosecute the same with due diligence and cure the same within an additional thirty (30) days; or

(d) A transfer in contravention of Article 9 hereof;

(e) The occurrence of an “Event of Default” under the Mortgage, the Company Lease, the Project Agreement or any of the other Company Documents which is not timely cured as provided therein; or

(f) The Company shall generally not pay its debts as such debts become due or is unable to pay its debts as they become due.

(g) The Company shall conceal, remove, or permit to be concealed or removed any part of its Property with intent to hinder, delay, or defraud its creditors, or any one of them, or shall make or suffer a transfer of any of its Property which is fraudulent under any bankruptcy, fraudulent conveyance, or similar law, or shall make any transfer of its Property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid, or shall suffer or permit, while insolvent, any creditor to obtain a Lien upon any of its Property through legal proceedings or distraint which is not vacated within thirty (30) days from the date thereof; or

(h) By order of a court of competent jurisdiction, a trustee, receiver, or liquidator of the Project Facility, or any part thereof, or of the Company shall be appointed and such order shall not be discharged or dismissed within ninety (90) days after such appointment; or

(i) The filing by the Company of a voluntary petition under Title 11 of the United States Code or any other federal or state bankruptcy statute; the failure by the Company within ninety (90) days to lift any execution, garnishment, or attachment of such consequence as will impair the Company’s ability to carry out its obligations hereunder; the commencement of a case under Title 11 of the United States Code against the Company as the debtor, or commencement under any other federal or state bankruptcy statute of a case, action, or proceeding against the Company, and continuation of such case, action, or proceeding without dismissal for a period of ninety (90) days; the entry of an order for relief by a court of competent jurisdiction under Title 11 of the United States Code or any other federal or state bankruptcy statute with respect to the debts of the Company; or in connection with any insolvency or bankruptcy case, action, or proceeding, appointment by final order, judgment, or decree of a court of competent jurisdiction of a receiver or trustee of the whole or a substantial portion of the Property of the Company unless such order, judgment, or decree is vacated, dismissed, or dissolved within ninety (90) days of its issuance.

(j) The imposition of a Lien on the Project Facility other than a Permitted Encumbrance.

10.2 REMEDIES ON DEFAULT.

(a) Whenever any Event of Default shall have occurred and be continuing, the Agency may, to the extent permitted by law, take any one or more of the following remedial steps:

- 1) Terminate this Agency Lease;
- 2) Terminate the Company Lease;

3) Take any other action at law or in equity which may appear necessary or desirable to collect any amounts then due, or thereafter to become due, hereunder or under the Company Lease, the Project Agreement and/or to enforce the Company's obligations and duties under the Company Documents and the Agency's rights under the Agency Documents, including but not limited to, specific performance; or

4) Seek to recover the recapture amount set forth in Article 8 hereof as well as any and all other components of Financial Assistance provided to the Company in accordance with the Agency's Recapture Policy.

(b) No action taken pursuant to this Section 10.2 shall relieve the Company from its obligations to make all payments required by Sections 5.3(b) and 8.2 hereof.

(c) Notwithstanding any provisions in this Agency Lease and/or any other document or instrument executed in connection herewith to the contrary, upon the occurrence of an Event of Default hereunder or thereunder, the Mortgagee may cure any default by the Company within any applicable cure period.

10.3 REMEDIES CUMULATIVE.

No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Agency Lease, the Company Lease and the other Company Documents or now or hereafter existing at law or in equity to collect any amounts then due, or thereafter to become due, hereunder and thereunder and to enforce the Agency's right to terminate this Agency Lease and the Company Lease. No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Agency to exercise any remedy reserved to it in this Article 10, it shall not be necessary to give any notice, other than such notice as may be herein expressly required in this Agency Lease.

10.4 AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES.

In the event the Company should Default under any of the provisions of this Agency Lease, or a dispute arises hereunder, and the Agency should employ attorneys or incur other expenses to preserve or enforce its rights hereunder or for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Company herein contained, the Company shall, on demand therefor, pay to the Agency the reasonable fees and costs of such attorneys and such other expenses so incurred.

10.5 NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.

In the event any agreement contained herein should be breached by either party and thereafter such breach be waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE XI

MISCELLANEOUS

11.1 NOTICES.

All notices, certificates, and other communications hereunder shall be in writing, shall be sufficiently given, and shall be deemed given when (a) sent to the applicable address stated below by registered or certified mail, return receipt requested, and actually received by the intended recipient or by overnight courier or such other means as shall provide the sender with documentary evidence of such delivery, or (b) delivery is refused by the addressee as evidenced by the affidavit of the Person who attempted to effect such delivery. The addresses to which notices, certificates, and other communications hereunder shall be delivered are as follows:

(a) If to the Agency, to:

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202
Attn: Chairman

With a copy to:

Corporation Counsel
City of Syracuse
233 East Washington Street
Syracuse, New York 13202

(b) If to the Company, to:

BVSHSSF Syracuse, LLC
353 North Clark Street
Chicago, Illinois 60654
Attn: Ronald W. Koretz

With a copy to:

Robert Smith, Esq.
Costello, Cooney and Fearon, PLLC
500 Plum Street, Suite 300
Syracuse, New York 13204

The Agency and the Company, may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, and other communications shall be sent.

11.2 BINDING EFFECT.

This Agency Lease shall inure to the benefit of and shall be binding upon the Agency and the Company and, as permitted by this Agency Lease, upon their respective heirs, successors and assigns.

11.3 SEVERABILITY.

If any one or more of the covenants or agreements provided herein on the part of the Agency or the Company to be performed shall for any reason be held, or shall in fact be, inoperative, unenforceable, or contrary to law in any particular circumstance; such circumstance shall not render the provision in question inoperative or unenforceable in any other circumstance. Further, if any one or more of the sentences, clauses, paragraphs, or sections herein is contrary to law, then such covenant(s) or agreement(s) shall be deemed severable of remaining covenants and agreements hereof and shall in no way affect the validity of the other provisions of this Agency Lease.

11.4 AMENDMENTS, CHANGES AND MODIFICATIONS.

This Agency Lease may not be amended, changed, modified, altered, or terminated except by an instrument in writing signed by the parties hereto.

11.5 EXECUTION OF COUNTERPARTS.

This Agency Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

11.6 APPLICABLE LAW.

This Agency Lease shall be governed exclusively by the applicable laws of the State of New York.

11.7 WAIVER OF TRIAL BY JURY.

THE COMPANY AND THE AGENCY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY DISPUTE ARISING UNDER THIS AGENCY LEASE, AND THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGENCY LEASE.

11.8 SUBORDINATION.

This Agency Lease shall be subject and subordinate to the Company Lease and the Mortgage and all Permitted Encumbrances in all respects.

11.9 SURVIVAL OF OBLIGATIONS.

(a) The obligations of the Company to repay, defend and/or provide the indemnity required by Section 8.2 and 8.12 hereof shall survive the termination of this Agency Lease and all such payments and obligations after such termination shall be made upon demand of the party to whom such payment and/or obligation is due.

(b) The obligations of the Company to repay, defend and/or provide the indemnity required by Sections 8.2 and 8.12 shall survive the termination of this Agency Lease until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action, or prosecution may be brought, and the payment in full or the satisfaction of such claim, cause of action, or prosecution, and the payment of all expenses and charges incurred by the Agency or its officers, members, agents (other than the Company) or employees relating thereto.

(c) The obligations of the Company required by Article 4 and Sections 2.2 and 11.14 hereof shall similarly survive the termination of this Agency Lease.

11.10 TABLE OF CONTENTS AND SECTION HEADINGS NOT CONTROLLING.

The Table of Contents and the Section headings in this Agency Lease have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provision of this Agency Lease.

11.11 NO RECOURSE; SPECIAL OBLIGATION.

The obligations and agreements of the Agency contained herein and in the other Agency Documents and in any other instrument or document executed in connection herewith or therewith, and any instrument or document supplemental hereto or thereto, shall be deemed the obligations and agreements of the Agency and not of any member, officer, agent or employee of

the Agency in his individual capacity; and the members, officers, agents and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of the Agency contained herein or therein shall not constitute or give rise to an obligation of the State New York or of the City of Syracuse, and neither the State of New York nor the City of Syracuse shall be liable hereon or thereon. Further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, payable solely from the revenues of the Agency derived, and to be derived from, the lease, sale, or other disposition of the Project Facility, other than revenues derived from or constituting Unassigned Rights. No order or decree of specific performance with respect to any of the obligations of the Agency hereunder or thereunder shall be sought or enforced against the Agency unless:

(a) The party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and thirty (30) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or if compliance therewith would reasonably be expected to take longer than thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period; and

(b) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses; and

(c) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents or employees shall be subject to potential liability, the party seeking such order or decree shall (1) agree to indemnify and hold harmless the Agency and its members, officers, agents and employees against any liability incurred as a result of its compliance with such demand; and (2) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents and employees against all liability expected to be incurred as a result of compliance with such request.

(d) For purposes of this Section 11.11, neither the Company nor any Additional Agent shall be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

Any failure to provide notice, indemnity, or security to the Agency pursuant to this Section 11.11 shall not alter the full force and effect of any Event of Default under this Agency Lease.

11.12 OBLIGATION TO SELL AND PURCHASE THE EQUIPMENT.

(a) Contemporaneously with the termination of this Agency Lease in accordance with Section 5.2 hereof, the Agency shall sell and the Company shall purchase all the Agency's right,

title and interest in and to all of the Equipment for a purchase price equal to the sum of One Dollar (\$1.00), plus payment of all sums due and payable to the Agency or any other Person pursuant to this Agency Lease and the other Company Documents. The Company hereby irrevocably designates the Agency as its attorney-in-fact, coupled with an interest, for the purpose of executing and delivering the bill of sale together with any other documents therewith, including lease terminations in accordance with Section 5.2 hereof, and to take such other and further actions reasonably necessary to confirm the termination of the Agency's interest in the Equipment.

(b) The sale and conveyance of the Agency's right, title and interest in and to the Equipment shall be effected by the execution and delivery by the Agency to the Company of a bill of sale to Company. The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from such transfer of title.

(c) The Company agrees to prepare the bill of sale to Company and all schedules thereto, together with all necessary documentation, and to forward same to the Agency at least thirty (30) days prior to the date that title to the Equipment is to be conveyed to the Company.

11.13 ENTIRE AGREEMENT.

This Agency Lease and the Company Lease contain the entire agreement between the parties and all prior negotiations and agreements are merged therein.

11.14 DISCLOSURE.

Section 875(7) of the New York General Municipal Law ("GML") requires that the Agency post on its website all resolutions and agreements relating to the Company's appointment as an agent of the Agency or otherwise related to the Project; and Article 6 of the New York Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Company feels that there are elements of the Project or information about the Company in the Agency's possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the Company's competitive position, the Company must identify such elements in writing, supply same to the Agency on or before the Closing Date, and request that such elements be kept confidential in accordance with Article 6 of the Public Officers Law. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the GML.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Agency and the Company have caused this Agency Lease to be executed in their respective names by their duly authorized representatives as of the day and year first written above.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By:



William M. Ryan, Chairman

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company,
its sole Member

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

By:

Ronald W. Koretz, Senior Vice President

IN WITNESS WHEREOF, the Agency and the Company have caused this Agency Lease to be executed in their respective names by their duly authorized representatives as of the day and year first written above.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
William M. Ryan, Chairman

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company,
its sole Member

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

By: 

Ronald W. Koretz, Senior Vice President

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

On the 9th day of May in the year 2017 before me, the undersigned, personally appeared **William M. Ryan**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Lori L. McRobbie

Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 2018

STATE OF ILLINOIS)
) SS.:
COUNTY OF COOK)

On the 17th day of May in the year 2017 before me, the undersigned, personally appeared **Ronald W. Koretz**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Linda Piper

Notary Public

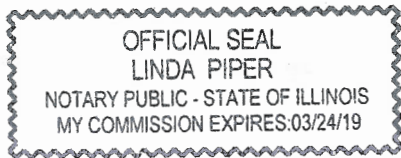


EXHIBIT A

LEGAL DESCRIPTION

NEW LOT No. 100, RESUBIVISION OF PART OF LOT Nos. 18, 19, 21, LOT Nos. 22, 23, 24, 25, 26, 27 & 28 AND ADDITIONAL LANDS PART OF BLOCK No. 240, CITY OF SYRACUSE

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block No. 240 in said City, being New Lot No. 100 of Resubivision of Part of Lot Nos. 18, 19, 21, Lot Nos. 22, 23, 24, 25, 26, 27 & 28 and additional lands according to a map by Ianuzi & Romans Land Surveying, P.C. dated August 11, 2016, last revised December 12, 2016 filed in the Onondaga County Clerk's Office on February 28, 2017, as Map No. 12334, bounded and described as follows:

Beginning at the intersection of the northerly boundary of East Genesee Street with the westerly boundary of South Crouse Avenue (Chestnut Street, formerly), said point being the southeasterly corner of said Block No. 240; running thence N 83°37'20" W along said northerly boundary of East Genesee Street, a distance of 155.32 feet to the easterly boundary of lands conveyed to Caserta, LLC by deed recorded in the Onondaga County Clerk's Office in Book 4912 of Deeds at page 523; thence N 00°29'40" E along said easterly boundary of lands conveyed to Caserta, LLC, a distance of 84.87 feet to the northeasterly corner thereof; thence N 89°30' 50" W along the northerly boundary of said lands conveyed to Caserta, LLC, a distance of 100.51 feet to the easterly boundary of Irving Avenue; thence N 00°29'40" E along said easterly boundary of Irving Avenue, a distance of 240.42 feet to a southerly boundary of lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 69; thence S 89°30'50" E along said southerly boundary

of lands conveyed to 900 East Fayette Group, LLC, a distance of 123.01 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC, a distance of 65.00 feet to a southwesterly corner of other lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 78; thence S 89°30'50" E along the southerly boundary of said other lands conveyed to 900 East Fayette Group, LLC and along a southerly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 42.0 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 100.0 feet to the southerly boundary of East Fayette Street; thence S 89°30'50" E along said southerly boundary of East Fayette Street, a distance of 90.0 feet to the aforementioned westerly boundary of South Crouse Avenue (Chestnut Street, formerly); thence S 00°29'40" W along said westerly boundary of South Crouse Avenue (Chestnut Street, formerly), a distance of 506.23 feet to the point of beginning.

Section: 48

Block: 5

Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

Common Address: 919 East Genesee Street, Syracuse, New York

EXHIBIT "B"

DESCRIPTION OF EQUIPMENT

All articles of personal property, all machinery, apparatus, equipment, appliances, floor coverings, furniture, furnishings, supplies, materials, fittings and fixtures of every kind and nature whatsoever and all appurtenances acquired by **FINGER LAKES STAIRS AND CABINETS, LLC and BARTON BUSINESS PROPERTIES, LLC** (collectively, the "*Company*"), or the Company's contractors or subcontractors, as agent of the County of Oswego Industrial Development Agency pursuant to the Agency Lease Agreement dated as of May 1, 2017 now or hereafter attached to, contained in or used or acquired in connection with the Land (as defined in the Agency Lease) and/or the Project Facility (as defined in the Agency Lease) or placed on any part thereof, though not attached thereto, including, but not limited to, pipes, screens, fixtures, heating, lighting, plumbing, ventilation, air conditioning, compacting and elevator plants, call systems, stoves, ranges, refrigerators, automotive sales and repair equipment, rugs, movable partitions, cleaning equipment, manufacturing equipment, maintenance equipment, shelving, flagpoles, signs, waste containers, outdoor benches, drapes, blinds and accessories, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors, machinery, all other equipment, materials or apparatus used in connection with the Project Facility; and together with any and all products of any of the above, all substitutions, replacements, additions or accessions therefor, and any and all cash proceeds or non-cash proceeds realized from the sale, transfer or conversion of any of the above.

EXHIBIT "C"

TABLE OF DEFINITIONS

The following terms shall have the meanings set forth below, unless the context or use clearly indicate another or different meaning and the singular form of such defined words and terms shall include the plural and vice versa:

Act: means the New York State Industrial Development Agency Act (N.Y. Gen. Municipal Law §§ 850 et seq.) as amended, together with Section 926 of the N.Y. General Municipal Law, as amended from time to time.

Additional Agents: means a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents appointed by the Company in furtherance of the completion of the Project in accordance with the terms of the Agency Lease.

Agency: means the City of Syracuse Industrial Development Agency and its successors and assigns.

Agency Documents: means the Agency Lease, the Company Lease, the Mortgage and any other documents executed by the Agency in connection with the Project or the Financial Assistance granted in connection therewith.

Agency Lease: means the Agency Lease Agreement dated as of May 1, 2017, by and between the Agency and the Company, as the same may be amended or supplemented from time to time.

Application: means the application submitted by the Company to the Agency dated October 20, 2016, requesting the Agency undertake the Project, as same may be amended or supplemented from time to time.

Authorized Representative: means for the Agency, the Chairman or Vice Chairman of the Agency; for the Company, its Member or Managing Member or any officer designated in a certificate signed by an Authorized Representative of such Company and, for either the Agency or the Company, any additional persons designated to act on behalf of the Agency or the Company by written certificate furnished by the designating party containing the specimen signature of each designated person.

Bill of Sale: means that certain Bill of Sale from the Company to the Agency dated as of May 1, 2017 in connection with the Equipment.

Blue Vista Entity: means an entity that is directly or indirectly controlled by Blue Vista Capital Management, LLC, including but not limited to Blue Vista Student Housing Select Strategies Manager, LLC.

Change in Control: means the failure of a Blue Vista Entity to Control the Company.

City: means the City of Syracuse.

Closing Date: means May 19, 2017.

Closing Memorandum: means the closing memorandum of the Agency relating to the Project.

Code: means the Internal Revenue Code of 1986, as amended, and the regulations of the United States Treasury Department promulgated thereunder.

Company: means BVSHSSF Syracuse, LLC, organized and existing under the laws of the State of Delaware, authorized to do business in the State of New York having an address at 353 North Clark Street, Chicago, Illinois 60654, and its permitted successors and assigns.

Company Documents: means the Company Lease, the Agency Lease, the Project Agreement, the Mortgage, the Environmental Compliance and Indemnification Agreement, the Bill of Sale, the Company Certification and any other documents executed by the Company in connection with the Project or the Financial Assistance granted in connection therewith.

Company Lease: means the Company Lease Agreement dated as of May 1, 2017 from the Company to the Agency, pursuant to which the Company leased the Project Facility to the Agency, as the same may be amended or supplemented from time to time.

Condemnation: means the taking of title to, or the use of, Property under the exercise of the power of eminent domain by any governmental entity or other Person acting under governmental authority.

Control: means the power, directly or indirectly, to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling”, “controlled by” and “under common control with” have meanings correlative to “Control”.

County: means the County of Onondaga in the State of New York.

Environmental Compliance and Indemnification Agreement: means the Environmental Compliance and Indemnification Agreement dated as of May 1, 2017 by the Company to the Agency.

Equipment: means all materials, machinery, furnishings, fixtures and equipment installed or used at the Project Facility, as of the Closing Date and thereafter acquired for or installed in, or upon, the Project Facility, as more fully described in **Exhibit “B”** to the Agency Lease.

Facility: means the buildings and other improvements located or to be constructed on the Land.

Financial Assistance: has the meaning given to such term in Section 854(14) of the Act.

Governmental Authority: means any federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign.

Land: means the improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street) in the City of Syracuse, County of Onondaga, State of New York, more particularly described on **Exhibit "A"** attached to the Agency Lease.

Lien: means any interest in Property securing an obligation owed to a Person, whether such interest is based on the common law, statute or contract, and including, but not limited to, a security interest arising from a mortgage, encumbrance, pledge, conditional sale, or trust receipt or a lease, consignment or bailment for security purposes. The term "Lien" includes reservations, exceptions, encroachments, projections, easements, rights of way, covenants, conditions, restrictions, leases, and other similar title exceptions and encumbrances, including, but not limited to mechanics, materialmen, warehousemen, and carriers liens and other similar encumbrances effecting real property. For purposes hereof, a Person shall be deemed to be the owner of any property which it has acquired or holds subject to a conditional sale agreement or other arrangement pursuant to which title to the property has been retained by or vested in some other person for security purposes.

Mortgage: means one or more mortgages from the Agency and the Company to the Mortgagee and recorded in the Onondaga County Clerk's office subsequent to the filing and recording of the Memorandum of Agency Lease, securing construction and/or permanent financing for the Project Facility, executed in accordance with Section 4.5 of the Agency Lease, and securing the Note.

Mortgagee: means a lender, its successors and assigns, providing financing pursuant to the Note and Mortgage, relative to the costs of construction and/or equipping of the Project Facility.

Net Proceeds: means so much of the gross proceeds with respect to which that term is used as remain after payment of all expenses, costs and taxes (including attorneys' fees) incurred in obtaining such gross proceeds.

Note: means one or more notes given by the Company to the Mortgagee in connection with the Mortgage for construction or permanent financing relative to the Project Facility.

Permitted Encumbrances: means (A) utility, access and other easements and rights of way, and restrictions, encroachments and exceptions, that benefit or do not materially impair the utility or the value of the Property affected thereby for the purposes for which it is intended, (B) artisans', mechanics', materialmen's, warehousemen's, carriers', landlords', bankers', workmen's compensation, unemployment compensation and social security, and other similar

Liens to the extent permitted by the Agency Lease, including the lien of the Mortgage, (C) Liens for taxes (1) to the extent permitted by the Agency Lease or (2) at the time not delinquent, (D) any Lien on the Project Facility obtained through any Agency Document or Company Document or the Mortgage, (E) Liens of judgments or awards in respect of which an appeal or proceeding for review shall be pending (or is pending within ten days after entry) and a stay of execution shall have been obtained (or is obtained within ten days after entry), or in connection with any claim or proceeding, (F) Liens on any Property hereafter acquired by the Company or any subsidiary which liens are created contemporaneously with such acquisition to secure or provide for the payment or financing of any part of the purchase price thereof, (G) Liens consisting solely of restrictions under any applicable laws or any negative covenants in any applicable agreements (but only to the extent that such restrictions and covenants do not prohibit the execution, delivery and performance by the Company of the Agency Lease and the Mortgage, and (H) existing mortgages or encumbrances on the Project Facility as of the Closing Date or thereafter incurred with the consent of the Mortgagee and the Agency.

Person: means an individual, partnership, corporation, limited liability company, trust, or unincorporated organization, and any government or agency or political subdivision or branch thereof.

Plans and Specifications: means the representations, plans and specifications, if any, and presented by the Company to the Agency in its application and any presentation relating to the construction and equipping of the Project Facility; and any plans and specifications approved by the Mortgagee.

Project: shall have the meaning ascribed thereto in the third *WHEREAS* clause of this Agency Lease.

Project Agreement: means the Project Agreement dated as of May 1, 2017 between the Company and the Agency setting forth rights and obligations of the parties with respect to the Financial Assistance.

Project Facility: means the Land, the Facility and the Equipment.

Property: means any interest in any kind of property or asset, whether real, personal, or mixed, or tangible or intangible.

Resolution or Resolutions: means the Agency's resolutions adopted on January 24, 2107 authorizing the undertaking of the Project and the execution and delivery of certain documents by the Agency in connection therewith.

Sales and Use Tax or State Sales and Use Taxes: means, when used with respect to State sales and use taxes, sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

SEORA: means the State Environmental Quality Review Act constituting Article 8 of the State Environmental Conservation Law and the regulations promulgated thereunder, as amended.

State: means the State of New York.

Unassigned Rights: means:

(i) the right of the Agency in its own behalf to receive all opinions of counsel, reports, financial statements, certificates, insurance policies, binders or certificates, or other notices or communications, if any, required to be delivered to the Agency under the Agency Lease;

(ii) the right of the Agency to grant or withhold any consents or approvals required of the Agency under the Agency Lease;

(iii) the right of the Agency to enforce or otherwise exercise in its own behalf all agreements of the Company with respect to ensuring that the Project Facility shall always constitute a qualified "project" as defined in and as contemplated by the Act;

(iv) the right of the Agency to require and enforce any right of defense and any indemnity from any Person;

(v) the right of the Agency in its own behalf (or on behalf of the appropriate taxing authorities) to enforce, receive amounts payable under or otherwise exercise its rights under Sections 2.2(f), 2.2(h), 2.2(m), 2.2(q), 4.1, 4.5, 5.3, 5.4, 6.2, 6.3, 6.4, 8.2, 8.3, 8.5, 8.7, 8.9, 8.12, 10.2, 10.4, 11.9, 11.11 and 11.12 of the Agency Lease and Sections 2.6(g), 4.8 and 4.9 of the Company Lease; and

(vi) the right of the Agency in its own behalf to declare an Event of Default and enforce its remedies under Article X of the Agency Lease or with respect to any of the Agency's Unassigned Rights.

EXHIBIT "D"

FORM OF CONTRACT STATUS REPORT

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

Appendix II – Contract Status Report

To be submitted with a request for an extension of the Tax Exempt Certificate

It is a goal of SIDA to promote the use of local labor, contractors and suppliers for projects that receive agency support in the form of tax exemptions and/or bond financing. As part of its request to extend the valid date of the Agency's tax-exempt certificate for the _____ project, _____ (the Company) certifies that the following information regarding the construction and purchase activities undertaken for the project as of _____ (date) is true and correct.

Item	Bid Awarded to: (Name and Address)	Date and Value of Contract	Number of Jobs	
			Total	Local*
1. Site work/Demolition				
2. Foundation and footings				
3. Building				
4. Masonry				
5. Metals				
6. Wood/casework				
7. Thermal and moisture proof				
8. Doors, windows, glazing				
9. Finishes				
10. Electrical				
11. HVAC				
12. Plumbing				
13. Specialties				
14. Machinery and Equipment				
15. Furniture and Fixtures				
16. Utilities				
17. Paving				
18. Landscaping				
19. Other (identify)				

*The number of local jobs means those jobs held by people who live in the five counties in Central New York. This number is subject to verification.

Signature: _____ Name (printed): _____
Title: _____ Date: _____

EXHIBIT "E"

FORM OF ANNUAL REPORTING REQUIREMENTS

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY
201 East Washington Street, 7th Floor , Syracuse, New York 13202

Date

COMPANY
COMPANY ADDRESS

Dear _____:

Our auditors, _____, CPAs are conducting an audit of our financial statements for the year ended December 31, _____. In connection with that audit, we request that you furnish certain information directly to our auditor with regard to the following security issued by/through the City of Syracuse Industrial Development Agency:

Sale - Leaseback Financing

Project: _____

Date of Financing:

Principal Amount Financed:

Maturity Date:

Original Interest Rate:

Please provide the following information as of December 31, [year]:

Name of Lender

Debt Retired in [year] Yes/No

Debt Refinanced in [year] Yes/No

(If Yes, please update information in Paragraph 1 above)

Debt in Default as of [date] Yes/No

Current Interest Rate(s)

Rate range, if Variable

Principal balance outstanding as of [date]

Principal payments made during [year]

Payments in Lieu of Taxes (PILOT)

paid in [year]

Total cost of goods/services purchased: \$ _____

New York State Sales Tax Exemptions Claimed [year]

New York Local Sales Tax Exemptions Claimed: [year]

New York State Mortgage Recording

Tax Exemption: [year]

Form of City of Syracuse Industrial Development Agency — Project Jobs Data [year]

From:

To: _____, CPAs

Re:

The following jobs information is furnished to you with regard to the above cited project:

Full Time Equivalent (FTE) Jobs Created and Retained – [year]

of Current FTE Employees as of [closing date]

of FTE Jobs Created during [year]

of FTE Jobs Retained during [year]

of FTE Construction Jobs Created during [year]

Comments:

Signature

Print Name

Title

Date

EXHIBIT “F”

FORM OF SUB-AGENT AGREEMENT

THIS SUB-AGENT APPOINTMENT AGREEMENT (the “*Agreement*”), dated as of _____, 20__, is by and between **BVSHSSF SYRACUSE, LLC** (the “*Company*”), with a mailing address of 353 North Clark Street, Chicago, Illinois 60654 (the “*Company*”), and [NAME OF SUB-AGENT], a _____ of the State of New York, having an office for the transaction of business at _____ (the “*Sub-Agent*”).

WITNESSETH:

WHEREAS, the City of Syracuse Industrial Development Agency (the “*Agency*”) was created by Chapter 641 of the Laws of 1979 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the “*Act*”) as a body corporate and politic and as a public benefit corporation of the State of New York (the “*State*”); and

WHEREAS, by resolution of its members adopted on January 24, 2017 (the “*Resolution*”), the Agency agreed to undertake a project for the benefit of the Company (the “*Project*”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street), in the City of Syracuse, New York (the “*Land*”); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet containing new four and five story buildings to be used as mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces , all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, under the Resolution and in the Agency Lease Agreement by and between the Company and the Agency dated as of May 1, 2017 (the “*Agency Lease*”) the Agency appointed the Company as its agent for purposes of completing the Project and delegated to the Company the authority to appoint as agents of the Agency a Project operator, contractors, agents,

subagents, subcontractors, contractors and subcontractors of such agents and subagents (the “*Additional Agents*” or “*Sub-Agents*”), for the purpose of completing the Project and benefitting from the State and local sales and use tax exemption that forms a portion of the Financial Assistance all in accordance with the terms of the Resolution and the Agency Lease; and

WHEREAS, the Company and the Agency entered into a an Agency Agreement dated as of June 2, 2015 (the “*Agency Agreement*”),

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. The Company hereby appoints the Sub-Agent as an Additional Agent of the Agency for the purpose of assisting the Company and the Agency in the completion of the Project and benefitting from the State and local sales and use tax exemption relative to expenditures made in furtherance thereof. The Sub-Agent is only an agent of the Agency for the aforementioned purposes. The Sub-Agent hereby agrees to limit its activities as agent for the Agency under the authority of this Agreement to acts reasonably related to the completion of the Project Facility.

2. The Sub-Agent covenants, agrees and acknowledges:

a. to make all records and information regarding State and local sales and use tax exemption benefits claimed by it in connection with the Project available to the Company and the Agency upon request. The Sub-Agent agrees to comply with all procedures and policies established by the State Department of Taxation and Finance, or any similar entity, regarding the documenting or reporting of any State and local sales and use tax exemption benefits, including providing to the Company all information of the Sub-Agent necessary for the Company to complete the State Department of Taxation and Finance’s “Annual Report of Sales and Use Tax Exemptions” (Form ST-340).

b. to be bound by and comply with the terms and conditions of the Agency’s policies, the Resolution and Section 875(3) of the Act (as if such section were fully set forth herein). Without limiting the scope of the foregoing, the Sub-Agent acknowledges and agrees to be bound by the Agency’s Suspension, Discontinuation and Recapture of Benefits Policy (the “*Recapture Policy*”), a copy of which is attached hereto as **Schedule “A”**.

c. that the failure of the Sub-Agent to promptly pay such Recapture Amount to the Agency will be grounds for the Agency, the State Commissioner of Taxation and Finance or such other entity, to collect sales and use taxes from the Sub-Agent under Article 28 of the Tax Law, or other applicable law, policy or contract, together with interest and penalties. In addition to the foregoing, the Sub-Agent acknowledges and agrees that for purposes of exemption from State sales and use taxation, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the Tax Law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

d. that all purchases made by the Sub-Agent in connection with the Project shall be made using Form ST-123 (IDA Agent or Project Operator Exempt Purchase Certificate), a copy of which is attached hereto as **Schedule "B"**). It shall be the responsibility of the Sub-Agent (and not the Company or the Agency) to complete Form ST-123. The failure to furnish a completed Form ST-123 with each purchase will result in loss of the exemption for that purchase.

e. that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Sub-Agent is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Sub-Agent acknowledges and agrees that the bill of invoice should state, "I, [NAME OF SUB-AGENT], certify that I am a duly appointed agent of the City of Syracuse Industrial Development Agency and that I am purchasing the tangible personal property or services for use in the following Agency project and that such purchases qualify as exempt from sales and use taxes under my Sub-Agent Appointment Agreement." The Sub-Agent further acknowledges and agrees that the following information shall be used by the Sub-Agent to identify the Project on each bill and invoice: BVSHSSF SYRACUSE, LLC – PEAK CAMPUS PROJECT, 945 East Genesee Street, Syracuse, New York; Project No. 31021705.

f. that for purposes of any exemption from the State sales and use taxation as part of any Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

g. that the Sub-Agent shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the Project Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), for such claims or liabilities that arise as a result of the Sub-Agent acting as agent for the Agency pursuant to this Agreement or otherwise.

The Sub-Agent shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation only to Sub-Agent's work on or for the Project Facility, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

The foregoing defenses and indemnities shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule

of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

h. that as agent for the Agency or otherwise, the Sub-Agent will comply at the Sub-Agent's sole cost and expense with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Sub-Agent with respect to the Project Facility.

i. that Section 875(7) of the Act requires the Agency to post on its website all resolutions and agreements relating to the Sub-Agent's appointment as an agent of the Agency or otherwise related to the Project, including this Agreement, and that Public Officers Law Article 6 declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Sub-Agent feels that there is information about the Sub-Agent in the Agency's possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the Sub-Agent's competitive position, the Sub-Agent must identify such elements in writing, supply same to the Agency prior to or contemporaneously with the execution hereof and request that such elements be kept confidential in accordance with Public Officers Law Article 6. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the Act.

j. The Sub-Agent agrees Local contractors and suppliers will be used for the construction and equipping of the Project unless a waiver is first received from the Agency in writing. Such waiver shall be in the Agency's sole discretion. The Sub-Agent agrees that such Local contractors shall be provided the opportunity to bid on contracts related to the Project. Local shall mean, for the purposes of this Agreement, Onondaga, Oswego, Madison, Cayuga, Cortland and Oneida Counties. Failure to comply with the local labor requirements of this Section (j) (collectively, the "**Local Labor Requirements**") may result in the revocation or recapture of benefits provided/approved to the Project by the Agency.

k. that the Sub-Agent must timely provide the Company with the necessary information to permit the Company, pursuant to General Municipal Law §874(8), to timely file an Annual Statement with the New York State Department of Taxation and Finance on "Annual Report of Sales and Use Tax Exemptions" (Form ST-340) regarding the value of sales and use tax exemptions the Additional Agent claimed pursuant to the agency conferred on it by the Company with respect to this Project on an annual basis.

l. that the failure to comply with the foregoing will result in the loss of the exemption.

m. that if the Sub-Agent is the general contractor for the Project, then at all times following the execution of this Agreement, and during the term thereof, the Sub-Agent shall maintain or cause to be maintained the following insurance policies with an insurance company licensed in the State that has an A.M. Best rating of not less than A-:

(a) Insurance against loss or damage by fire, lightning, and other casualties customarily insured against (with a uniform standard extended coverage endorsement), such insurance to be in an amount not less than the full replacement value of the completed Project Facility, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the general contractor.

(b) Workers' compensation insurance, disability benefits' insurance, and each other form of insurance which the general contractor is required by law to provide covering loss resulting from injury, sickness, disability, or death of employees of the general contractor who are located at or assigned to the Project Facility;

(c) A policy of commercial general liability insurance with a \$1,000,000 combined single limit for bodily injury including death and property damage, including but not limited to, contractual liability under this Agency Lease and personal injury, with blanket excess liability coverage in an amount not less than \$2,000,000, covering the Project Facility and Equipment and the Company's and the Agency's use or occupancy thereof against all claims on account of bodily injury or death and property damage occurring upon, in or about the Project Facility or in connection with the ownership, maintenance, use and/or occupancy of the Project Facility and all appurtenant areas.

In addition, all insurance required by this section shall be with insurance companies of recognized financial standing selected by the general contractor and licensed to write such insurance in the State of New York. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other Persons engaged in businesses similar in size, character, and other respects to those in which the general contractor is engaged. All policies evidencing such insurance except the Workers' Compensation policy shall name the general contractor as insured and the Agency as an additional insured, as its interests may appear, and shall provide that such coverage with respect to the Agency be primary and non-contributory with any insurance secured by the Agency and require at least thirty (30) days' prior written notice to the Agency of cancellation, reduction in policy limits, or material change in coverage thereof.

Prior to the effective date of this Agreement, the general contractor shall deliver to the Agency, satisfactory to the Agency in form and substance: (i) Certificates evidencing all insurance required hereby; (ii) the additional insured endorsement(s) applicable to the Agency; (iii) the final insurance binder addressed to the general contractor covering the Project Facility; and (iv) evidence that the insurance so required is on a primary and non-contributory basis. In addition, the general contractor shall provide, if so requested by the Agency, a final and complete copy of each insurance policy within thirty (30) days of the execution of this Agreement.

The general contractor shall deliver or cause to be delivered to the Agency on or before the first business day of each January thereafter each of the items set forth in the immediately preceding paragraphs, dated not earlier than the immediately preceding month, reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance in the amounts and of the types required hereby for so long as the general contractor is performing, supervising or causing work to be done on or at the Project

Facility. The general contractor shall furnish to the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agreement in each such year.

n. that every controversy, dispute or claim arising out of or relating to this Agreement shall be governed by the laws of the State of New York, without regard to its conflicts-of-laws provisions that if applied might require the application of the laws of another jurisdiction; and that the Sub-Agent irrevocably and expressly submits to the exclusive personal jurisdiction of the Supreme Court of the State of New York and the United States District Court for the Northern District of New York, to the exclusion of all other courts, for the purposes of litigating every controversy, dispute or claim arising out of or relating to this Agreement.

3. Failure of the Sub-Agent to comply with any of the provisions of this Agreement shall result in the immediate nullification of the appointment of the Sub-Agent and the immediate termination of this Agreement and may result in the loss of the Company's State and local sales and use tax exemption with respect to the Project at the sole discretion of the Agency. In addition, such failure may result in the recapture of the State and local sales and use taxes avoided.

4. The Company acknowledges that the assumption of certain obligations by the Sub-Agent in accordance with this Agreement does not relieve the Company of its obligations under any provisions of the Agency Lease or of any other agreement entered into by the Company in connection with the Project.

5. The Company and the Sub-Agent agree that the Agency is a third-party beneficiary of this Agreement.

6. This Agreement shall be in effect until the earlier of: (i) the completion of the work on the Project by the Sub-Agent; or (ii) the Sub-Agent's loss of status as an agent of the Agency as set forth herein. Notwithstanding the foregoing, the provisions of Sections 2(b), 2(c), 2(f), 2(g), 2(j), and 2(l) shall survive the termination of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Company and the Sub-Agent have caused this Agreement to be executed in their respective names by their respective duty authorized officers, all as of the day and year first above written.

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: **BVSHSSF REIT, LLC,**
a Delaware limited liability company,
its sole Member

By: **Blue Vista Student Housing Select
Strategies Manager, LLC,**
a Delaware limited liability company,
its Manager

By: _____
Ronald W. Koretz, Senior Vice President

[NAME OF SUB-AGENT]

By: _____
Name:
Title:

SCHEDULE "A"
to Form of Sub-Agent Appointment Agreement

RECAPTURE POLICY

City of Syracuse
Industrial Development Agency
333 West Washington Street, Suite 130
Syracuse, NY 13202
Tel (315) 473-3275 Fax (315) 435-3669

RECAPTURE POLICY

I. STATEMENT OF PURPOSE

The City of Syracuse Industrial Development Agency (the “Agency”) has adopted this Recapture Policy (the “*Recapture Policy*”) in accordance with Sections 874(10) and 874(11) of the New York State General Municipal Law. This Recapture Policy shall be consistent with and in compliance with the provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “*Enabling Act*”) and Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (said Chapter and the Enabling Act being hereinafter collectively referred to as the “*Act*”), and any other applicable law.

II. MANDATORY RECAPTURE OF THE NEW YORK STATE PORTION OF SALES AND USE TAX

The Agency shall recapture from project applicants New York State sales and use tax benefits, in accordance with the provisions of the General Municipal Law, from projects that utilized State sales and use tax exemptions:

- a) To which the project was not entitled;
- b) In excess of the amounts authorized by the Agency;
- c) For property or services not authorized by the Agency; and/or
- d) For a project that has failed to comply with a material term or condition to use the property or services in the manner required by any of the project documents between the company and the Agency.

The approving resolution(s) and project documents granting financial assistance in the form of State sales and use tax exemption benefits shall include the terms and conditions of the foregoing recapture provision. Within thirty (30) days of the recapture, the recapture amount shall be remitted to the New York State Department of Taxation and Finance. Such remittances shall include interest, at the legal rate, imposed by the Agency. The failure to pay over such amounts to the Agency shall be grounds for the New York State Tax Commissioner to assess and

determine State sales and use taxes due from the company under article twenty-eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

In order to determine if one of the foregoing events have occurred (a “*State Mandated Recapture Event*”) and to effectuate this recapture of New York State sales and use tax benefits the Agency shall:

- a) Keep records of the New York State and local sales tax exemptions provided to each project, with such records available to the New York State Tax Commissioner upon request.
- b) Report within thirty days of providing any financial assistance in the form of a sales and use tax exemption, the project, the estimated amount of the exemption and other information as may be required by the New York State Tax Commissioner (Form ST-60).
- c) The Agency shall file an annual report with the New York State Tax Commissioner detailing its terms and conditions and its activities in recapturing any unauthorized New York State sales and use tax exemptions.

III. SUSPENSION, DISCONTINUATION, RECAPTURE AND TERMINATION OF OTHER FORMS OF FINANCIAL ASSISTANCE

With respect to all other financial assistance provided to a project (other than the State portion of sales and use tax exemptions) the Agency shall have the right to suspend, discontinue, recapture or terminate financial assistance to any company for a project to the extent that:

- a) for projects that utilized local sales and use tax exemptions, the project was not entitled to such exemptions, such exemptions were in excess of the amounts authorized by the Agency, and/or such exemptions were for property or services not authorized by the Agency (each, a “*Local Sales Tax Benefit Violation*”);
- b) the company, upon completion of the project, fails to reach and maintain at least 85 percent of its employment requirements for job creation and/or retention (“*Job Deficit*”);
- c) the total investment actually made with respect to the project at the project’s completion date is less than 85 percent of its investment requirement (“*Investment Deficit*”);
- d) the company fails to provide annually to the Agency certain information to confirm that the project is achieving the investment, job retention, job creation, and other objectives of the Project (“*Reporting Failure*”); or

- e) there otherwise occurs any event of default under any project document (each, an “Event of Default”) or a material violation of the terms and conditions of any project document (a “*Material Violation*”).

IV. ANNUAL ASSESSMENT

The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency’s attention, whether a State Mandated Recapture Event, a Local Sales Tax Benefit Violation, Job Deficit, Investment Deficit, Reporting Failure Event of Default or Material Violation (each a “*Noncompliance Event*”) has occurred. Notwithstanding the foregoing, the Agency may determine whether an Event of Default has occurred pursuant to any project document in accordance with the terms of the project document.

At the time of any Noncompliance Event (other than a State Mandated Recapture Event), the Agency shall determine by resolution whether to exercise its right to suspend, discontinue, recapture or terminate all or any portion of the financial assistance provided to a project, and shall consider the following in making its determination:

- a) Whether the company has proceeded in good faith.
- b) Whether the project has not performed as required due to economic issues, changes in market conditions or adverse events beyond the control of the company.
- c) Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create a more adverse situation for the company, such as the company going out of business or declaring bankruptcy, which would not occur if the Agency’s rights were not exercised.
- d) Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create an adverse situation for the residents of the City of Syracuse.
- e) The assessment prepared in accordance with the Agency’s Annual Assessment Policy.
- f) Such other criteria as the Agency shall determine is a relevant factor in connection with any decision regarding the exercise of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance.

The Agency shall document its evaluation of the above criteria in writing and based upon its evaluation, the Agency shall determine whether to suspend, discontinue, recapture or terminate all or any portion of the financial assistance (the “*Determination*”). The Determination shall provide terms, if any, by which a company may remedy any Noncompliance Event (other than a State Mandated Recapture Event) upon which the Determination was based. The

company must submit written documentation to the Agency of compliance with all terms and conditions of the Determination in order for the Agency to consider whether to resume financial assistance to the company (which will be at the Agency's sole discretion).

The project agreement entered into between the Agency and the company (the "*Project Agreement*") shall include the terms and conditions of the foregoing provisions. The Agency shall also include in the Project Agreement a requirement that the company comply with the Agency's right to suspend, discontinue, recapture or terminate the financial assistance and that the company shall repay all or a portion of the financial assistance granted by the Agency to the company pursuant to any Determination.

Any such amount constituting local tax exemptions shall be redistributed to the appropriate affected tax jurisdictions, unless agreed to otherwise by any local taxing jurisdiction.

IV. RECAPTURE PERIOD

Except as otherwise provided by the General Municipal Law, the recapture period will be the longer of: (1) the term of the Lease Agreement; or (2) five years following the project's completion date. A project will remain "active" for purposes of Section 874(12) of General Municipal Law and the Agency's Annual Assessment Policy during the term of the Project Agreement.

Adopted: June 21, 2016

SCHEDULE "B"
to Form of Sub-Agent Appointment Agreement

FORM ST-123



New York State Department of Taxation and Finance

New York State Sales and Use Tax

IDA Agent or Project Operator

Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

ST-123

(7/14)

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. Do not use this form to purchase motor fuel or diesel motor fuel exempt from tax. See Form FT-123, IDA Agent or Project Operator Exempt Purchase Certificate for Fuel.

Name of seller			Name of agent or project operator		
Street address			Street address		
City, town, or village	State	ZIP code	City, town, or village	State	ZIP code
Agent or project operator sales tax ID number (see instructions)					

Mark an X in one: Single-purchase certificate Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Name of IDA		
Name of project	IDA project number (see doc number)	
Street address of project site		
City, town, or village	State	ZIP code
Enter the date that you were appointed agent or project operator (mm/dd/yy)	/	/
Enter the date that agent or project operator status ends (mm/dd/yy)	/	/

Exempt purchases

(Mark an X in boxes that apply)

- A. Tangible personal property or services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) used to complete the project, but not to operate the completed project
- B. Certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam) used to complete the project, but not to operate the completed project
- C. Motor vehicle or tangible personal property installed in a qualifying motor vehicle

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1838 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Signature of purchaser or purchaser's representative (please see note regarding)	Date
Type or print the name, title, and relationship that appear in the signature box	

Instructions

To the purchaser

You may use Form ST-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from sales and use tax as described in the IDA contract.

You may use Form ST-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

Agent or project operator sales tax ID number If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter *N/A*.

Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases, in accordance with Tax Law section 1118(a)(1). However, IDAs do not normally make direct purchases for projects. Commonly, IDAs instead appoint a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax.

Example 1: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment necessary for completion of the project, as agent for the IDA. Contractor X rents a backhoe and a bulldozer for site preparation, purchases concrete and lumber to construct a building, and purchases machinery to be installed in the building. All these purchases by contractor X as agent of the IDA are exempt from tax.

Example 2: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment to be incorporated into the project, as agent for the IDA. Contractor X makes the same purchases as in Example 1. Since the concrete, lumber, and machinery will actually be incorporated into the project, contractor X may purchase these items exempt from tax. However, rental of the backhoe and bulldozer is not exempt since these transactions are normally taxable and the IDA agreement does not authorize contractor X to make such rentals as agent of the IDA.

A contractor or subcontractor not appointed as agent or project operator of an IDA must present suppliers with Form ST-120.1, Contractor Exempt Purchase Certificate, when making purchases that are ordinarily exempt from tax in accordance with Tax Law sections 1115(a)(15) and 1115(a)(16). For more information, see Form ST-120.1.

Exempt purchases

To qualify, the purchases must be made within the authority granted by the IDA and used to complete the project (not to operate the completed project).

- Mark box A to indicate you are purchasing tangible personal property and services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) exempt from tax.
- Mark box B to indicate you are purchasing certain consumer utility services used in completing the project exempt from tax. This includes gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam services.
- Mark box C to indicate you are purchasing a motor vehicle or tangible personal property related to a qualifying motor vehicle exempt from tax.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your Certificate of Authority, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 64, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?



Visit our Web site at www.tax.ny.gov

- get information and manage your taxes online
- check for new online services and features



Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431



Text Telephone (TTY) Hotline
(for persons with hearing and
speech disabilities using a TTY): (518) 485-5082

EXHIBIT "G"
RECAPTURE POLICY

City of Syracuse
Industrial Development Agency
333 West Washington Street, Suite 130
Syracuse, NY 13202
Tel (315) 473-3275 Fax (315) 435-3669

RECAPTURE POLICY

I. STATEMENT OF PURPOSE

The City of Syracuse Industrial Development Agency (the “Agency”) has adopted this Recapture Policy (the “*Recapture Policy*”) in accordance with Sections 874(10) and 874(11) of the New York State General Municipal Law. This Recapture Policy shall be consistent with and in compliance with the provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “*Enabling Act*”) and Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (said Chapter and the Enabling Act being hereinafter collectively referred to as the “*Act*”), and any other applicable law.

II. MANDATORY RECAPTURE OF THE NEW YORK STATE PORTION OF SALES AND USE TAX

The Agency shall recapture from project applicants New York State sales and use tax benefits, in accordance with the provisions of the General Municipal Law, from projects that utilized State sales and use tax exemptions:

- e) To which the project was not entitled;
- f) In excess of the amounts authorized by the Agency;
- g) For property or services not authorized by the Agency; and/or
- h) For a project that has failed to comply with a material term or condition to use the property or services in the manner required by any of the project documents between the company and the Agency.

The approving resolution(s) and project documents granting financial assistance in the form of State sales and use tax exemption benefits shall include the terms and conditions of the foregoing recapture provision. Within thirty (30) days of the recapture, the recapture amount shall be remitted to the New York State Department of Taxation and Finance. Such remittances shall include interest, at the legal rate, imposed by the Agency. The failure to pay over such amounts to the Agency shall be grounds for the New York State Tax Commissioner to assess and

determine State sales and use taxes due from the company under article twenty-eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

In order to determine if one of the foregoing events have occurred (a “*State Mandated Recapture Event*”) and to effectuate this recapture of New York State sales and use tax benefits the Agency shall:

- d) Keep records of the New York State and local sales tax exemptions provided to each project, with such records available to the New York State Tax Commissioner upon request.
- e) Report within thirty days of providing any financial assistance in the form of a sales and use tax exemption, the project, the estimated amount of the exemption and other information as may be required by the New York State Tax Commissioner (Form ST-60).
- f) The Agency shall file an annual report with the New York State Tax Commissioner detailing its terms and conditions and its activities in recapturing any unauthorized New York State sales and use tax exemptions.

III. SUSPENSION, DISCONTINUATION, RECAPTURE AND TERMINATION OF OTHER FORMS OF FINANCIAL ASSISTANCE

With respect to all other financial assistance provided to a project (other than the State portion of sales and use tax exemptions) the Agency shall have the right to suspend, discontinue, recapture or terminate financial assistance to any company for a project to the extent that:

- f) for projects that utilized local sales and use tax exemptions, the project was not entitled to such exemptions, such exemptions were in excess of the amounts authorized by the Agency, and/or such exemptions were for property or services not authorized by the Agency (each, a “*Local Sales Tax Benefit Violation*”);
- g) the company, upon completion of the project, fails to reach and maintain at least 85 percent of its employment requirements for job creation and/or retention (“*Job Deficit*”);
- h) the total investment actually made with respect to the project at the project’s completion date is less than 85 percent of its investment requirement (“*Investment Deficit*”);
- i) the company fails to provide annually to the Agency certain information to confirm that the project is achieving the investment, job retention, job creation, and other objectives of the Project (“*Reporting Failure*”); or

- j) there otherwise occurs any event of default under any project document (each, an “Event of Default”) or a material violation of the terms and conditions of any project document (a “*Material Violation*”).

IV. ANNUAL ASSESSMENT

The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency’s attention, whether a State Mandated Recapture Event, a Local Sales Tax Benefit Violation, Job Deficit, Investment Deficit, Reporting Failure Event of Default or Material Violation (each a “*Noncompliance Event*”) has occurred. Notwithstanding the foregoing, the Agency may determine whether an Event of Default has occurred pursuant to any project document in accordance with the terms of the project document.

At the time of any Noncompliance Event (other than a State Mandated Recapture Event), the Agency shall determine by resolution whether to exercise its right to suspend, discontinue, recapture or terminate all or any portion of the financial assistance provided to a project, and shall consider the following in making its determination:

- g) Whether the company has proceeded in good faith.
- h) Whether the project has not performed as required due to economic issues, changes in market conditions or adverse events beyond the control of the company.
- i) Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create a more adverse situation for the company, such as the company going out of business or declaring bankruptcy, which would not occur if the Agency’s rights were not exercised.
- j) Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create an adverse situation for the residents of the City of Syracuse.
- k) The assessment prepared in accordance with the Agency’s Annual Assessment Policy.
- l) Such other criteria as the Agency shall determine is a relevant factor in connection with any decision regarding the exercise of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance.

The Agency shall document its evaluation of the above criteria in writing and based upon its evaluation, the Agency shall determine whether to suspend, discontinue, recapture or terminate all or any portion of the financial assistance (the “*Determination*”). The Determination shall provide terms, if any, by which a company may remedy any Noncompliance Event (other than a State Mandated Recapture Event) upon which the Determination was based. The

company must submit written documentation to the Agency of compliance with all terms and conditions of the Determination in order for the Agency to consider whether to resume financial assistance to the company (which will be at the Agency's sole discretion).

The project agreement entered into between the Agency and the company (the "*Project Agreement*") shall include the terms and conditions of the foregoing provisions. The Agency shall also include in the Project Agreement a requirement that the company comply with the Agency's right to suspend, discontinue, recapture or terminate the financial assistance and that the company shall repay all or a portion of the financial assistance granted by the Agency to the company pursuant to any Determination.

Any such amount constituting local tax exemptions shall be redistributed to the appropriate affected tax jurisdictions, unless agreed to otherwise by any local taxing jurisdiction.

IV. RECAPTURE PERIOD

Except as otherwise provided by the General Municipal Law, the recapture period will be the longer of: (1) the term of the Lease Agreement; or (2) five years following the project's completion date. A project will remain "active" for purposes of Section 874(12) of General Municipal Law and the Agency's Annual Assessment Policy during the term of the Project Agreement.

Adopted: June 21, 2016

6

**MEMORANDUM OF
AGENCY LEASE AGREEMENT**

6

NAME AND ADDRESS OF LESSOR: City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202

NAME AND ADDRESS OF LESSEE: BVSHSSF Syracuse, LLC
353 North Clark Street
Chicago, Illinois 60654

DESCRIPTION OF LEASED PREMISES:

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being more particularly described in **Exhibit "A"** annexed hereto, together with the improvements thereon.

DATE OF EXECUTION OF AGENCY LEASE AGREEMENT:

As of May 1, 2017

TERM OF AGENCY LEASE AGREEMENT:

The term of this Agency Lease shall commence on the date hereof and continue in full force and effect until the earlier of: (1) September 30, 2018; or (2) the issuance of a certificate of occupancy by the City of Syracuse, New York, unless earlier terminated as provided herein.

27043

10:50 05/26/17 172117 MM DB-5/26P-679

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum as of the 1st day of May, 2017.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

William M. Ryan, Chairman

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company,
its sole Member

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

By: _____
Ronald W. Koretz, Senior Vice President

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum as of the 1st day of May, 2017.

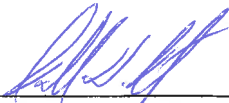
**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
William M. Ryan, Chairman

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company,
its sole Member

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

By: 

Ronald W. Koretz, Senior Vice President

STATE OF NEW YORK)
) ss.:
COUNTY OF ONONDAGA)

On this 9th day of May, 2017, before me, the undersigned, personally appeared, **William M. Ryan**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Lori L McRobbie

Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

Lori McRobbie

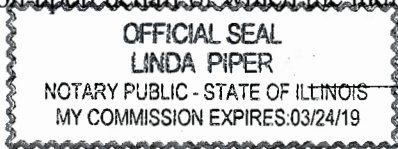
New York

2-12-18

ONONDAGA Co

STATE OF ILLINOIS)
) ss.:
COUNTY OF COOK)

On this 17 day of May, 2017, before me, the undersigned, personally appeared, **Ronald W. Koretz**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Linda Piper

Notary Public

3-24-19

Illinois

EXHIBIT A

LEGAL DESCRIPTION

56
NEW LOT No. 100, RESUBIVISION OF PART OF LOT Nos. 18, 19, 21, LOT Nos. 22, 23, 24, 25, 26, 27 & 28 AND ADDITIONAL LANDS PART OF BLOCK No. 240, CITY OF SYRACUSE

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block No. 240 in said City, being New Lot No. 100 of Resubivision of Part of Lot Nos. 18, 19, 21, Lot Nos. 22, 23, 24, 25, 26, 27 & 28 and additional lands according to a map by Ianuzi & Romans Land Surveying, P.C. dated August 11, 2016, last revised December 12, 2016 filed in the Onondaga County Clerk's Office on February 28, 2017, as Map No. 12334, bounded and described as follows:

Beginning at the intersection of the northerly boundary of East Genesee Street with the westerly boundary of South Crouse Avenue (Chestnut Street, formerly), said point being the southeasterly corner of said Block No. 240; running thence N 83°37'20" W along said northerly boundary of East Genesee Street, a distance of 155.32 feet to the easterly boundary of lands conveyed to Caserta, LLC by deed recorded in the Onondaga County Clerk's Office in Book 4912 of Deeds at page 523; thence N 00°29'40" E along said easterly boundary of lands conveyed to Caserta, LLC, a distance of 84.87 feet to the northeasterly corner thereof; thence N 89°30' 50" W along the northerly boundary of said lands conveyed to Caserta, LLC, a distance of 100.51 feet to the easterly boundary of Irving Avenue; thence N 00°29'40" E along said easterly boundary of Irving Avenue, a distance of 240.42 feet to a southerly boundary of lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 69; thence S 89°30'50" E along said southerly boundary

of lands conveyed to 900 East Fayette Group, LLC, a distance of 123.01 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC, a distance of 65.00 feet to a southwesterly corner of other lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 78; thence S 89°30'50" E along the southerly boundary of said other lands conveyed to 900 East Fayette Group, LLC and along a southerly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 42.0 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 100.0 feet to the southerly boundary of East Fayette Street; thence S 89°30'50" E along said southerly boundary of East Fayette Street, a distance of 90.0 feet to the aforementioned westerly boundary of South Crouse Avenue (Chestnut Street, formerly); thence S 00°29'40" W along said westerly boundary of South Crouse Avenue (Chestnut Street, formerly), a distance of 506.23 feet to the point of beginning.

Section: 48

Block: 5

Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

Common Address: 919 East Genesee Street, Syracuse, New York

Schedule "B"
to BVSHSSF Syracuse, LLC TP-584s

Address	Tax Map No.
1. 938 E. Fayette	048.-04-04.0
2. 310 S. Crouse	048.-04-05.0
3. 941-949 E. Genesee	048.-04-06.0
4. 325-327 Irving Ave	048.-04-10.0
5. 313 Irving Ave	048.-04-11.0
6. 311 Irving Ave	048.-04-12.0
7. 309 Irving Ave	048.-04-13.0

SCHEDULE "A"

The document being recorded for which this NYS Form TP-584 is being provided is a Memorandum of Lease between the Grantor and the Grantee. The sum of the term of the lease and any options for renewal do not exceed forty-nine (49) years, and therefore said lease is not a Conveyance within the meaning of Article 31 of the Tax Law.



Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax

Recording office time stamp

See Form TP-584-I, Instructions for Form TP-584, before completing this form. Print or type.

Schedule A – Information relating to conveyance

Grantor/Transferor <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input checked="" type="checkbox"/> Other	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantor) City of Syracuse Industrial Development Agency	Social security number
	Mailing address 201 East Washington Street, 7th Floor	Social security number
	City State ZIP code Syracuse NY 13202	Federal EIN 52-1380308
	Single member's name if grantor is a single member LLC (see instructions)	Single member EIN or SSN
Grantee/Transferee <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input checked="" type="checkbox"/> Other	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantee) BVSHSSF Syracuse, LLC	Social security number
	Mailing address 353 North Clark Street	Social security number
	City State ZIP code Chicago IL 60654	Federal EIN 611800386
	Single member's name if grantee is a single member LLC (see instructions)	Single member EIN or SSN

Location and description of property conveyed

Tax map designation – Section, block & lot (include dots and dashes)	SWIS code (six digits)	Street address	City, town, or village	County
see Schedule B attached	311500	See Schedule B attached	Syracuse	Onondaga

Type of property conveyed (check applicable box)

1 <input type="checkbox"/> One- to three-family house 2 <input type="checkbox"/> Residential cooperative 3 <input type="checkbox"/> Residential condominium 4 <input type="checkbox"/> Vacant land	5 <input checked="" type="checkbox"/> Commercial/Industrial 6 <input type="checkbox"/> Apartment building 7 <input type="checkbox"/> Office building 8 <input type="checkbox"/> Other _____	Date of conveyance <table style="border: 1px solid black; width: 100%; text-align: center;"> <tr> <td style="width: 33%;">05</td> <td style="width: 33%;"> </td> <td style="width: 33%;">2017</td> </tr> <tr> <td>month</td> <td>day</td> <td>year</td> </tr> </table>	05		2017	month	day	year	Percentage of real property conveyed which is residential real property _____ % (see instructions)
05		2017							
month	day	year							

Condition of conveyance (check all that apply)

- | | | |
|--|--|--|
| a. <input type="checkbox"/> Conveyance of fee interest

b. <input type="checkbox"/> Acquisition of a controlling interest (state percentage acquired _____ %)

c. <input type="checkbox"/> Transfer of a controlling interest (state percentage transferred _____ %)

d. <input type="checkbox"/> Conveyance to cooperative housing corporation

e. <input type="checkbox"/> Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E) | f. <input type="checkbox"/> Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)

g. <input type="checkbox"/> Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)

h. <input type="checkbox"/> Conveyance of cooperative apartment(s)

i. <input type="checkbox"/> Syndication

j. <input type="checkbox"/> Conveyance of air rights or development rights

k. <input type="checkbox"/> Contract assignment | l. <input type="checkbox"/> Option assignment or surrender

m. <input type="checkbox"/> Leasehold assignment or surrender

n. <input checked="" type="checkbox"/> Leasehold grant

o. <input type="checkbox"/> Conveyance of an easement

p. <input checked="" type="checkbox"/> Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part III)

q. <input type="checkbox"/> Conveyance of property partly within and partly outside the state

r. <input type="checkbox"/> Conveyance pursuant to divorce or separation

s. <input type="checkbox"/> Other (describe) _____ |
|--|--|--|

For recording officer's use	Amount received Schedule B., Part I \$ _____ Schedule B., Part II \$ _____	Date received	Transaction number
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Schedule B – Real estate transfer tax return (Tax Law, Article 31)

Part I – Computation of tax due

1	Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, check the exemption claimed box, enter consideration and proceed to Part III) <input checked="" type="checkbox"/> Exemption claimed	1.		0 00
2	Continuing lien deduction (see instructions if property is taken subject to mortgage or lien)	2.		0 00
3	Taxable consideration (subtract line 2 from line 1)	3.		0 00
4	Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3	4.		0 00
5	Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G)	5.		0 00
6	Total tax due* (subtract line 5 from line 4)	6.		0 00

Part II – Computation of additional tax due on the conveyance of residential real property for \$1 million or more

1	Enter amount of consideration for conveyance (from Part I, line 1)	1.		
2	Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A) ...	2.		
3	Total additional transfer tax due* (multiply line 2 by 1% (.01))	3.		

Part III – Explanation of exemption claimed on Part I, line 1 (check any boxes that apply)

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

- a. Conveyance is to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada) a
- b. Conveyance is to secure a debt or other obligation..... b
- c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance..... c
- d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts d
- e. Conveyance is given in connection with a tax sale..... e
- f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F..... f
- g. Conveyance consists of deed of partition..... g
- h. Conveyance is given pursuant to the federal Bankruptcy Act h
- i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property i
- j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment..... j
- k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, section 1401(e) (attach documents supporting such claim) **See Schedule "A"**..... k

*The total tax (from Part I, line 6 and Part II, line 3 above) is due within 15 days from the date conveyance. Please make check(s) payable to the county clerk where the recording is to take place. If the recording is to take place in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, make check(s) payable to the **NYC Department of Finance**. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)

Complete the following only if the interest being transferred is a fee simple interest.

I (we) certify that: (check the appropriate box)

1. The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
 - The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
 - The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
 - The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
 - The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is **not** principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

Please note: for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

 - Other (attach detailed explanation).
3. The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
 - A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
 - A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4. The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the **NYC Department of Finance**.)

Signature (both the grantor(s) and grantee(s) must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

City of Syracuse Industrial Development Agency

BVSHSSF Syracuse, LLC, by its sole Member, BVSHSSF REIT, LLC by its Manager, Blue Vista Student Housing Select Strategies Manager, LLC

Grantor signature
William M. Ryan

Chairman

Title

Grantee signature
Ronald W. Koretz, Senior Vice President

Title

Grantor signature

Title

Grantee signature

Title

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the **NYC Department of Finance**? If no recording is required, send your check(s), made payable to the **Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)

Complete the following only if the interest being transferred is a fee simple interest.

I (we) certify that: (check the appropriate box)

- 1. The real property being sold or transferred is not subject to an outstanding credit line mortgage.
- 2. The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
 - The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
 - The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
 - The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
 - The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is not principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

Please note: for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

Other (attach detailed explanation).

- 3. The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
 - A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
 - A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
- 4. The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the NYC Department of Finance.)

Signature (both the grantor(s) and grantee(s) must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

City of Syracuse Industrial Development Agency

BVSHSSF Syracuse, LLC, by its sole Member, BVSHSSF REIT, LLC
by its Manager, Blue Vista Student Housing Select Strategies Manager, LLC

Grantor signature William M. Ryan	Chairman Title	Grantee signature Ronald W. Koretz, Senior Vice President	Title
Grantor signature	Title	Grantee signature	Title

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the NYC Department of Finance? If no recording is required, send your check(s), made payable to the Department of Taxation and Finance, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule D - Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, section 663)

Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

If the property is being conveyed by a referee pursuant to a foreclosure proceeding, proceed to Part II, and check the second box under Exemptions for nonresident transferor(s)/seller(s) and sign at bottom.

Part I - New York State residents

If you are a New York State resident transferor(s)/seller(s) listed in Schedule A of Form TP-584 (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, **each** resident transferor/seller must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

Certification of resident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, section 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Note: A resident of New York State may still be required to pay estimated tax under Tax Law, section 685(c), but not as a condition of recording a deed.

Part II - Nonresidents of New York State

If you are a nonresident of New York State listed as a transferor/seller in Schedule A of Form TP-584 (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, section 663(c), check the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, section 663. **Each** nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on page 1 of Form TP-584-I.

Exemption for nonresident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, section 663 due to one of the following exemptions:

- The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from _____ to _____ (see instructions).
Date Date
- The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

SCHEDULE "A"

The document being recorded for which this NYS Form TP-584 is being provided is a Memorandum of Lease between the Grantor and the Grantee. The sum of the term of the lease and any options for renewal do not exceed forty-nine (49) years, and therefore said lease is not a Conveyance within the meaning of Article 31 of the Tax Law.

Schedule "B"
to BVSHSSF Syracuse, LLC TP-584s

Address	Tax Map No.
1. 938 E. Fayette	048.-04-04.0
2. 310 S. Crouse	048.-04-05.0
3. 941-949 E. Genesee	048.-04-06.0
4. 325-327 Irving Ave	048.-04-10.0
5. 313 Irving Ave	048.-04-11.0
6. 311 Irving Ave	048.-04-12.0
7. 309 Irving Ave	048.-04-13.0

7

CERTIFICATION

Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Agency Lease Agreement by and between the parties dated as of May 1, 2017.

The undersigned, Ronald W. Koretz, Senior Vice President and authorized signatory of Blue Vista Student Housing Select Strategies Manager, LLC, as manager of BVSHSSF REIT, LLC, as sole Member of BVSHSSF Syracuse, LLC (the "*Company*"), does hereby certify and confirm:

(1) that the Company has reviewed and understands the Agency's Local Labor Policy (the "*Policy*") which states as follows:

The Company understands and agrees that local labor, contractors and suppliers will be used for the construction, renovation and equipping of the Project unless a written waiver is first received in accordance with the terms of the Policy. Failure to comply may result in the revocation or recapture of benefits awarded to the Project by the Agency.

For purposes of this Policy, the term "local" shall mean: Cayuga, Cortland, Madison, Onondaga, Oneida and Oswego Counties.

(2) that the Company has complied, and will, for so long as the Agency has an interest in the Project, continue to comply, with the Agency's Local Labor Policy.

Dated: May 1, 2017

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company,
its sole Member

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

By: 

Ronald W. Koretz, Senior Vice President

8



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
5/5/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Brown & Brown - Empire State 500 Plum Street, Ste. 200 Syracuse NY 13204	CONTACT NAME: PHONE (A/C, No., Ext): 315-474-3374 FAX (A/C, No.): 315-703-9528 E-MAIL ADDRESS: mbishop@bbempirestate.com	
	INSURER(S) AFFORDING COVERAGE NAIC #	
INSURED BVSHS-1 BVSHSF Syracuse LLC Mark Riley 2970 Clairmont Rd #310 Atlanta GA 30329	INSURER A: Cincinnati Insurance Company 10677	
	INSURER B: Old Republic Insurance Company 24147	
	INSURER C:	
	INSURER D:	
	INSURER E:	
INSURER F:		

COVERAGES **CERTIFICATE NUMBER:** 496142976 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	N	ENP0428001	3/6/2017	3/6/2018	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	Y	N	ENP0428001	3/6/2017	3/6/2018	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	OCP	N	N	MWZY310305	3/6/2017	5/31/2017	Per Occurrence Limit \$2,000,000 Gen'l Aggregate Limit \$2,000,000

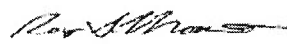
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: 245 Apartment student housing project located at 919 E. Genesee St., Syracuse, NY 13210

See Acord 101

See Attached...

CERTIFICATE HOLDER **CANCELLATION**

City of Syracuse Industrial Development Agency 201 East Washington St., 7th Floor Syracuse NY 13202	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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ADDITIONAL REMARKS SCHEDULE

AGENCY Brown & Brown - Empire State		NAMED INSURED BVSHSSF Syracuse LLC Mark Riley 2970 Clairmont Rd #310 Atlanta GA 30329	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE**

General Liability Additional Insured status applies per form No. GA 233 NY 0207.
Umbrella is follow form.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW YORK CONTRACTORS' COMMERCIAL GENERAL LIABILITY BROADENED ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Endorsement - Table of Contents:

<u>Coverage:</u>	<u>Begins on Page:</u>
1. Employee Benefit Liability Coverage.....	3
2. Unintentional Failure to Disclose Hazards	8
3. Damage to Premises Rented to You	8
4. Supplementary Payments	9
5. Medical Payments.....	9
6. Voluntary Property Damage (Coverage a.) and Care, Custody or Control Liability Coverage (Coverage b.).....	9
7. 180 Day Coverage for Newly Formed or Acquired Organizations	10
8. Waiver of Subrogation	10
9. Automatic Additional Insured - Specified Relationships:	10
x Managers or Lessors of Premises;	
x Lessor of Leased Equipment;	
x Vendors;	
x State or Political Subdivisions - Permits Relating to Premises;	
x State or Political Subdivisions - Permits; and	
x Contractors' Operations	
10. Broadened Contractual Liability - Work Within 50' of Railroad Property.....	14
11. Property Damage to Borrowed Equipment	14
12. Employees as Insureds - Specified Health Care Services:	14
x Nurses;	
x Emergency Medical Technicians; and	
x Paramedics	
13. Broadened Notice of Occurrence.....	15

B. Limits of Insurance:

The Commercial General Liability Limits of Insurance apply to the insurance provided by this endorsement, except as provided below:

1. Employee Benefit Liability Coverage

Each Employee Limit: \$ 1,000,000
Aggregate Limit: \$ 3,000,000
Deductible: \$ 1,000

3. Damage to Premises Rented to You

The lesser of:

- The Each Occurrence Limit shown in the Declarations; or
- \$500,000 unless otherwise stated \$ _____

4. Supplementary Payments

- Bail bonds: \$ 1,000
- Loss of earnings: \$ 350

5. Medical Payments

Medical Expense Limit: \$ 10,000

6. Voluntary Property Damage (Coverage a.) and Care, Custody or Control Liability Coverage (Coverage b.)

Limits of Insurance (Each Occurrence)

Coverage a. \$1,000

Coverage b. \$5,000 unless otherwise stated \$ _____

Deductibles (Each Occurrence)

Coverage a. \$250

Coverage b. \$250 unless otherwise stated \$ _____

COVERAGE	PREMIUM BASIS (a) Area (b) Payroll (c) Gross Sales (d) Units (e) Other	RATE (For Limits in Excess of \$5,000)	ADVANCE PREMIUM (For Limits in Excess of \$5,000)
b. Care, Custody or Control			\$
TOTAL ANNUAL PREMIUM			\$

11. Property Damage to Borrowed Equipment

Each Occurrence Limit: \$ 10,000

Deductible: \$ 250

C. Coverages:

1. Employee Benefit Liability Coverage

a. The following is added to SECTION I - COVERAGES: Employee Benefit Liability Coverage.

(1) Insuring Agreement

(a) We will pay those sums that the insured becomes legally obligated to pay as damages caused by any act, error or omission of the insured, or of any other person for whose acts the insured is legally liable, to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages even if the allegations of the "suit" are groundless, false or fraudulent. However, we will have no duty to defend against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any claim or "suit" that may result. But:

- 1) The amount we will pay for damages is limited as described in SECTION III - LIMITS OF INSURANCE; and
- 2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

(b) This insurance applies to damages only if the act, error or omission, is negligently committed in the "administration" of your "employee benefit program"; and

- 1) Occurs during the policy period; and or

2) You did not have knowledge of a claim or "suit" on or before the effective date of this endorsement.

You will be deemed to have knowledge of a claim or "suit" when any "authorized representative";

- i) Reports all, or any part, of the act, error or omission to us or any other insurer;
- ii) Receives a written or verbal demand or claim for damages because of the act, error or omission.

(2) Exclusions

This insurance does not apply to:

(a) Bodily Injury, Property Damage or Personal and Advertising Injury

"Bodily injury", "property damage" or "personal and advertising injury".

(b) Dishonest, Fraudulent, Criminal or Malicious Act

Damages arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any insured, including the willful or reckless violation of any statute.

(c) Failure to Perform a Contract

Damages arising out of failure of performance of contract by any insurer.

(d) Insufficiency of Funds

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the "employee benefit program".

(e) Inadequacy of Performance of Investment / Advice Given With Respect to Participation

Any claim based upon:

- 1) Failure of any investment to perform;
- 2) Errors in providing information on past performance of investment vehicles; or
- 3) Advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the "employee benefit program".

(f) Workers' Compensation and Similar Laws

Any claim arising out of your failure to comply with the mandatory provisions of any workers' compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

(g) ERISA

Damages for which any insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security Act of 1974, as now or hereafter amended, or by any similar federal, state or local laws.

(h) Available Benefits

Any claim for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.

(i) Taxes, Fines or Penalties

Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.

(j) Employment-Related Practices

Any liability arising out of any:

- (1) Refusal to employ;
- (2) Termination of employment;

- (3) Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment-related practices, acts or omissions; or
- (4) Consequential liability as a result of (1), (2) or (3) above.

This exclusion applies whether the insured may be held liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

(3) Supplementary Payments

SECTION I - COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B also apply to this Coverage.

b. Who is an Insured

As respects Employee Benefit Liability Coverage, **SECTION II - WHO IS AN INSURED** is deleted in its entirety and replaced by the following:

(1) If you are designated in the Declarations as:

- (a) An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- (b) A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds but only with respect to the conduct of your business.
- (c) A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- (d) An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "ex-

ecutive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

- (e) A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
- (2) Each of the following is also an insured:
- (a) Each of your "employees" who is or was authorized to administer your "employee benefit program".
 - (b) Any persons, organizations or "employees" having proper temporary authorization to administer your "employee benefit program" if you die, but only until your legal representative is appointed.
 - (c) Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
- (3) Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if no other similar insurance applies to that organization. However, coverage under this provision:
- (a) Is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and
 - (b) Does not apply to any act, error or omission that was committed before you acquired or formed the organization.

c. Limits of Insurance

As respects Employee Benefit Liability Coverage, **SECTION III - LIMITS**

OF INSURANCE is deleted in its entirety and replaced by the following:

- (1) The Limits of Insurance shown in Section B. **Limits of Insurance, 1. Employee Benefit Liability Coverage** and the rules below fix the most we will pay regardless of the number of:
- (a) Insureds;
 - (b) Claims made or "suits" brought;
 - (c) Persons or organizations making claims or bringing "suits";
 - (d) Acts, errors or omissions; or
 - (e) Benefits included in your "employee benefit program".
- (2) The Aggregate Limit shown in Section B. **Limits of Insurance, 1. Employee Benefit Liability Coverage** of this endorsement is the most we will pay for all damages because of acts, errors or omissions negligently committed in the "administration" of your "employee benefit program".
- (3) Subject to the limit described in (2) above, the Each Employee Limit shown in Section B. **Limits of Insurance, 1. Employee Benefit Liability Coverage** of this endorsement is the most we will pay for all damages sustained by any one "employee", including damages sustained by such "employee's" dependents and beneficiaries, as a result of:
- (a) An act, error or omission; or
 - (b) A series of related acts, errors or omissions, regardless of the amount of time that lapses between such acts, errors or omissions, negligently committed in the "administration" of your "employee benefit program".
- However, the amount paid under this endorsement shall not exceed, and will be subject to the limits and restrictions that apply to the payment of benefits in any plan included in the "employee benefit program".
- (4) **Deductible Amount**

(a) Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of the deductible amount stated in **B. Limits of Insurance, 1. Employee Benefit Liability Coverage** as applicable to Each Employee. The limits of insurance shall not be reduced by the amount of this deductible.

(b) The deductible amount stated in **B. Limits of Insurance, 1. Employee Benefit Liability Coverage** as applicable to Each Employee applies to all damages sustained by any one "employee", including such "employee's" dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.

(c) The terms of this insurance, including those with respect to:

- 1) Our right and duty to defend the insured against any "suits" seeking those damages; and
- 2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, or claim,

apply irrespective of the application of the deductible amount.

(d) We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.

d. Additional Conditions

As respects **Employee Benefit Liability Coverage, SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

(1) **Item 2. Duties in the Event of Occurrence, Offense, Claim or Suit** is deleted in its entirety and replaced by the following:

2. Duties in the Event of an Act, Error or Omission, or Claim or Suit

a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a claim. To the extent possible, notice should include:

- (1) What the act, error or omission was and when it occurred; and
- (2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.

b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of an act, error or omission to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent.

(2) **Item 5. Other Insurance** is deleted in its entirety and replaced by the following:

5. Other insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary. Our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **b.** below.

b. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

e. Additional Definitions

As respects Employee Benefit Liability Coverage, SECTION V - DEFINITIONS is amended as follows:

(1) The following definitions are added:

1. "Administration" means:

- a. Providing information to "employees", including their dependents and beneficiaries, with respect to eligibility for or scope of "employee benefit programs";

- b. Interpreting the "employee benefit programs";

- c. Handling records in connection with the "employee benefit programs"; or

- d. Effecting, continuing or terminating any "employee's" participation in any benefit included in the "employee benefit program".

However, "administration" does not include:

- a. Handling payroll deductions; or

- b. The failure to effect or maintain any insurance or adequate limits of coverage of insurance, including but not limited to unemployment insurance, social security benefits, workers' compensation and disability benefits.

- 2. "Cafeteria plans" means plan authorized by applicable law to allow "employees" to elect to pay for certain benefits with pre-tax dollars.

- 3. "Employee benefit programs" means a program providing some or all of the following benefits to "employees", whether provided through a "cafeteria plan" or otherwise:

- a. Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts; provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;

- b. Profit sharing plans, employee savings plans, employee stock ownership plans, pen-

sion plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible under the plan for such benefits;

- c. Unemployment insurance, social security benefits, workers' compensation and disability benefits; and
- d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies.

(2) The following definitions are deleted in their entirety and replaced by the following:

21. "Suit" means a civil proceeding in which money damages because of an act, error or omission to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent;
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent; or
- c. An appeal of a civil proceeding.

8. "Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

2. Unintentional Failure to Disclose Hazards

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 7. Representations is hereby amended by the addition of the following:

Based on our dependence upon your representations as to existing hazards, if unintentionally you should fail to disclose all such hazards at the inception date of your policy, we will not reject coverage under this Coverage Part based solely on such failure.

3. Damage to Premises Rented to You

a. The last Subparagraph of Paragraph **2. SECTION I - COVERAGES, COVERAGE A. - BODILY INJURY AND PROPERTY DAMAGE, 2. LIABILITY Exclusions** is hereby deleted and replaced by the following:

Exclusions c. through q, do not apply to damage by fire, explosion, lightning, smoke or soot to premises while rented to you or temporarily occupied by you with permission of the owner.

b. Limit of Insurance

The Damage to Premises Rented to You Limit as shown in the Declarations is amended as follows:

(2) Paragraph 6. of **SECTION III - LIMITS OF INSURANCE** is hereby deleted and replaced by the following:

6. Subject to 5. above, the Damage to Premises Rented to You Limit is the most we will pay under **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, for damages because of "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of any one "occurrence" to which this insurance applies.

(3) The amount we will pay is limited as described in **Section B. Limits of Insurance, 3. Damage to Premises Rented to You** of this endorsement.

4. Supplementary Payments

Under **SECTION I - COVERAGE, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B:**

- a. Paragraph 2. is replaced by the following:

Up to the limit shown in Section B. **Limits of Insurance, 4.a.** Bail Bonds of this endorsement for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

- b. Paragraph 4. is replaced by the following:

All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to the limit shown in Section B. **Limits of Insurance, 4.b.** Loss of Earnings of this endorsement per day because of time off from work.

5. Medical Payments

The Medical Expense Limit of Any One Person as stated in the Declarations is amended to the limit shown in Section B. **Limits of Insurance, 5. Medical Payments** of this endorsement.

6. Voluntary Property Damage and Care, Custody or Control Liability Coverage

- a. **Voluntary Property Damage Coverage**

We will pay for "property damage" to property of others arising out of operations incidental to the insured's business when:

- (1) Damage is caused by the insured; or
- (2) Damage occurs while in the insured's possession.

With your consent, we will make these payments regardless of fault.

- b. **Care, Custody or Control Liability Coverage**

SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, J. Damage to Property. Subparagraphs (3), (4) do not apply to "property damage" to the property of others described therein.

With respect to the insurance provided by this section of the endorsement, the following additional provisions apply:

- a. The Limits of Insurance shown in the Declarations are replaced by the limits designated in Section B. **Limits of Insurance, 6. Voluntary Property Damage and Care, Custody or Control Liability Coverage** of this endorsement with respect to coverage provided by this endorsement. These limits are inclusive of and not in addition to the limits being replaced. The Limits of Insurance shown in Section B. **Limits of Insurance, 6. Voluntary Property Damage and Care, Custody or Control Liability Coverage** of this endorsement fix the most we will pay in any one "occurrence" regardless of the number of:

- (1) Insureds;
- (2) Claims made or "suits" brought; or
- (3) Persons or organizations making claims or bringing "suits".

b. **Deductible Clause**

- (1) Our obligation to pay damages on your behalf applies only to the amount of damages for each "occurrence" which are in excess of the deductible amount stated in Section B. **Limits of Insurance, 6. Voluntary Property Damage and Care, Custody or Control Liability Coverage** of this endorsement. The limits of insurance will not be reduced by the application of such deductible amount.
- (2) **Condition 2. Duties in the Event of Occurrence, Offense, Claim or Suit.** applies to each claim or "suit" irrespective of the amount.
- (3) We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

7. 180 Day Coverage for Newly Formed or Acquired Organizations

SECTION II - WHO IS AN INSURED is amended as follows:

Subparagraph a. of Paragraph 4. is hereby deleted and replaced by the following:

- a. Insurance under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

8. Waiver of Subrogation

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 9. Transfer of Rights of Recovery Against Others to Us is hereby amended by the addition of the following:

We waive any right of recovery we may have because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a written contract requiring such waiver with that person or organization and included in the "products-completed operations hazard". However, our rights may only be waived prior to the "occurrence" giving rise to the injury or damage for which we make payment under this Coverage Part. The insured must do nothing after a loss to impair our rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce those rights.

9. Automatic Additional Insured - Specified Relationships

- a. The following is hereby added to **SECTION II - WHO IS AN INSURED:**

- (1) Any person or organization described in Paragraph 9.a.(2) below (hereinafter referred to as additional insured) whom you are required to add as an additional insured under this Coverage Part by reason of:

- (a) A written contract or agreement; or
- (b) An oral agreement or contract where a certificate of insurance showing that person or organization as an additional insured has been issued,

is an insured, provided:

- (a) The written or oral contract or agreement is:
 - 1) Currently in effect or becomes effective during the policy period; and

- 2) Executed prior to an "occurrence" or offense to which this insurance would apply; and

- (b) They are not specifically named as an additional insured under any other provision of, or endorsement added to, this Coverage Part.

- (2) Only the following persons or organizations are additional insureds under this endorsement, and insurance coverage provided to such additional insureds is limited as provided herein:

- (a) The manager or lessor of a premises leased to you with whom you have agreed per Paragraph 9.a.(1) above to provide insurance, but only with respect to liability arising out of the ownership, maintenance or use of that part of a premises leased to you, subject to the following additional exclusions:

This insurance does not apply to:

- 1) Any "occurrence" which takes place after you cease to be a tenant in that premises.

- 2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

- (b) Any person or organization from which you lease equipment with whom you have agreed per Paragraph 9.a.(1) above to provide insurance. Such person(s) or organization(s) are insureds solely with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person(s) or organizations(s). However, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

- (c) Any person or organization (referred to below as ven-

dor) with whom you have agreed per Paragraph 9.a.(1) above to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1) The insurance afforded the vendor does not apply to:

- a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- b) Any express warranty unauthorized by you;
- c) Any physical or chemical change in the product made intentionally by the vendor;
- d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of

business, in connection with the distribution or sale of the products;

f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

g) Products which, after distribution or sale by you, have been labeled or re-labeled or used as a container, part or ingredient of any other thing or substance by or for the vendor.

2) This insurance does not apply to any insured person or organization:

a) From whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products; or

b) When liability included within the "products-completed operations hazard" has been excluded under this Coverage Part with respect to such products.

(d) Any state or political subdivision with which you have agreed per Paragraph 9. a.(1) above to provide insurance, subject to the following additional provision:

This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent or control and to which this insurance applies:

- 1) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - 2) The construction, erection, or removal of elevators; or
 - 3) The ownership, maintenance, or use of any elevators covered by this insurance.
- (e) Any state or political subdivision with which you have agreed per Paragraph 9.a.(1) above to provide insurance, subject to the following provisions:
- 1) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.
 - 2) This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or political subdivision.
- (f) Any person or organization with which you have agreed per Paragraph 9.a.(1) above to provide insurance, but only with respect to liability arising out of "your work" performed for that additional insured by you or on your behalf. A person or organization's status as an insured under this provision of this endorsement continues for only the period of time required by the written contract or agreement, but in no event beyond the expiration date of this Coverage Part. If there is no written contract or agreement, or if no period
- of time is required by the written contract or agreement, a person or organization's status as an insured under this endorsement ends when your operations for that insured are completed.
- (3) Any insurance provided to an additional insured designated under Paragraph 9.a.(2):
- (a) Subparagraphs (e) and (f) does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard";
 - (b) Subparagraphs (a), (b), (d), (e) and (f) does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the sole negligence or willful misconduct of the additional insured or their agents, "employees" or any other representative of the additional insured; or
 - (c) Subparagraph (f) does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of:
 - 1) Defects in design furnished by or on behalf of the additional insured; or
 - 2) The rendering of, or failure to render, any professional architectural, engineering or surveying services, including:
 - a) The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
 - b) Supervisory, inspection, architectural or engineering activities.

- 3) "Your work" for which a consolidated (wrap-up) insurance program has been provided by the prime contractor-project manager or owner of the construction project in which you are involved.
- b. Only with regard to insurance provided to an additional insured designated under Paragraph 9.a.(2) Subparagraph (f) above, **SECTION III - LIMITS OF INSURANCE** is amended to include:

The limits applicable to the additional insured are those specified in the written contract or agreement or in the Declarations of this Coverage Part, whichever are less. If no limits are specified in the written contract or agreement, or if there is no written contract or agreement, the limits applicable to the additional insured are those specified in the Declarations of this Coverage Part. The limits of insurance are inclusive of and not in addition to the limits of insurance shown in the Declarations.

- c. **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** is hereby amended as follows:

(1) **Condition 5. Other Insurance** is amended to include:

(a) Where required by a written contract or agreement, this insurance is primary and / or noncontributory as respects any other insurance policy issued to the additional insured, and such other insurance policy shall be excess and / or noncontributing, whichever applies, with this insurance.

(b) Any insurance provided by this endorsement shall be primary to other insurance available to the additional insured except:

- 1) As otherwise provided in **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 5. Other Insurance, b. Excess Insurance**; or
- 2) For any other valid and collectible insurance

available to the additional insured as an additional insured by attachment of an endorsement to another insurance policy that is written on an excess basis. In such case, the coverage provided under this endorsement shall also be excess.

(2) **Condition 11. Conformance to Specific Written Contract or Agreement** is hereby added:

11. Conformance to Specific Written Contract or Agreement

With respect to additional insureds described in Paragraph 9.a.(2)(f) above only:

If a written contract or agreement between you and the additional insured specifies that coverage for the additional insured:

- a. Be provided by the Insurance Services Office additional insured form number **CG 20 10** or **CG 20 37** (where edition specified); or
- b. Include coverage for completed operations; or
- c. Include coverage for "your work";

and where the limits or coverage provided to the additional insured is more restrictive than was specifically required in that written contract or agreement, the terms of Paragraphs 9.a.(3)(a), 9.a.(3)(b) or 9.b. above, or any combination thereof, shall be interpreted as providing the limits or coverage required by the terms of the written contract or agreement, but only to the extent that such limits or coverage is included within the terms of the Coverage Part to which this endorsement is attached. If, however, the written contract or agreement specifies the Insurance Services Office additional insured form num-

ber CG 20 10 but does not specify which edition, or specifies an edition that does not exist, Paragraphs 9.a.(3)(a) and 9.a.(3)(b) of this endorsement shall not apply and Paragraph 9.b. of this endorsement shall apply.

10. Broadened Contractual Liability - Work Within 50' of Railroad Property

It is hereby agreed that Paragraph f.(1) of Definition 12. "Insured contract" (SECTION V - DEFINITIONS) is deleted.

11. Property Damage to Borrowed Equipment

a. The following is hereby added to Exclusion j. **Damage to Property of Paragraph 2., Exclusions of SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

Paragraphs (3) and (4) of this exclusion do not apply to tools or equipment loaned to you, provided they are not being used to perform operations at the time of loss.

b. With respect to the insurance provided by this section of the endorsement, the following additional provisions apply:

(1) The Limits of insurance shown in the Declarations are replaced by the limits designated in Section B. **Limits of Insurance, 11.** of this endorsement with respect to coverage provided by this endorsement. These limits are inclusive of and not in addition to the limits being replaced. The Limits of Insurance shown in Section B. **Limits of Insurance, 11.** of this endorsement fix the most we will pay in any one "occurrence" regardless of the number of:

- (a) Insureds;
- (b) Claims made or "suits" brought; or
- (c) Persons or organizations making claims or bring "suits".

(2) **Deductible Clause**

(a) Our obligation to pay damages on your behalf applies only to the amount of dam-

ages for each "occurrence" which are in excess of the Deductible amount stated in Section B. **Limits of Insurance, 11.** of this endorsement. The limits of insurance will not be reduced by the application of such Deductible amount.

(b) **Condition 2. Duties in the Event of Occurrence, Offense, Claim or Suit.** applies to each claim or "suit" irrespective of the amount.

(c) We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

12. Employees as Insureds - Specified Health Care Services

It is hereby agreed that Paragraph 2.a.(1)(d) of SECTION II - WHO IS AN INSURED, does not apply to your "employees" who provide professional health care services on your behalf as duly licensed:

- a. Nurses;
- b. Emergency Medical Technicians; or
- c. Paramedics,

in the jurisdiction where an "occurrence" or offense to which this insurance applies takes place.

13. Broadened Notice of Occurrence

Paragraph a. of Condition 2. **Duties in the Event of Occurrence, Offense, Claim or Suit (SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS)** is hereby deleted and replaced by the following:

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and

(3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

This requirement applies only when the "occurrence" or offense is known to an "authorized representative".



Project Declaration

**Project Declaration
Attaching to
Delegated
Underwriting**

Contract Number: B0901LB1629776000

**Unique Market
Reference for this
Project Declaration:** B0901LB1731505000

Type: Builders Risk / Delay In Completion / TRIA Insurance

Named Insured:

1. BVSHSSF Syracuse, LLC

2970 Clairmont Road #300
Syracuse, NY 13210
2. Contractors and sub-contractors (which terms shall include their consultants or sub-consultants) of any tier and/or their parent companies and/or subsidiary companies (any such contractor, subcontractor or company hereinafter referred to as the Contractors). All consultants and/or suppliers in respect of their site activities only
3. Professional advisers engaged by the Owner for their Site activities only.
4. Suppliers for their Site activities only.
5. Any person or company appointed by the Owner and any person or company the Employer is obliged by agreement to include as the Insured.
6. Wells Fargo Bank, N.A. 2030 Main Street, Suite 200, Irvine, CA 92614
7. Mckinley Syracuse, LLC; Hueber-Breuer Construction Company, Inc

Each for their respective rights and interests.

Any other party with an insurable interest herein whom Named Insured (1) and/or (2) have agreed to insure in connection with the Insured Project.

**Insured Project
Term:**

From 8 May 2017 to 8 November 2018 both at 12:01a.m. standard time at the Insured Project Location. The **Anticipated Date of Completion** for this Insured Project is 8 November 2018.



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- Insured Project:**
- A. Location**
East Genesee Street Student Apartments
919 E Genesee Street
Syracuse
NY 13210
 - B. Description**
Construction of student apartment building- 5-story wood frame over 1-story concrete podium parking deck, comprising 244 units and 599 beds and all associated and ancillary activities.

Policy

Limit of Liability: Section 1A - Builders Risk

A. The ECV (Estimated Contract Value) being USD 56,400,000 (including USD 6,500,000 soft costs) any one Occurrence

Sublimit(s) of Liability

B. The Company shall not be liable for more than the following Sublimit(s) of Liability in any one Occurrence

(1)	USD 6,500,000	Soft Costs
(2)	USD 10,000,000	Or 25% of the ECV whichever is the less for Physical Damage Coverage to Covered Property in Transit –any one conveyance
(3)	USD 10,000,000	Or 25% of the ECV whichever is the less for Physical Damage Coverage to Covered Property at Temporary Offsite Locations - any one location
(4)	USD 50,000	Maximum any one item – Trees, Plants, and Shrubs
(5)	USD 2,500,000	Architects and Engineers Fees
(6)	USD 5,000,000	Or 25% of the ECV , whichever is less, for Expediting Expense and Contractor's Extra Expense, combined;
(7)	USD 1,500,000	Physical Damage Coverage to plans, blueprints, drawings, renderings, specifications or other contract documents and models at the Insured Project
(8)	USD 500,000	Department Service Charges; Fire
(9)	USD 500,000	Protective Equipment Refills
(10)	USD10,000,000	Or 25% of the ECV , whichever is less for Debris Removal
(11)	5% of ECV	Emergency Property Protection Expense Coverage – during the Policy Term of the Project Declaration
(12)	USD 500,000	Or 25% of the loss or damage to Covered Property, whichever is greater Claims Preparation Costs
(13)	USD5,000,000	Or 25% of the ECV , whichever is less for Ordinance or Law / Demolition or Increased Cost of Construction
(14)	As included within ECV	Owner Supplied Items
(15)	USD 5,000,000	Or 25% of insured physical loss or damage to Covered Property, whichever is less for Public Authorities
(16)	Full ECV	By the Peril of Flood
(17)	Full ECV	As respects Water Damage



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C. Annual Aggregate Limits of Liability

The maximum amount the Company will pay for loss or damage in any one **Occurrence** and/or in the aggregate annually for loss or damage from all **Occurrences**, shall not exceed the following amounts :

(1)	Full ECV	By the peril of Earthquake
(2)	Full ECV	By the Peril of Named Storm

Section 1B Delay in Completion

- A. USD 7,250,000
- B. Sub Limits of Liability

Utilities Extension – Sublimit: USD2,500,000 each and every **Occurrence**

Named Suppliers Extension – Sublimit USD2,500,000 each and every **Occurrence**

Prevention of Access – Sublimit USD2,500,000 each and every **Occurrence** within 500m of Insured Project location

Construction Plant and Equipment – USD2,500,000 in the aggregate

Additional Increased Cost of Working USD 1,000,000 each and every **Occurrence**

C. Indemnity Period 18 months

TRIA –Purchased.

Deductibles:

Section 1A Builders Risk

USD 10,000 any one **Occurrence** in respect of all other losses

Section 1B Delay in Completion

A **Deductible Period** of 21 days any one **Occurrence** in respect of all perils

Coverage Territory: As defined in the Policy.

Conditions:

As per the Certificate of Insurance and Delegated Underwriting Contract number B0901LB1629776000 Policy to which this Project Declaration attaches.

LSW1001 – Several Liability Clause

LMA3100 – Sanctions Limitation and Exclusion Clause



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**Choice of Law
& Jurisdiction:**

This insurance shall be governed by and construed in accordance with the law of New York and each party agrees to submit to the exclusive jurisdiction of the Courts of New York.

Premium:

USD 153,167.04 (100%)

Breakdown as follows:

Builders Risk

USD 103,776 (100%)

Delay in Completion

USD 43,500 (100%)

TRIA

USD 5,819.04 (100%)

New York Surplus Lines Tax - \$5,514.01
New York Stamping Fee - \$260.38

Order Hereon:

100.00%

"THE INSURER(S) NAMED HEREIN IS (ARE) NOT LICENSED BY THE STATE OF NEW YORK, NOT SUBJECT TO ITS SUPERVISION, AND IN THE EVENT OF THE INSOLVENCY OF THE INSURER(S), NOT PROTECTED BY THE NEW YORK STATE SECURITY FUNDS. THE POLICY MAY NOT BE SUBJECT TO ALL OF THE REGULATIONS OF THE DEPARTMENT OF FINANCIAL SERVICES PERTAINING TO POLICY FORMS."



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Information

B R Application 2016-17 (2 Pages)

Const Schedule (8 Pages)

Construction budget (23 Pages)

31631_Geo Report_SIGNED (61 Pages)

Nathan_PortfolioAssesmentReport_2017.03.20.05.14.35.pdf(483KB)

Ratings are based on WFJLT074 – East Genesee Student Apartments Matrix 8.5.2017



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JLT / Wells Fargo Facility Wording

Builders Risk, Delay in Completion and TRIA Insurance

Delegated Underwriting Contract Number B0901LB1629776000

Hereinafter referred to as the "Policy"



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Policy Schedule

Read the entire Policy carefully to determine rights, duties and what is and is not covered.

Various words and phrases appear in bold face type have special meaning found in Section III – Definitions . Whenever "NCP" is shown it denotes no coverage has been purchased and no coverage is provided. Whenever "NA" is shown it denotes "Not Applicable" to that coverage, deductible, sublimit of liability, or other policy provision.

It is hereby agreed that all wordings incorporated in this Policy and any subsequent Endorsements are accepted by Insurers as their own.

1. Policy Number: B0901LB1731505000

2. Insuring Company

- a. **50% SCOR UK Company Limited**
- b. **50% Mapfre Global Risks Compania Internacional De Seguros y Reaseguros SA**

Hereinafter referred to as the "Company."

3. Named Insured(s) and Mailing Address

- 1. [As stated in the Project Declaration] (hereinafter referred to as the Owner) and/or its parent and/or subsidiary companies.

Address: [As stated in the Project Declaration]

- 2. Contractors and sub-contractors (which terms shall include their consultants or sub-consultants) of any tier and/or their parent companies and/or subsidiary companies (any such contractor, subcontractor or company hereinafter referred to as the Contractors). All consultants and/or suppliers in respect of their site activities only
- 3. Professional advisers engaged by the Owner for their Site activities only.
- 4. Suppliers for their Site activities only.
- 5. Any person or company appointed by the Owner and any person or company the Owner is obliged by agreement to include as the Insured.
- 6. Wells Fargo Bank, N.A.
2030 Main Street, Suite 200, Irvine, CA 92614

Each for their respective rights and interests.

4. Policy Term

This Policy shall be effective from the date stated in the Project Declaration under "Insured Project Term", or subsequent endorsement(s) thereto.

Automatic extensions will be at nil additional premium provided the total Policy Term does not exceed the period band it was originally declared in. In the event the revised total Policy Term exceeds the original band Additional Premium will be charged in line with the difference between the rate for the newly applicable band and the premium charged to date.



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Automatic extensions for Insured Projects with a Policy Term exceeding 24 months will be at pro rata Premium of the 18-24 month period band thereafter.

Anticipated Date of Completion: [As stated in the Project Declaration under “Declared Project Term,” if Delay in Completion coverage is applicable]

5. Insured Project

A. Location

[As stated in the Project Declaration under “Insured Project Location”]

B. Description

(Including Project Name and/or Contract Number as applicable):

[As stated in the Project Declaration under “Insured Project”]

6. Participation

This Policy covers for 100% interest in the 100% Policy Limit of Liability, Sublimits of Liability, Annual Aggregate and Premium as stated in the Project Declaration and/or specified herein.

7. Limit of Liability

To apply separately for each Project Declaration

Section 1A Builders Risk

A. Policy Limit of Liability

The Company shall not be liable for more than the **Estimated Contract Value (ECV)** in any one **Occurrence** subject to the following Sublimits of Liability and Annual Aggregate Limits of Liability in addition:

B. Sublimits of Liability

The Company shall not be liable for more than the following Sublimit(s) of Liability in any one **Occurrence**.

NOTE: Coverage shall only apply for individual Sublimits when a dollar amount is entered below or in the Project Declaration:

(1)	As per Project Declaration	Soft Costs
(2)	USD 10,000,000	Or 25% of the ECV whichever is the less for Physical Damage Coverage to Covered Property in Transit –any one conveyance
(3)	USD 10,000,000	Or 25% of the ECV whichever is the less for Physical Damage Coverage to Covered Property at Temporary Offsite Locations - any one location
(4)	USD 50,000	Maximum any one item – Trees, Plants, and Shrubs
(5)	USD 2,500,000	Architects and Engineers Fees
(6)	USD 5,000,000	Or 25% of the ECV, whichever is less, for Expediting Expense and Contractor's Extra Expense, combined;
(7)	USD 1,500,000	Physical Damage Coverage to plans, blueprints, drawings, renderings, specifications or other contract documents and models at the Insured Project
(8)	USD 500,000	Department Service Charges; Fire
(9)	USD 500,000	Protective Equipment Refills
(10)	USD10,000,000	Or 25% of the ECV, whichever is less for Debris Removal
(11)	5% of ECV	Emergency Property Protection Expense Coverage – during the Policy Term of the Project Declaration
(12)	USD 500,000	Or 25% of the loss or damage to Covered Property, whichever is greater Claims Preparation Costs
(13)	USD5,000,000	Or 25% of the ECV, whichever is less for Ordinance or Law / Demolition or



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		Increased Cost of Construction
(14)	As included within ECV	Owner Supplied Items
(15)	USD 5,000,000	Or 25% of insured physical loss or damage to Covered Property, whichever is less for Public Authorities
(16)	As per Project Declaration	By the Peril of Flood
(17)	Full ECV	As respects Water Damage

C. Annual Aggregate Limits of Liability

The maximum amount the Company will pay for loss or damage in any one **Occurrence** and/or in the aggregate annually for loss or damage from all **Occurrences**, shall not exceed the following amounts :

(1)	As per Project Declaration	By the peril of Earthquake
(2)	As per Project Declaration	By the Peril of Named Storm

D. Escalation Clause

The Policy Limit of Liability scheduled in paragraph (7A) above is considered a provisional limit. Should any increase in the **ECV** occur, the Policy Limit of Liability will automatically increase to reflect the change concurrently, subject to a maximum increase of 25.0% of the original Policy Limit of Liability shown. The Policy Limit of Liability stated above will increase by the same amount. Such increase in the **ECV** shall be reported to the Company in accordance with the Reporting Provisions stated elsewhere in this Policy.

This clause does not apply to other Sublimits of Liability, nor does it apply to the Annual Aggregate Limits of Liability.

Section 1B Delay in Completion

A. Policy Limit of Liability

[The Insurers shall not be liable for more than the amount stated in the Project Declaration Policy Limit of Liability for Delay in Completion subject to the following Sublimits of Liability in addition]

Loss of Section 42 Low Income Housing Tax Credit – as stated in each Project Declaration but not to exceed USD5,000,000 in the aggregate per Project Declaration.

B. Sublimits of Liability

Utilities Extension – Sublimit: USD2,500,000 each and every **Occurrence**

Named Suppliers Extension – Sublimit USD2,500,000 each and every **Occurrence**

Prevention of Access – Sublimit USD2,500,000 each and every **Occurrence** within 500m of Insured Project location

Construction Plant and Equipment – USD2,500,000 in the aggregate

Additional Increased Cost of Working USD 1,000,000 each and every **Occurrence**

C. Indemnity Period

[As stated in the Project Declaration] but not to exceed 24 months unless agreed by the Company.



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8. Deductibles

From the amount of each claim for insured physical loss of or damage to Covered Property in any one **Occurrence** there shall be deducted the applicable amount shown below, and then the liability of the Company shall be only for the amount of such insured physical loss or damage in excess thereof, subject to the Policy Limit of Liability, Sublimits of Liability or Annual Aggregate Limits of Liability as above.

As respects items (3), (4) and (5) below, where applicable the deductible is calculated by multiplying the percentage shown in the rating matrix by the **Actual Project Value in Place** at the time of loss or damage. If Covered Property at a Temporary Offsite Location or while in transit sustains loss or damage as well, the total value of such Covered Property shall be included when calculating the applicable deductible amount. However, in no event shall the deductible be less than the dollar amount shown. When a dollar amount is shown absent a corresponding percentage (%), then that amount shall be deducted.

(1)	As Per Rating Matrix	By the peril of Earthquake
(2)	As Per Rating Matrix	By the Peril of Flood
(3)	As Per Rating Matrix	By the Peril of Named Storm
(4)	As Per Rating Matrix	As respects Water Damage
(5)	As Per Rating Matrix	As respects Delay in Completion Coverage

In the event that more than one Deductible shown in the Project Declaration or specified in any endorsement shall apply to insured physical loss of or damage to Covered Property in any one **Occurrence**, only the largest shall be applied.

If **Delay In Completion Coverage** is provided, the **Deductible Period** stated in the Project Declaration will always be applied in addition to any dollar deductible stated for insured physical loss or damage.

9. Estimated Contract Value of Insured Project at the Policy Effective Date

The **Estimated Contract Value (ECV)** declared to the Company by the first Named Insured at the inception date of the Project Declaration:

A.	As Per Project Declaration	Total value of all Covered Property, Landscaping Materials , all labor costs that will be expended in the Insured Project , site general conditions, construction management fees, and contractor's profit and overhead; plus
B.	As Per Project Declaration	Total value of all Covered Property not declared in A. above supplied by the project Owner(s) or other(s), for which the Named Insured has assumed responsibility and that will become part of the Insured Project ; plus
C.	As Per Project Declaration	Max USD 25,000,000 but not to exceed 25% of the total Estimated Contract Value in respect of existing property to be insured
D.	As Per Project Declaration	Estimated Contract Value of the Insured Project at Policy effective date equal to the sum of A., B. and C. above

10. Deposit Premium

The Deposit Premium for this Policy is as stated in each individual Project Declaration.

Upon extension, expiration or cancellation of this Policy, the earned premium shall be adjusted in accordance with the provisions as outlined in 5.B. Premium Reporting and Adjustment in Section II of the Policy.



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11. Loss Payee(s) and Mortgage Holders

Loss, if any, shall be adjusted with and made payable to the first Named Insured and designated Loss Payees and/or Mortgage Holders, as scheduled below or as endorsed to this Policy, or as per order of the first Named Insured. Receipt of payment by the first Named Insured shall constitute a release in full of all liability under this Policy with respect to such loss.

If not scheduled above, Loss Payees and Mortgage Holders, all as their respective interest may appear, may be as shown on ACORD Certificates of Insurance (or its equivalent) issued by **Wells Fargo**, copies of which, upon request of the Company, will be forwarded and kept on file.

End of Policy Schedule



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SECTION I A BUILDERS RISK – COVERAGE AND EXCLUSIONS

1. Insuring Agreement

A. Coverage

This Policy, subject to the terms, exclusions, limitations and conditions contained herein or endorsed hereto, insures against all risks of direct physical loss of or damage to Covered Property while within the **Coverage Territory** and occurring during the Policy Term.

B. Coverage Term

Coverage under this Policy applies to loss or damage that commences during the Declared Project Term stated in the Project Declaration.

C. Coverage Territory

Coverage under this Policy applies to Covered Property while located within the United States of America, its territories and possessions, including the District of Columbia and the Commonwealth of Puerto Rico, including the territorial coastal waters of any of the foregoing, including storage and transit in connection with the Insured Project.

2. Covered Property

Covered Property means the Named Insured's interest in the following, unless otherwise excluded:

- A. **Property Under Construction;** and
- B. **Temporary Works**

3. Property Excluded

This Policy does not insure against loss or damage to:

- A. Land, land values, and the value of cut, fill and backfill materials which existed at the project site prior to project commencement; however, to the extent included in the **Estimated Contract Value** declared for premium purposes, the value of fill and backfill materials purchased for use in the completion of the project is not excluded. Labour and material charges incurred to move, remove, place or otherwise handle cut, fill and backfill materials, whether or not insured, are covered to the extent such charges are included in the **Estimated Contract Value** declared for premium purposes;
- B. Contractor's tools, machinery, plant and equipment including spare parts and accessories, whether owned, loaned, borrowed, hired or leased, and property of a similar nature not destined to become a permanent part of the **Insured Project**, unless specifically endorsed to the Policy;
- C. Property of any type if located on an offshore island or barrier island, regardless of whether or not it is connected to the mainland by bridge, road, or structure, unless specifically endorsed to the Policy;
- D. Vehicles or equipment licensed for highway use, rolling stock, aircraft or watercraft;
- E. Water, standing timber, growing crops and animals;
- F. Accounts, bills, currency, stamps, deeds, evidence of debt, checks, money, securities, precious metals, precious stones or other property of a similar nature;
- G. Existing property at the location of the **Insured Project**, unless specific limit is stated in the Project Declaration;
- H. Prototype, developmental or used machinery and equipment but only as to damage while undergoing any form of testing, commissioning or startup, unless specifically endorsed to the Policy;



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- I. Any property located at a site that stores, processes, handles or makes use of radioactive materials unless reported to and accepted by the Company. The foregoing shall not apply to locations or property making use of radioactive isotopes contained within equipment used for diagnostic or testing purposes.
- J. Property located other than within the Coverage Territory except as covered under the Transit or Temporary Offsite Locations Extensions of Coverage;
- K. Transmission and distribution lines once energized at the completion of testing.

4. Coverage Exclusions

This Policy does not insure against loss, damage or expense caused by or resulting from any of the following Coverage Exclusions except as specifically allowed below:

A. Consequential loss, damage or expense of any kind or description including:

- (1) loss of market or delay;
- (2) delay in completion;
- (3) liquidated damages or performance penalties;
- (4) penalties for non-completion; or
- (5) non compliance with contract conditions;

Whether caused by a peril insured or otherwise; however the foregoing shall not exclude Delay In Completion Coverage under Section 1B when it is included on each Project Declaration;

B. Wear and Tear

The cost of replacing, repairing or rectifying that part of the Covered Property rendered necessary by its own wear, tear, rust, corrosion or gradual deterioration but this Exclusion shall not apply to damage

- a) to other part or parts of Covered Property arising as a consequence thereof
- b) resulting from a cause which is not otherwise excluded

C. Defects of material workmanship design plan or specification

(LEG 2/96 amended)

The Insurer(s) shall not be liable for

All costs rendered necessary by defects of material workmanship design plan or specification and should Damage occur to any portion of the Covered Property containing any of the said defects the cost of replacement or rectification which is hereby excluded is that cost which would have been incurred if replacement or rectification of the Covered Property had been put in hand immediately prior to the said Damage.

For the purpose of this policy and not merely this exclusion it is understood and agreed that any portion of the Covered Property shall not be regarded as damaged solely by virtue of the existence of any defect of material workmanship design plan or specification.





D. War and Military Action, including

- (1) Hostile or warlike action in time of peace or war, including action in hindering, combating, or defending against an actual, impending, or expected attack by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval, air forces, or military, naval, or air forces, or an agent of any such government, power, authority, or forces, it being understood that any discharge, explosion, or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority, or forces;
- (2) Insurrection, rebellion, revolution, civil war, usurped power or action taken by governmental authority in hindering, combating, or defending against such **Occurrence**
- (3) Seizure or destruction of property by order of governmental authority. However, if fire is covered by this Policy, the Company will pay for acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread;

E. Nuclear reaction, nuclear radiation or radioactive contamination however such may have been caused; nevertheless if a fire arises directly or indirectly from any of the foregoing, any loss or damage arising directly from that fire shall subject to the provisions of this Policy) be covered, excluding however all loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination arising directly or indirectly from that fire;

F. Disappearance when revealed by inventory shortage alone;

G. Infidelity, dishonesty or fraudulent activity of the Named Insured or any of the Named Insured's partners, officers, directors, trustees, employees or others to whom the Covered Property is entrusted except as provided for under the Multiple Insured in Section II Clause (9) . However, willful acts of malicious intent (including vandalism or malicious mischief) shall not be deemed to be dishonest acts nor shall loss or damage resulting from the insured voluntarily parting with title or possession of any property if induced to do so by any fraudulent scheme, trick, device or false pretence;

H. Loss, damage, costs, expenses, fines or penalties incurred or sustained by or imposed on the Named Insured at the order of any government agency, court or other authority arising from any cause whatsoever beyond the demolition of any damaged portion of the **Insured Project** no longer useful for its intended purpose;

I. Any form of fungus, however caused, including yeast, mold, mildew, smut, mushrooms, spores or any substance, product or by product produced by, released by or arising as a consequence of the past or current existence of fungus. Any expense to remediate the presence or effects of any of the foregoing shall also be excluded.

Notwithstanding the above a limit of USD100,000 any one **Occurrence** shall be applicable in the event of damage.

J. Actual, alleged or threatened release, discharge, escape or dispersal of **Contaminants or Pollutants**, all whether direct or indirect, proximate or remote or in whole or in part caused by, contributed to or aggravated by any physical loss or damage insured by this Policy;

Nevertheless, if fire is not excluded from this Policy and a fire arises directly or indirectly from actual release, discharge, escape or dispersal of **Contaminants or Pollutants**, any loss or damage Insured under this Policy arising directly from that fire is insured, subject to the provisions of this Policy;

This exclusion shall not apply when physical loss or damage to the Insured Project is directly resulting from a cause which is not otherwise excluded

K. Loss or damage covered under any written or implied guarantee or warranty by any manufacturer or supplier, but only to the extent of recovery from such written or implied guarantee or warranty;

L. Normal subsidence, settling, cracking, expansion, contraction or shrinkage of walls, floors, ceilings, buildings, foundations, patios, walkways, driveways or pavements; but this Exclusion shall not apply to damage to other part or parts of Covered Property arising as a consequence thereof.



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M. Cessation of work exceeding 60 days, whether total or partial. Cessation of work as used herein shall not mean any period of time during which operations would not normally have been conducted such as Saturdays, Sundays or holidays, nor shall it mean seasonal inactivity planned in advance, schedule delays due to weather, labor actions beyond the Insured's control or suspension of project activity which has been occasioned by loss or damage covered under this Policy provided the **Insured Project** is maintained and protected against loss during such inactivity.

N. As respects **Landscaping Materials**, infestation, disease, freeze, drought and hail, weight of ice or snow or any damage caused by insects, vermin, rodents or animals;

O. As respects **Coverage Extension F**, electrical or magnetic injury to or errors and omissions in creating, processing or copying electronic records, however caused;

P. The Company will not pay for any **Software Loss**. To the extent coverage for equipment, hardware, media or device is provided in the Policy, this exclusion does not apply:

(1) if the **Software Loss** results solely from direct physical loss of or direct physical damage to the equipment, hardware, media or device on which the program, software or operating system, programming instructions, or data are transported, processed or contained;

(2) to direct physical loss of or direct physical damage to tangible Covered Property that results from a **Software Loss**;

For the purposes of this exclusion, program, software or operating system, programming instruction and data are not tangible Covered Property.

5. Coverage Extensions

A. Transit

If a sublimit is entered in item 7.B.(2) of the Policy Schedule or stated in the Project Declaration, coverage applies with respect to Covered Property from the commencement of loading at the original point of shipment anywhere within the Coverage Territory until completion of unloading at the Insured Project Location or at a temporary offsite location, including shipments on inland or coastal waters but excluding ocean marine shipments. To the extent others are responsible for loss or damage to Covered Property while in transit under terms to a designated location or recipient, this coverage extension will be subject to the Undiscovered Damage Extension 5. N.

The Named Insured agrees to keep records of all shipments insured hereunder and make them available to the Company upon request.

This Transit coverage shall be void if the Named Insured enters into any special agreement with carriers, releasing them from their common law or statutory liability or agreeing that this insurance shall in any way inure to the benefit of such carriers, however, the Named Insured may, without prejudice to this coverage, accept such bills of lading, receipts, or contracts of transportation as are ordinarily issued by carriers containing a limitation as to the value of Covered Property.

This sublimit will apply in addition to the **Estimated Contract Value**.

B. Temporary Offsite Locations

If a sublimit is entered in item 7.B.(3) of the Policy Schedule or stated in the Project Declaration, coverage applies to Covered Property while at any location on a temporary basis anywhere within the Coverage Territory, except while in the course of manufacturing or processing at a manufacturer's or supplier's site, or while in transit. Coverage will apply to Covered Property stored at manufacturers or suppliers sites awaiting delivery. To the extent others are responsible for loss or damage to Covered Property while at a temporary offsite location, this coverage extension will be subject to the Undiscovered Damage Extension 5. N



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This sublimit will apply in addition to the **Estimated Contract Value**.

C. Landscaping Materials

This Policy is extended to cover direct physical loss of or damage to **Landscaping Materials** that are part of the **Insured Project**, up to the value that has been declared in the **Estimated Contract Value** reported to the Company. The liability for any one tree, plant or shrub shall not exceed the maximum any one item limit entered in item 7.B.(4) of the Policy Schedule.

D. Architects and Engineering Fees

If a sublimit is entered in item 7.B.(5) of the Policy Schedule or stated in the Project Declaration, in the event of direct physical loss or damage insured against and occurring during the Policy Term, this Policy covers necessary and reasonable compensation for architect's or engineer's services and expenses incurred by the Insured in connection with the repair or replacement of the **Insured Project**, but excluding those relating to improvements or betterments to the **Insured Project**.

This sublimit will apply in addition to the **Estimated Contract Value**.

E. Expediting Expense and Contractors Extra Expense

If a sublimit is entered in item 7.B.(6) of the Policy Schedule or stated in the Project Declaration, in the event of direct physical loss or damage insured against and occurring during the Declared Project Term, this Policy shall pay for:

(1) Expediting Expenses, including reasonable wages for overtime, night work, and work on public holidays and extra costs of express freight or other rapid means of transportation which are necessary to make temporary repairs and to expedite the permanent repair or replacement of the Covered Property when damaged by a peril insured, but only to the extent such is necessary to continue as nearly as practicable the normal operation of the work in progress; and

(2) Extra Expenses, which means the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred for the purpose of continuing as nearly as practicable the scheduled progress of the work. Extra expense shall include but not be limited to equipment rental, emergency expenses, additional security, temporary use of property, demobilization and remobilization of equipment and facilities, and other expenses necessarily incurred to reduce loss, excluding, however, any Additional Interest or Debt Service Expense, Business Interruption, Loss of Earnings, Loss of Rental Income, or other Delay in Completion.

Any costs incurred hereunder shall be subject to the deductible applicable to the peril that necessitates such costs. In the event that the amount of physical loss or damage to Covered Property by a peril insured under this Policy is less than the applicable deductible, the Company shall not accept a claim for, nor be liable for the excess costs as covered herein.

This sublimit will apply in addition to the **Estimated Contract Value**.

F. Plans Blueprints Drawings and other Contract Documents and Models

If a sublimit is entered in item 7.B.(7) of the Policy Schedule or stated in the Project Declaration, this Policy is extended to cover direct physical loss of or damage to plans, blueprints, drawings, renderings, specifications or other contract documents and models while at the Insured Project Location.

This sublimit will apply in addition to the **Estimated Contract Value**.



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G. Fire Department Service Charges

If a sublimit is entered in item 7.B.(8) of the Policy Schedule or stated in the Project Declaration, when the fire department is called to save or protect Covered Property from a covered peril, the Company will pay the Insured's liability for fire department service charges and other extinguishing expenses:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance, law, or statute.

The Company will also pay for those costs incurred by the fire department to save or protect Covered Property from fire, but not including the costs to refill fire protective equipment.

This sublimit will apply in addition to the **Estimated Contract Value**.

H. Fire Protective Equipment Refills

If a sublimit is entered in item 7.B.(9) of the Policy Schedule or stated in the Project Declaration, the Company will pay the reasonable and necessary costs the Insured incurs to refill fire protective equipment which has been discharged:

- (1) Accidentally; or
- (2) In the course of saving or protecting Covered Property from a covered peril.

This sublimit will apply in addition to the **Estimated Contract Value**.

I. Debris Removal

If a sublimit is entered in item 7.B.(10) of the Policy Schedule or stated in the Project Declaration, in the event of direct physical loss or damage insured against and occurring during the Declared Project Term of this Policy, the Company will pay the following necessary and reasonable costs:

- (1) costs to remove debris, including necessary demolition expenses, being an insured part of the property from the **Insured Project** and/or
- (2) cost of cleanup, at the Insured Project Location, made necessary as a result of such direct physical loss or damage.

Unless specifically amended by endorsement, the Company will not pay the expense or cost to extract **Contaminants or Pollutants** from land, water and/or debris, or to remove, restore, or replace contaminated or polluted land or water. Nor will the Company remove or transport any property or debris to a site for storage or decontamination required because the property or debris is affected by **Contaminants or Pollutants**, whether or not such removal, transport or decontamination is required by law, ordinance or regulation.

It is a condition precedent to recovery under this extension that the Company shall have paid, or agreed to pay, for direct physical loss or damage to the Covered Property, unless such payment is precluded solely by the operation of any deductible, and that the Insured shall give written notice to the Company of intent to claim for cost of debris removal or cost to cleanup not later than twelve (12) months after the date of such physical loss or damage.

This sublimit will apply in addition to the **Estimated Contract Value**.

J. Emergency Property Protection Expense

If a sublimit is entered in item 7.B.(11) of the Policy Schedule or stated in the Project Declaration, this Policy shall pay for those reasonable expenses incurred by the Named Insured in an effort to protect or remove Covered Property, including moving and storage expenses, when the Covered Property is in imminent danger of sustaining direct physical loss or damage.



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Coverage under this extension shall also apply to any physical loss or damage to Covered Property while it is being moved or in transit to a storage location.

This coverage extension is limited to thirty (30) consecutive days if the Covered Property is removed from the Insured Project Location, commencing from the date of removal..

K. Claims Preparation Expense

If a sublimit is entered in item 7.B.(12) of the Policy Schedule or stated in the Project Declaration, this Policy is extended to cover reasonable and necessary claim preparation costs incurred by the Named Insured at the request of the Company for the purpose of determining the extent or amount of loss or damage prior to finalization of claim adjustment, subject to the following conditions:

- (1) The Company shall have no liability for claim preparation costs unless and until a claim for covered physical loss or damage to Covered Property has been submitted to and accepted by the Company.
- (2) Any claim preparation costs incurred shall be subject to the deductible applicable to the peril that necessitates such costs. In the event that the amount of covered physical loss or damage to Covered Property is less than the applicable deductible, the Company shall not accept a claim for nor be liable for additional expenses as covered herein.
- (4) Claim preparation costs includes:
 - (a) The cost of taking inventory, the cost of independent appraisals, and the cost of gathering and preparing other data to substantiate the extent or amount of loss or damage;and
 - (b) The cost of services provided by accountants, contractors and engineers solely for the purpose of determining the extent or amount of loss;
- (5) Claim preparation costs do not include:
 - (a) Expenses associated with establishing that any claim or part of a claim is covered by the Policy;
 - (b) Expenses associated with the negotiation or presentation of any claim or part of a claim that the Company has advised the Named Insured is disputed or denied;
 - (c) Expenses incurred for public adjusters, claims consultant or any legal fees;
 - (d) Expenses associated with any examination under oath, even if requested by the Company;
 - (e) Expenses incurred under the Appraisal section of the Commercial Property General Conditions.

This sublimit will apply in addition to the **Estimated Contract Value**.

L. Ordinance or Law Demolition and Increased Cost of Construction

If a sublimit is entered in item 7.B.(13) of the Policy Schedule or stated in the Project Declaration, in the event of insured loss or damage under this Policy that causes the enforcement of any law or ordinance in effect at the time of loss or enforced after a loss but before the property is restored , that regulates the repair rebuilding or re-construction of the damaged portions of the **Insured Project**, then to the extent required by such enforcement of any law or ordinance, the Company shall be liable for:

- (1) Cost of demolishing undamaged parts of the **Insured Project** as required, including cost of clearing the site.





- (2) Increased cost of repair, rebuilding or re-construction of the damaged and undamaged portions of the **Insured Project** on the same premises for the same use but not exceeding like height, floor area, style, material and limited to the minimum requirements of the law or ordinance.
- (3) If provided by this Policy, the increase in the Delay In Completion coverage loss arising out of the additional time required to comply with the requirements of said law or ordinance. Such additional time will not exceed thirty (30) consecutive days.

With respect to coverage provided by Paragraph (2) above, the Company shall not be liable for any loss, unless and until the damaged or destroyed building(s) or structure(s) is actually rebuilt or replaced on the same premises with due diligence and dispatch and in no event, unless repair or replacement is completed within two (2) years after the destruction or damage or within such further time as the Company may allow, in writing, during the two (2) years.

The following costs are not payable hereunder:

- (a) Cost of demolition or increased cost of repair or reconstruction, debris removal, or other consequential loss caused by the enforcement of any law or ordinance regulating asbestos material or **Contaminants or Pollutants;**
- (b) Cost of any governmental direction or request declaring that asbestos material present in, part of or utilized on any undamaged portion of Covered Property can no longer be used for the purpose for which it was intended or installed and must be removed or modified.
- (c) Cost of compliance with the enforcement of any law or ordinance that a Named Insured would have otherwise incurred by nature of such law or ordinance in the absence of any loss or damage covered by this Policy.
- (d) When Damage To Existing Property coverage is afforded in this Policy, the cost of compliance with any law or ordinance as respects the repair, rebuilding or re-construction of such property.

This sublimit will apply in addition to the **Estimated Contract Value** but shall not be applicable to L (1) above to which the full **ECV** limit applies.



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N. Undiscovered Damage Clause

If physical loss or damage to the Covered Property due to a peril insured under this Policy is discovered after delivery to the Insured Project Location and after proper investigation it is not possible to ascertain when such physical loss or damage occurred the Company will indemnify the Named Insured in respect of any amount not recovered under any marine or air cargo insurance or other applicable insurance subject to the terms, limits and conditions, of this Policy.

O. Taken into Use

This Policy will continue in force in respect of works and/or other property in the Named Insured's custody or control for which the Named Insured remains responsible notwithstanding such works and/or other property in the Named Insured's custody or control shall be occupied or taken into use, in whole or in part.

P. Owner Supplied Items

This Policy shall automatically and without prior notice or specific request apply to and indemnify the Named Insured in respect of or in connection with or in relation to any property of whatsoever nature or description as may be supplied by or on behalf of the Owner in connection with the Insured Project.

If the value of such property shall have been included in the amount declared by the Named Insured for the purposes of premium calculation, then no additional premium shall be payable on account thereof.

It is further declared and agreed that the value of such property as aforesaid shall be included in the calculation of the Estimated Contract Value of the relevant Project Declaration.

R. Soft Costs/Additional Expenses

If a sublimit is entered in item 7.B.(2) of the Policy Schedule or stated in the Project Declaration, in the event of insured loss or damage under this Policy the Company shall be liable for expenditures which are necessarily incurred, that would not have been incurred by the Named Insured if the damage had not occurred consisting of the following to the extent stated in the Project Declaration:

1. Legal/Accounting Fees:
Fees for additional legal work incurred to revise contracts or other documents, and additional accounting work incurred to renew or restructure the financing or other documents including the renegotiation of leases and financing;
2. Design Professionals Fees:
Additional fees for services provided by Architects, Engineers and other Design Professionals;
3. Realty Taxes/Ground Rents:
Additional realty taxes, ground rents or other assessments actually incurred;
4. Insurance Premium and costs:
Additional insurance premiums for extending or renewing or replacing coverage;
5. Project Administration Expense/General Overhead:
Additional project administration expense such as temporary office space, additional clerical expense and other similar expenses;
6. Advertising/Marketing Expense:
Additional advertising and promotional expenses and community relations;
7. Leasing/Commission Expense:
Additional costs of renegotiating and pre-leasing of the project, including costs of additional commissions incurred upon renegotiating leases;
8. Construction Loan Interest and additional financing cost;
9. Developer Fees and Contingency as stated in the Policy Limit of Liability of the Project Declaration
10. Other Expenses:
As accepted by the Company and specifically described in the Project Declaration or endorsed hereon.



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S. Contaminants or Pollutants

Coverage Exclusion J notwithstanding the Company will indemnify the Named Insured, the cost of the removal of **Contaminants or Pollutants** from the surface of the Covered Property or from the immediate surface of the construction site, directly necessary as a result of physical loss of or damage to Covered Property, subject to the Limit stated below. However this does not include the expense or cost to extract **Contaminants or Pollutants** from land, water and / or debris, or to remove, restore, or replace contaminated or polluted land or water. Nor does it include the costs to remove or transport any property or debris to a site for storage or decontamination required because the property or debris is affected by **Contaminants or Pollutants**, whether or not such removal, transport or decontamination is required by law, ordinance or regulation.

Limit: USD1,000,000 each and every **Occurrence**

T. Public Authorities

In the event of Damage under this Policy that causes the enforcement of any law, ordinance, governmental directive or standard regulating the construction, repair, use, or occupancy of property, this Policy is extended to include such additional cost of reinstatement of the Covered Property thereby insured which has been destroyed or damaged by any peril hereby insured against as may be incurred solely by reason of necessity to comply with Building or other Regulations under or framed in pursuance of any Federal, State, Municipal or Local Authority Law subject to a limit as stated in the Project Declaration.

Excluding the cost incurred in complying with the government statutory municipal and other binding regulations:

under which notice has been served upon the Insured prior to the Occurrence of loss or damage for which there is an existing requirement which has to be implemented within a given period

End of Section 1A Builders Risk and Soft Costs – Coverage and Exclusions



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SECTION I B DELAY IN COMPLETION – COVERAGE AND EXCLUSIONS

1. Insuring Agreement

- A. Subject to all terms, conditions, limitations and exclusions of this **Delay in Completion Coverage** and of the Policy to which it is attached, in the event of direct physical loss of or damage to Covered Property, the Company shall indemnify the first Named Insured shown on each Project Declaration for scheduled **Delay In Completion Coverages** arising out of the resulting **Delay** in completion of the **Insured Project** or Designated Building shown in the Project Declaration, or as amended by endorsement, on an actual loss sustained basis.
- B. The Company shall also indemnify the first Named Insured shown on each Project Declaration for reasonable expenditures that are necessarily incurred for the purpose of reducing any loss amount under this coverage, but only to the extent that such loss amount otherwise payable is actually reduced.
- C. Additional Increase in Cost of Working

The Company shall indemnify the Named Insured in respect of the additional expenditure (beyond the amount otherwise payable under this Section 1B) necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the **Delay**, which but for that expenditure would have taken place during the Indemnity Period in consequence of the direct physical loss or damage to Covered Property. The indemnity under this Section shall not extend to that expenditure incurred solely to have the Insured Project completed at an earlier date than would have been attained had no direct physical loss or damage to Covered Property occurred.

This clause shall only operate in the event that a loss occurs which would result in an indemnity being given by the Company under this Section 1B following application of the Deductible Period to such loss.

The Company shall pay the first Named Insured up to the amount stated in the Project Declaration in addition to the Policy Limit of Liability.

- D. Loss of Section 42 Low Income Housing Tax Credit

The Company shall indemnify the Named Insured for their **Loss of Section 42 Low Income Housing Tax Credit** that would have otherwise been available if the Named Insured is unable to claim Loss of Section 42 Low Income Housing Tax Credit resulting from a Delay for which a covered claim is made under Section 1A Builders Risk.

The Company only cover the Named Insureds **Loss of Section 42 Low Income Housing Tax Credit** sustained or caused by a postponement or interruption in the Named Insureds ability to claim the Section 42 Low Income Housing Tax Credit when the inability to claim a credit arises out of a Delay to a building or structure at a jobsite described in the Project Declaration.

The Company shall pay the first Named Insured up to the amount stated in the Project Declaration in addition to the Policy Limit of Liability.



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2. Coverage Conditions and Limitations

- A. No liability shall exist unless the **Delay** exceeds the respective **Deductible Period** shown in the Project Declaration and then liability shall be only for such part of the **Delay** that is in excess of that period.
- B. The Company shall not be liable during the **Period Of Indemnity** for more than the Aggregate Limit of Liability, subject to the individual sublimits of liability stated in the Project Declaration.
- C. In the event circumstances require that the completion date for the **Insured Project** or designated building shown on any **Construction Schedule** be revised to extend such completion date, the Named Insured shall establish a revised **Construction Schedule** and furnish the same to the Company. The new completion date established in such revised **Construction Schedule** shall become the **Anticipated Date Of Completion** for **Delay In Completion Coverage**. Failure of the first Named Insured to provide such revised **Construction Schedule** to the Company shall not serve to waive the amendment of the **Anticipated Date Of Completion**.

However, there shall be no amendment to the **Anticipated Date Of Completion** in the event the **Construction Schedule** is either compressed or accelerated, unless agreed to in writing by the Company and endorsed hereon, subject to an additional premium to be agreed and subject to the provisions of Section II 2.

- D. Application of the **Deductible Period**
 - (1) in the event that more than one insured peril with different **Deductible Period** contributes to the overall **Delay**, the longest **Deductible Period** shall apply.
 - (2) The **Deductible Period** stated in the Project Declaration is in addition to the applicable Section 1A Deductible amounts stated in the Project Declarations.
- E. In respect of **Loss of Section 42 Low Income Housing Tax Credit** coverage the following additional condition will apply:
 - a. **Subrogation** -- With respect to any payments made under this **Loss of Section 42 Low Income Housing Tax Credit** section, The Company waive right of recovery against any of The Named Insureds contractors, architects, engineers, consultants and any of their employees, agents or subcontractors.

3. Coverage Exclusions

In addition to the Policy Exclusions, the Company will not be liable under this **Delay in Completion Coverage** form for any loss or increase in **Delay** caused by or resulting from the following additional Exclusions:

- A. The enforcement of any ordinance or law regulating removal, repair, construction or reconstruction of the damaged property; except as provided by Coverage Extension J. Ordinance or Law/Demolition or Increased Cost of Construction in the Policy
- B. Loss or damage to property not covered by the Policy to which this **Delay in Completion Coverage** is attached;
- C. Non-availability of funds other than insurance reimbursements;
- D. Import, export or customs restrictions and/or regulations;



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- E. The breach, suspension, lapse or cancellation of or the failure to obtain, maintain or extend any permit, lease, license, contract or purchase order commitments;
- F. The interference by strikers or other persons with the transportation of property, the construction, rebuilding, repairing or replacing of property insured hereunder or the occupancy and use of the premises;
- G. Any consequential loss;
- H. The failure to use due diligence and dispatch in restoring the damaged Covered Property to the condition existing prior to the loss or damage;
- I. Any change order, revision or other cause which results in deviation from the original **Construction Schedule** and which is independent of insured loss or damage which gives rise to a **Delay**, whether occurring prior to or after an insured **Delay**;

4. Conditions in the Event of Loss

- A. The Named Insured shall do, agree to do, and permit to be done all such things as may be reasonably practicable to minimize the extent of any interference with the **Construction Schedule** so as to avoid or diminish any **Delay** resulting there from.
- B. It is a condition of this insurance that as soon as practical the Named Insured shall begin normal operations.
- C. Upon request by the Company, the Named Insured shall make available all records and information relevant to the determination of loss and expenses related to reducing loss.
- D. Upon the expiration of one month after the beginning of the **Period Of Indemnity** and each month thereafter, if it is possible to determine the minimum amount which the Company may be liable to pay for such period, the Company shall pay such amount to the first Named Insured as an instalment of the total loss.
- E. Prior to finalising payment, the Company shall conduct an audit of the Named Insured's records to determine the loss as defined by this Delay in Completion Coverage, as well as any expenses incurred by the first Named Insured related to reducing loss. Due consideration shall be given to seasonal patterns, trends, variations or special circumstances which would have affected the business had the **Delay** not occurred, so that the amount thus adjusted shall represent as nearly as may be reasonably practicable the amount which, in the absence of the **Delay**, would have been realized. Any amount saved in respect of labor costs, charges and expenses that have ceased or reduced during the **Period Of Indemnity** and liquidated damage the first Named Insured is entitled to receive from others, whether collectible or not, shall be deducted from the loss during the **Period Of Indemnity**.
- F The following provisions apply only to coverage as described under Loss of Section 42 Low Income Housing Tax Credit.
 - 1. Applicable Time Period -- The time period for which The Company pay for a Loss of Section 42 Low Income Housing Tax Credit begins on the day of the estimated completion date of the covered property as per the **Construction Documents** and ends on the day when the property at a jobsite described In the Project Declaration should be repaired, rebuilt or replaced with reasonable speed and like kind and quality.



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2. Determining Amount of Loss -- The amount of "Loss of Section 42 Low Income Housing Tax Credit" will be determined based on relevant sources of information including, but not limited to:
 - a. The "Partnership Agreement";
 - b. The "Construction Documents"; and
 - c. Cost certifications, tax credit approvals, including Internal Revenue Code form 8609, and state housing agency correspondence.

Valuation of Loss -- The initial valuation of **Loss of Section 42 Low Income Housing Tax Credit** will be equal to 85% of the projected annual Section 42 Low Income Housing Tax Credit as per the **Partnership Agreement** pertaining to the covered property. The total valuation will later be adjusted to the actual tax credit awarded by the Internal Revenue Code Form 8609 for the covered property, subject to the time period of loss, and not to exceed the limit provided by this section.

In the event the actual annual Section 42 Low Income Housing Tax Credit awarded by the Internal Revenue Code Form 8609 for the covered property is less than 85% of the projected annual Section 42 Low Income Housing Tax Credit as per the "Partnership Agreement", the Company will be entitled to a refund from the Named Insured equal to the difference between the amount of the initial valuation payment paid to the Named Insured and the actual annual Section 42 Low Income Housing Tax Credit provided by the Internal Revenue Code Form 8609

5. Coverage Extensions

A. Utilities

This Policy extends to include **Delay** in the event of damage arising from fire, lightning, explosion or aircraft impact to Covered Property at or services to or from any

- i) electricity supply undertaking
- ii) water supply undertaking
- iii) telecommunications undertaking

This Extension shall be subject to the Sublimit stated in the Project Declaration. The Sublimit shall apply after the application of a **Deductible Period** of 30 days in the aggregate.

B. Construction Plant & Equipment

The Insurance under Section 1B Policy extends to indemnify the first Named Insured in respect of loss resulting from **Delay** in consequence of physical loss or damage to construction plant and equipment (whether or not insured under Section IA) but used for or in connection with the Insured Project whilst at the Insured Project Location, and including all loading and unloading incidental thereto. The amount payable by the Company under this extension shall not exceed the Sub-Limit stated in the Project Declaration.

C. Prevention of Access

This Policy includes loss resulting from **Delay** caused by or contributed to by reason of damage to property within the distance stated within the Project Declaration of the Insured Project Location which shall prevent or hinder access thereto and use thereof provided that the amount payable by the Company under this paragraph shall not exceed the Sublimit stated in the Project Declaration after the application of the **Deductible Period**.

D. Suppliers Extension

This Policy shall extend to include any **Delay** resulting from physical loss or damage at the premises of the Suppliers listed in the Project Declaration caused by fire, lightning, explosion and aircraft impact and subject to the Sublimit stated in the Project Declaration. The Sublimit shall apply after the application of the **Deductible Period**.

End of Section 1B Delay in Completion – Coverage and Exclusions



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SECTION II – POLICY CONDITIONS

The following conditions apply in addition to the **Construction Property General Conditions** attached to this Policy.

1. When Coverage Begins and Ends

Coverage shall begin on the effective date specified in the Project Declarations under **Policy Term** for this Project Declaration and continue in effect until the later of:

- A. The final acceptance certificate by the Owner;
- B. The expiry of the Named Insured's 1 and 2's interest;
- C. Coverage is cancelled; or
- D. The expiration date stated under Declared **Project Term** in the Project Declaration unless otherwise amended by endorsement.

2. Extension of Declared Project Term

The terms of this policy include an automatic extension provision at pro rata Additional Premium for up to 24 months total **Policy Term for each Project Declaration**. Should the Declared Project Term within a Project Declaration exceed 24 months the Policy will be automatically extended for up to 6 months at Additional Premium to be agreed by the Company.

3. Annual Aggregate Limits or Sublimits of Liability

If a Limit or sublimit stated in this Policy or any of its endorsements is specified as an Annual Aggregate, then the Company shall not be liable for more than the specified Limit or sublimit for all **Occurrences** during any annual (365 days, or if leap year, 366 days) period, beginning with the Effective Date of this Policy. If the Policy Term is greater than twelve (12) months, such sublimit shall apply in the aggregate to all losses occurring during each twelve (12) month period, beginning with the Effective date of the Policy and each subsequent anniversary date.

Annual Aggregate Limits or sublimit(s) not used in any twelve (12) month period are not cumulative to any other twelve (12) month period.

Annual Aggregate Limits or Sublimits of liability shall apply separately to each Project Declaration

4. Reinstatement of Limit after Loss

With the exception of loss or damage caused by perils that are subject to aggregate limits, any loss hereunder will not reduce the amount coverage provided by this Policy, except for a loss to the Named Insured that exhausts any Aggregate Limits, coverage will be reinstated at Additional Premium to be agreed.

5. Reporting and Premium Adjustment

A. Reporting Provision

At the time of expiration, cancellation, or any extension of this Policy, the Named Insured shall report to the Company the final, actual or revised **Estimated Contract Value** of the Insured Project as of the date of expiration, cancellation or extension respectively.

B. Premium Adjustment

(1) The final earned premium for this Policy shall be calculated by applying the rates used for the purpose of computing the deposit premium to the actual term of coverage and the **Estimated Contract Value** as reported in accordance with Paragraph 5.A. above.



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(2) If the premium calculated above differs from the Deposit Premium stated in the Project Declarations, such difference shall be due and payable to the Named Insured or the Company, as the case may be, subject to any minimum and earned premium stated in the Declarations. In the event that such difference in the **Estimated Contract Value** is within +/- 15% of the actual contract value the applicable premium adjustment will be waived.

6. Valuation

In the event of loss or damage by an insured peril and subject to the applicable Policy Limit, Sublimit or Aggregate Limit of Liability as the case may be, the basis of adjustment of a claim at the time of loss, unless otherwise endorsed, shall be as follows:

- A. **Property Under Construction** (except **Property of Others**) – The actual cost to repair or replace the lost or damaged property, valued as of the time and place of loss, with material of like kind and quality, less betterment, including contractor's profit and overhead, in the same percentage allocated in the original contract documents. If not so replaced, loss shall be settled on an Actual Cash Value basis with proper deduction for depreciation and exclusive of profit and overhead.
- B. **Temporary Works** – The replacement cost value of the lost or damaged property valued as of the time and place of loss.
- C. **Property Of Others** (including items supplied by the owner or for which the Insured is legally responsible) - The actual cost to repair or replace the property lost or damaged with material of like kind and quality including contractor's charges incurred prior to loss and related to such property, if any, less betterment, or the property owner's cost, whichever is less.
- D. **Plans, Blueprints, Drawings, Renderings, Specifications Or Other Contract Documents And Models** – If replaced, the cost to reproduce with property of like kind and quality including the cost of gathering or assembling information from back up data. If not replaced, the value of blank material.
- E. **Landscaping Materials** - The cost to replace with property of like kind, quality and size plus installation costs if such damage occurs after installation.
- F. **Property In Transit** – The invoice cost plus accrued shipping charges less shipper's liability, if any.

7. Cancellation

- A. This Policy may be cancelled by the first Named Insured by mailing to the Company written notice stating when thereafter such cancellation shall be effective.
- B. This Policy may only be cancelled by the Company in the event of non-payment of Premium due under this Policy by mailing to the first Named Insured, at the address shown in the Project Declaration or last known address, stating when, in accordance with the laws of the state within which the insured project is located, but not less than thirty (30) days thereafter, such cancellation shall be effective.
- C. The mailing of notice as aforementioned shall be sufficient proof of notice and the effective date of cancellation stated in the notice shall become the end of the Policy Term. Delivery of such written notice either by the first Named Insured or by the Company shall be equivalent to mailing.
- D. In the event of cancellation, premium adjustment may be made at the time cancellation is effected and, if not then made, shall be made as soon as practicable after cancellation becomes effective. The Company's check or the check of its representative mailed or delivered as aforesaid shall be a sufficient tender of any refund of premium due to the first Named Insured.



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8. Mortgage Holders

The term "mortgage holder" includes lenders and trustees.

- A. The Company has the right and obligation to make payment to each mortgage holder shown in the Declarations or as endorsed to the Policy in their order of precedence, as their interests may appear.
- B. The mortgage holder has the right to receive loss payment even if the mortgage holder has started foreclosure or similar action on the **Insured Project**.
- C. If the Company denies a claim due to acts of the Named Insured or because the Named Insured has failed to comply with the terms of this Policy, the mortgage holder will still have the right to receive loss payment if the mortgage holder:
 - 1) At the Company's request, pays any premium due under this Policy if the Insured has failed to do
 - 2) Submits a signed, sworn statement of loss within sixty (60) days after receiving notice from the Company of the Insured's failure to do so; and
 - 3) Has notified the Company of any change in ownership, occupancy or substantial change in risk known to the mortgage holder.All of the terms of this Policy will then apply directly to the mortgage holder.

- D. If the Company pays the mortgage holder for any loss or damage and denies payment to the Insured due to the Insured's acts or failure to comply with the terms of this Policy:
 - (1) The mortgage holder's rights under the mortgage will be transferred to the Company to the extent of the amount paid by the Company; and
 - (2) The mortgage holder's right to recover the full amount of the mortgage holder's claim will not be impaired by the Insured's acts or failure.

The Company has the option to pay to the mortgage holder the whole principal on the mortgage plus any accrued interest. In this event, the mortgage and note will be transferred to the Company and the Named Insured will pay their remaining mortgage debt to the Company

- E. If the Company cancels this Policy, as provided for in Cancellation Provision 7 the Company will give written notice to the mortgage holder.

9. Multiple Insured Condition / Waiver of Subrogation

- (i) It is noted and agreed that if the Named Insured described in the Project Declaration comprises more than one insured party each operating as a separate and distinct entity then (save as provided in this Multiple Insureds Condition) cover hereunder shall apply in the same manner and to the same extent as if individual policies had been issued to each such insured party provided that the total liability of the Company to all of the insured parties collectively shall not exceed the Policy Limit of Liability including any inner or additional limits set by Extension, Condition, Memorandum or Endorsement stated in the Policy.
- (ii) It is understood and agreed that any payment or payments by Company to any one or more such insured parties shall reduce the extent of the Company's liability to all such parties arising from any one event giving rise to a claim under this Policy and (if applicable) in the aggregate.
- (iii) It is further understood that the insured parties will at all times preserve and enforce the various contractual agreements entered into by the insured parties and the contractual remedies of such parties in the event of physical loss or damage.
- (iv) It is further understood and agreed that Company shall be entitled to avoid liability to or (as may be appropriate) claim damages from any of the Named insured parties in circumstances of fraud, misrepresentation, non-disclosure or breach of any warranty or condition of this Policy committed by that insured party each referred to in this Condition as a Vitiating Act.



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- (v) It is however agreed that (save as provided in this Multiple Insured's Condition) a Vitiating Act committed by one insured party shall not prejudice the right to indemnity of any other insured party who has an insurable interest and who has not committed a Vitiating Act.
- (vi) Company hereby agree to waive all rights of subrogation for which they may have or acquire against any insured party except where the rights of subrogation or recourse are acquired in consequence or otherwise following a Vitiating Act in which circumstances Insurers may enforce such rights notwithstanding the continuing or former status of the vitiating party as an Insured

10. TRIA Purchased (LMA5090)/ Not Purchased (LMA5092 amended)

This Policy Condition is issued in accordance with the terms and conditions of the "U.S. Terrorism Risk Insurance Act of 2002" as amended as summarized in the disclosure notice.

In consideration of an additional premium as stated in the Project Declaration it is hereby noted and agreed with effect from 1 January 2015 that the Terrorism exclusion to which this Insurance is subject, shall not apply to any "insured loss" directly resulting from any "act of terrorism" as defined in the "U.S. Terrorism Risk Insurance Act of 2002", as amended ("TRIA").

In the event that the Premium as shown in the Project Declaration is not paid to the Underwriter(s) by the Payment Date specified in the accompanying Notice, then said Terrorism exclusion will be fully reinstated from 1 January 2015.

The coverage afforded by this Policy Condition is only in respect of any "insured loss" of the type insured by this Insurance directly resulting from an "act of terrorism" as defined in TRIA. The Terrorism exclusion, to which this Insurance is subject, applies in full force and effect to any other losses and any act or events that are not included in said definition of "act of terrorism".

This Policy Condition only affects the Terrorism exclusion to which this Insurance is subject. All other terms, conditions, insured coverage and exclusions of this Insurance including applicable limits and deductibles remain unchanged and apply in full force and effect to the coverage provided by this Insurance.

Furthermore the Underwriter(s) will not be liable for any amounts for which they are not responsible under the terms of TRIA (including subsequent action of Congress pursuant to the Act) due to the application of any clause which results in a cap on Underwriter's liability for payments for terrorism losses.

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End of Section II – Policy Conditions



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SECTION III – DEFINITIONS

1. Contaminants or Pollutants

Any material which, after its release, can cause or threaten damage to human health or human welfare or which can cause or threaten damage, deterioration, loss of value, marketability or loss of use to Covered Property hereunder as listed in the Federal Water Pollution Control Act, Clean Air Act, Resource Conservation and Recovery Act of 1976, and Toxic Substances Control Act, or as designated by the US Environmental Protection Agency.

2. Earthquake

- A. Earthquake means all land movement as a direct result of seismic activity, including shocks, tremors, volcanic action, earth rising or shifting, landslide, subsidence, sinkhole, and rock fall.
- B. Direct physical loss or damage by fire or explosion resulting from Earthquake as defined above, will not be considered loss by Earthquake within the terms and conditions of this policy.

3. Flood

Flood means:

- A. A general and temporary condition of partial or complete inundation of normally dry land areas, including dewatered areas, from:
 - 1) The rising, overflow, or expansion beyond normal boundaries of any body of water or watercourse, whether such body of water or watercourse is natural or man made;
 - 2) The release or breaking of the boundaries of natural or man-made bodies of water or watercourses including the release or overflow of any water impounded by a dam, dike, reservoir or any other barrier or diversionary device;
 - 3) Tsunami, waves, tide or tidal waters;
 - 4) The unusual and rapid accumulation or runoff of surface waters from any source;
 - 5) Mudslides or mudflows where mudslide or mudflows means a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current; or the spray from any of the foregoing, whether driven by wind or not.
- B. Direct physical loss or damage by fire or explosion resulting from Flood as defined above, will not be considered loss by Flood within the terms and conditions of this policy.

4. Insured Project

Work which the Named Insured is contractually obligated to perform in accordance with the contract documents being more fully described and located as set forth in the Declarations

5. Landscaping Materials

Trees, plants, shrubs, grass and lawns planted as part of the **Insured Project**, but excluding such materials that already exist at the location of the **Insured Project** prior to the start of the project.



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6. Named Storm

Named Storm means wind, wind gusts, hail, rain, tornadoes, or cyclones and storm surge caused by or resulting from a specific storm system that has been named by the National Hurricane Center (NHC) or the Central Pacific Hurricane Center (CPHC) or any comparable worldwide equivalent beginning when such organization issues a watch or warning and ending 72 hours after the termination of the watch or warning;

7. Occurrence

With the exception of the perils of **Earthquake, Flood, and Named Storm, Occurrence** includes all losses or damages that are attributable directly or indirectly to one cause or a series of causes and includes all resultant or concomitant losses wherever located. All such losses or damages will be treated as one **Occurrence**. As respects the peril of **Earthquake, Occurrence** shall mean all losses or damages arising during a continuous period of one hundred and sixty eight (168) hours during the term of this Policy. The Insured may elect the moment when the one hundred and sixty eight (168) hour period begins, but no two such periods shall overlap. Such **Earthquake** shall be deemed to be a single **Occurrence** within the meaning of this Policy. As respects the peril of **Named Storm, Occurrence** shall mean all losses or damages arising during a continuous period of seventy-two (72) hours during the term of this Policy. The Insured may elect the moment when the seventy-two (72) hour period begins, but no two such periods shall overlap. Such **Named Storm** shall be deemed to be a single **Occurrence** within the meaning of this Policy. As respects the peril of **Flood, Occurrence** shall mean all losses or damages arising during a continuous condition as defined in the definition of **Flood**. The Company shall not be liable for any such loss or damage occurring before the effective date and time or occurring after the expiration date and time of this Policy.

8. Property under Construction

All property, including materials, supplies, equipment, machinery, and other property of a similar nature, being property of the Insured or of others for which the insured may have assumed responsibility, that will become a permanent part of the **Insured Project**, the value of which has been included in the **Estimated Contract Value** declared by the first Named Insured, all when used or to be used in site preparation (including demolition of existing structures as required by the contract), fabrication or assembly, installation or erection, alteration, renovation or construction of the **Insured Project**.

9. Software Loss

Loss of or damage to any program, software or operating system, programming instruction or data arising out of or resulting from any failure, malfunction, deficiency, deletion, fault, **Virus** or corruption. **Software Loss** includes loss or damage resulting from any authorized or unauthorized access in, of or to any computer, communication system, file server, networking equipment, computer system, computer hardware, data processing equipment, computer memory, microchip, microprocessor (computer chip), integrated circuit or similar device in computer equipment, any program, computer software or operating systems, programming instructions or data.

10. Temporary Work

All scaffolding (including scaffolding erection costs), formwork, falsework, shoring, fences, and temporary buildings or structures, including office and job site trailers, all incidental to the project, the value of which has been included in the **Estimated Contract Value** of the **Insured Project** declared by the Named Insured.

11. Estimated Contract Value

The total value of **Property Under Construction, Temporary Works**, existing structures (when included in the Project Declaration) and **Landscaping Materials**; plus labor costs that will be expended in the **Insured Project**;



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plus site general conditions, construction management fees, and contractor's profit and overhead, all as stated in the Project Declaration.

12. Actual Project Value in Place

The actual project value that has already been constructed, erected or installed (including existing structures, if covered by this policy); plus **Covered Property** that is waiting to be constructed, erected or installed, all while at the location of the **Insured Project** immediately prior to the loss or damage.

13. Virus

Any software, data or code that affects the operation or functionality of any computer, communication system, file server, networking equipment, computer system, computer hardware, data processing equipment, computer memory, microchip, microprocessor (computer chip), integrated circuit or similar device in computer equipment, program, computer software or operating systems, programming instructions or data including any destructive program, computer code, computer virus, worm, logic bomb, denial of service attack, smurf attack, vandalism, Trojan Horse or any other data introduced into any electronic system causing deletion, destruction, degradation, corruption, malfunction or compromise to data, software or electronic business systems.

14. Water Damage

All loss or damage caused by water, whatever the source, whether or not driven by wind, other than that otherwise covered as **Flood** or **Named Storm**.

15. Additional Interest / Financing Expenses

Includes: (1) Additional interest charged by lenders to extend or renew interim financing, and interest and/or principal payments that are due and must be paid whether or not the **Insured Project** is operational or not; and (2) Additional costs incurred to obtain new financing for the project should the financing expire or be non renewed as well as additional loan fees incurred to rearrange financing necessary to complete the **Insured Project**;

16. Anticipated Date Of Completion

The date stated in the Project Declaration on which the work is scheduled to be completed for commencement of commercial operations or use and occupancy.

17. Construction Schedule

The time table, critical path, time line, bar chart or other scheduling vehicle setting out the times for starting and completing each of the operations required for the construction of the **Insured Project**.

18. Deductible Period

The number of calendar days stated in the Project Declaration, beginning at the **Anticipated Date Of Completion**.

19. Delay

The period of time between the **Anticipated Date Of Completion** and the actual date on which commercial operations or use and occupancy can commence with the exercise of due diligence and dispatch.

20. Delay In Completion Coverages

Consist of Loss of **Rental Income**, Loss of **Gross Earnings**, , as scheduled in the Project Declaration



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21. Gross Earnings

Gross revenues from the planned operation of the **Insured Project** upon occupancy or commercial service which are not realized during the **Period Of Indemnity** and which would have been earned by the Named Insured if the **Delay** had not occurred, less non-continuing expenses.

22. Period Of Indemnity

The number of calendar days or months stated in the Project Declaration which are in excess of the **Deductible Period**. The Period of Indemnity for any insured **Delay** hereunder shall not be limited or otherwise affected by the expiration, cancellation or termination of the Policy.

23. Rental Income

Shall mean net rental income that would have been earned had there been no direct physical loss or damage, less any necessary charges or expenses which do not continue during the Delay.
Rental Income does not mean bank interest or investment income

24. Construction Documents

In respect of Loss of Section 42 Low Income Housing Tax Credit coverage this shall mean construction contracts, construction management contracts, construction budgets and construction time lines.

25. Loss of Section 42 Low Income Housing Tax Credit

Shall mean the inability of the Insured(s), to claim Low Income Housing Tax Credits as per Section 42 of the Internal Revenue Code of 1986, as amended, according to the timeline projected in the "Partnership Agreement.

26. Partnership Agreement

In respect of Loss of Section 42 Low Income Housing Tax Credit coverage this shall mean the agreement of limited partnership of the first named insured outlining the duties and benefits received by its partners.

27. Gulf Locations

Gulf locations for the purpose of the Named Wind Storm Deductible are defined as follows:

State/ Country	Countries/ Areas
Alabama	Baldwin, Mobile
Florida	Entire State
Louisiana	Parishes of: Acadia, Ascension, Assumption, Cameron, Calcasieu, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John the Baptist, Saint Helena, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge, West Feliciana
Mississippi	George, Hancock, Harrison, Jackson, Pearl River, Stone
Texas	Aransas, Bee, Brazoria, Brooks Calhoun, Cameron, Chambers, Fort Bend, Galveston, Goliad, Hardin, Harris, Hidalgo, Jackson, Jasper, Jefferson, Jim Wells, Kenedy, Kleberg, Liberty, Live Oak, Matagorda, Newton, Nueces, Orange, Refugio, San Patricio, Victoria, Wharton, Willacy

End of Section III – Definitions



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SECTION IV - CONSTRUCTION PROPERTY GENERAL CONDITIONS

1. Observance of Conditions

The due observance and fulfilment of the terms and conditions of this Policy by the Named Insured, insofar as they relate to anything to be done or complied with by them, shall be a condition precedent to any liability of the Company to make payment for loss under this Policy.

2. Increased Hazard

If the circumstances in which this insurance was entered into shall be materially altered or if the risk shall be materially increased, the Named Insured shall give notice in writing to the Company within thirty (30) days of the Named Insured's knowledge of the same.

3. Misrepresentation and Fraud

The Project Declaration shall be void if the Named Insured stated in that Project Declaration has intentionally concealed or misrepresented any material fact or circumstances concerning this insurance or the subject thereof, or in case of any fraud, attempted fraud or false swearing by the Named Insured touching any matter relating to this insurance or the subject thereof, whether before or after a loss save as provided for in the Multiple Insured Policy Condition 9.

4. Errors and Omissions

No unintentional errors or omissions in any information relative to this insurance or required to be reported to the Company in compliance with the requirements of this Policy will prejudice the Named Insured's right of recovery, but will be reported to the Company within thirty (30) days of the Named Insured's discovery of the same.

5. Inspection and Audit

The Company can inspect Covered Property at any reasonable time. However, neither the Company's inspection nor any report thereof can serve as any representation that the Covered Property or operations are safe or healthful, or that they comply with any law, rule or regulation. During the Policy period and within one year after the final termination of the policy, the Company may examine and audit the Named Insured's books and records at any reasonable time, as long as such relates to the subject matter of this Policy.

6. Examination Under Oath

The Named Insured shall submit and shall cause all other persons to submit, so far as is within their power, to examination under oath by any persons named by the Company relative to any and all matters in connection with a claim and shall produce for examination all books of account, bills, invoices, and other vouchers or certified copies thereof if originals are lost, at such reasonable time and place as may be designated by the Company or its representatives and shall permit extracts and copies thereof to be made.



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7. Duties In Case Of Loss

A. Notice of loss

The Named Insured will report in writing to the Company every loss **Occurrence** which may give rise to a claim under this Policy as soon as practicable, but not later than sixty (60) days, after it becomes known to the Named Insured.

B. Payment of Loss

All adjusted claims, including partial payments thereon, will be due and payable no later than sixty (60) days after presentation and acceptance of proof of loss or partial proof of loss, as the case may be, by this Company or its appointed representative.

9. Protection of Property After Loss

When Covered Property has sustained direct physical loss or damage by an insured peril, the Named Insured will take reasonable steps to protect, recover or save the damaged Covered Property and minimize any further loss or damage.

The acts of the Named Insured or the Company in protecting, recovering or saving the damaged Covered Property will not be considered a waiver or an acceptance of abandonment. The Named Insured and the Company will bear the expense incurred proportionate to their respective interests.

The foregoing shall not serve to increase the Limit(s) of Liability stated in the Policy and shall be subject to the deductible provisions of the Policy to which these Conditions are attached.

10. Assistance and Cooperation Of The Named Insured

The Named Insured shall cooperate with the Company and upon the Company's request and expense, shall attend hearings and trials and shall assist in effecting settlements, in securing and giving evidence, in obtaining the attendance of witnesses, and in conducting suits.

11. Partial Loss

The Company hereby grants permission to repair partial damage to Covered Property that can be conveniently and advantageously undertaken to protect Covered Property from further damage. The Company will reimburse the Insured who has suffered the loss for the actual cost of such repairs, subject always to the terms and conditions of this policy. Nothing in this clause shall be deemed to have waived the requirement that notice of loss be given to the Company as provided in the Policy.

12. Subrogation

If the Company pays a claim under this Policy, they will be subrogated, to the extent of such payment, to all the Insured's rights of recovery from other persons, organizations and entities. The Named Insured will execute and deliver instruments and papers and do whatever else is reasonably necessary to secure such rights.

The Company will have no rights of subrogation against:

- A.** Any person or entity, which is a Named Insured or an Additional Named Insured except as provided for in Policy Condition 9;
- B.** Any other person or entity, which the Insured has waived its rights of subrogation against in writing before the time of loss;

It is a condition of this Policy that the Company shall be subrogated to all the Named Insured's unwaived rights of recovery, if any, against any third party Architect or Engineer, whether named as an Insured or not, for any



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loss or damage arising out of the performance of professional services in their capacity as such and caused by any error, omission, deficiency or act of the third party Architect or Engineer, by any person employed by them or by any others for whose acts they are legally liable.

Notwithstanding the foregoing, it is a condition of this Policy that the Company shall be subrogated to all the Named Insured's rights of recovery against any manufacturer or supplier of machinery, equipment or other property, whether named as an Insured or not, for the cost of making good any loss or damage which said party has agreed to make good under a guarantee or warranty, whether expressed or implied.

The Insured will act in concert with the Company and all other interest concerned in the exercise of such rights of recovery. The Insured will do nothing after a loss to prejudice such rights of subrogation.

If any amount is recovered as a result of such proceedings, the net amount recovered after deducting the costs of recovery, will accrue first to the Company up to the amount of loss paid. Any excess of this amount will be remitted to the Insured. If there is no recovery, the interests instituting the proceedings will bear the expense of the proceedings proportionately.

14. Excess Insurance

The Insured may have excess insurance over the limit of liability set forth in this Policy without prejudice to this Policy, nor will the existence of such insurance, if any, reduce any liability under this Policy.

15. Other Insurance

This Policy provides primary cover for the Insured. In the event of Section 1A Damage (for which the Named Insured is indemnified by this Policy) which is also covered either in whole or in part under any other policy or policies effected by or on behalf of the Named Insured, the Company will indemnify the Named Insured as if such other policy or policies of insurance were not in force. Company hereon waive their rights of recourse against the Insurers of such other policy or policies, except to the extent expressly provided for elsewhere in this Policy.

16. Underlying Insurance

The Named Insured may purchase insurance on all or any part of the Terms and Conditions of this Policy. The existence of such underlying insurance shall not prejudice or affect any recovery otherwise payable under this Policy.

17. Recovery Or Salvage

Any recovery or salvage (excluding proceeds from subrogation and other insurance recovered or received) after a loss settlement under this Policy or any recovery from suretyship, insurance, reinsurance, security or indemnity taken by or for the benefit of the Company will apply as if recovered or received prior to the loss settlement and the loss will be readjusted accordingly.

18. Bankruptcy Or Insolvency

Bankruptcy or insolvency of the Named Insured shall not relieve the Company of any of its obligations under this Policy.

19. Brands & Trademarks

In case of loss or damage by a peril insured to Covered Property bearing a brand, trademark or label, the Company may take all or any part of the property at any agreed or appraised value. If so, the Named Insured may, at their own expense:

- A. Stamp salvage on the property or its container, if the stamp will not physically damage the property; or
- B. Remove the brand, trademark or label, if doing so will not physically damage the property. The Named Insured must re-label the property or its container to comply with the law.



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20. Entry, Control, And Abandonment

After loss or damage to Covered Property, the Company shall have an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property and to make an estimate of the loss or damage and, after the Insured has secured the property, a further right of access and entry sufficient to enable them to make an appraisal or estimate of the loss or damage. The Company shall not be entitled to the control or possession of the property and without the consent of the Company there can be no abandonment of the Covered Property.

22. Appraisal

If the Named Insured and the Company fail to agree as to the value of the property or the amount of loss, either may make written demand for an appraisal. In this event, each party will choose a competent, disinterested, and impartial appraiser, who has no direct or indirect financial interest in the claim. Each will notify the other of the appraiser selected within 20 days of such demand. The Insured may not invoke appraisal unless it has first fully complied with all provisions of this Policy, including Duties in the Event of Loss and has provided the Company with a signed and sworn statement of loss.

The appraisers will then select a competent, disinterested and impartial umpire. If they cannot agree upon an umpire within 15 days, either may request the selection by a judge of a court having jurisdiction.

The appraisers will then appraise the value of the property or the amount of loss, stating the value as of the date of loss and the amount of loss, for each item of physical loss or damage, and, if provided, the amount of loss for **Delay in Completion Coverage**. If the appraisers fail to agree, they will submit their differences to the umpire. A decision in writing, so itemized, of any two will be binding.

Once the award is determined, the Company retains the right to apply all policy terms and conditions (including deductibles, exclusions, and Limits of Liability) to the award. The Company further retains its right to deny the claim in whole or in part.

The Named Insured and the Company will each pay its chosen appraiser and bear equally the other expenses of the appraisal and umpire.

23. Alternative Dispute Resolution

If the Company and the Named Insured disagree, after making a good faith effort to reach an agreement on an issue concerning this Policy, either party may request that the following procedure be used to settle such disagreement:

- A. The Company or the Named Insured may request of the other in writing that the dispute be settled according to an alternative dispute resolution procedure.
- B. If the Company and the Named Insured agree to proceed, they will jointly select an alternative dispute resolution technique for resolution of the dispute.
- C. If the parties cannot agree on a method to resolve the issue in dispute within sixty days of written request, the parties will contact either the American Arbitration Association or the state mediation or dispute resolution service and will use their services to select or devise a dispute resolution mechanism.
- D. Alternative dispute resolution procedures that may be used include mediation, binding arbitration and mini-trials, except where prohibited by applicable law or regulation.
- E. All expenses of the alternative dispute resolution procedure will be shared equally by both parties.
- F. Any decision or award made as a result of the alternative dispute resolution procedure shall always be limited by the Coverage Terms and Conditions, Limits, Sublimits and Aggregate Limits of Liability of this Policy.



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- G. Any statute of limitation that may be applicable to the dispute shall be tolled, with respect to such dispute, from the date that the Company and the Named Insured agree to follow the procedure set forth herein until and including the date that such procedure is concluded.

If the Named Insured so requests, the Company hereby agrees to use the alternative dispute resolution procedure described above to resolve all issues concerning this Policy except the following:

- A. Any dispute involving asbestos including loss, damage or debris removal expense.
- B. Any dispute involving debris removal expense for **Contaminants Or Pollutants**.
- C. Any dispute where coverage is denied based on arson or other attempted fraud by the Named Insured
- D. Any dispute within the scope of and governed by the **Appraisal** clause, above.

24. Assignment

Except in the event of an authorized assignment under the Bankruptcy Act or a change of title by succession, operation of law or death, the Named Insured will not to transfer any legal rights or interests in the Policy without the Company's written consent.

25. Benefit To Bailee

This Policy will not inure, directly or indirectly, to the benefit of any carrier or bailee.

26. Suit Against The Company

No suit or action on this Policy for the recovery of any claim will be sustainable in any court of law or equity unless the Insured will have fully complied with all the requirements of this Policy. Any action or proceeding against the Company for recovery of any loss under this Policy will not be barred if commenced within (12) twelve months after the **Occurrence** becomes known to the Named Insured unless a longer period of time is required by applicable statute.

27. Conformance To Statutes

If any article(s) contained within this policy conflict(s) with the laws or statutes of any jurisdiction within which this Policy, such Article(s) is(are) hereby amended to conform to said laws or statutes.

28. Titles Of Paragraphs

The several titles of the various paragraphs of the Policy and/or endorsements are inserted for reference and shall not be deemed in any way to affect the provisions to which they relate.

End of Section IV – Construction Property General Conditions



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ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT

THIS ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT (the “*Agreement*”) is made as of the 1st day of May, 2017, between **BVSHSSF SYRACUSE, LLC** (the “*Indemnitor*” or the “*Company*”), for the benefit of the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY** (the “*Agency*”).

RECITALS

WHEREAS, the Agency has undertaken at the request of the Indemnitor, a project (the “*Project*”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street), in the City of Syracuse, New York, as more fully described on **Schedule A** attached hereto (the “*Land*”); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet consisting of new four and five story buildings for use as a mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces, all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

NOW, THEREFORE, in consideration of the premises, Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Indemnitor, intending to be legally bound, hereby agrees as follows:

1. **Recitals; Definitions.**

(a) The foregoing recitals are incorporated into this Agreement by this reference.

(b) Capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Schedule of Definitions attached to the Agency Lease as Exhibit “C.”

2. **Representations and Warranties.**

(a) Except as disclosed in Schedule B annexed hereto, Indemnitor represents and warrants that it has no knowledge of any deposit, storage, disposal, burial, discharge, spillage, uncontrolled loss, seepage or filtration of oil, petroleum or chemical liquids or solids, liquid or gaseous products or any hazardous wastes or hazardous substances (collectively, "***Hazardous Substances***"), as those terms are used in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or in any other federal, state or local law governing hazardous substances, as such laws may be amended from time to time (collectively, the "***Hazardous Waste Laws***"), at, upon, under or within the Project Facility or any contiguous real estate, and (ii) it has not caused or permitted to occur, and shall not permit to exist, any condition which may cause a discharge of any Hazardous Substances at, upon, under or within the Project Facility or on any contiguous real estate.

(b) Except as disclosed in the reports listed on Schedule B annexed hereto, Indemnitor further represents and warrants that (i) it has not been nor will be involved in operations at or near the Project Facility which operations could lead to (A) the imposition of liability on Indemnitor or on any subsequent or former owner of the Project Facility under the Hazardous Waste Laws or under any similar laws or regulations or (B) the creation of a lien on the Project Facility under the Hazardous Waste Laws or under any similar laws or regulations; and (ii) it has not permitted, and will not permit, any tenant or occupant of the Project Facility to engage in any activity that could impose liability under the Hazardous Waste Laws on such tenant or occupant, on Agency, the Indemnitor or on any other owner of any of the Project Facility.

3. **Covenants.**

(a) Indemnitor shall comply strictly and in all respects with the requirements of the Hazardous Waste Laws and related regulations and with all similar laws and regulations affecting the Project Facility and shall notify Agency immediately in the event of any discharge or discovery of any Hazardous Substance at, upon, under or within the Project Facility which is not otherwise already disclosed in Schedule B. Indemnitor shall promptly forward to Agency copies of all orders, notices, permits, applications or other communications and reports in connection with any discharge or the presence of any Hazardous Substance or any other matters relating to the Hazardous Waste Laws or any similar laws or regulations, as they may affect the Project Facility.

(b) Promptly upon the written request of Agency, Indemnitor shall provide Agency, at Indemnitor's expense, with an environmental site assessment or environmental audit report prepared by an environmental engineering firm acceptable to the requesting Person, to assess with a reasonable degree of certainty the presence or absence of any Hazardous Substances and the potential costs in connection with abatement, cleanup or removal of any Hazardous Substances found on, under, at or within the Project Facility.

4. **Indemnity.**

(a) Indemnitor shall at all times indemnify and hold harmless Agency against and from any and all claims, suits, actions, debts, damages, costs, losses, obligations, judgments, charges, and expenses, of any nature whatsoever suffered or incurred by Agency, whether as contract vendor, owner, mortgagee, as mortgagee in possession, or as successor-in-interest to Indemnitor by foreclosure deed or deed in lieu of foreclosure, under or on account of the Hazardous Waste Laws or any similar laws or regulations, including the assertion of any lien thereunder, with respect to:

(1) any discharge of Hazardous Substances, the threat of a discharge of any Hazardous Substances, or the presence of any Hazardous Substances affecting the Project Facility whether or not the same originates or emanates from the Project Facility or any contiguous real estate including any loss of value of the Project Facility as a result of any of the foregoing;

(2) any costs of removal or remedial action incurred by the United States Government or any costs incurred by any other person or damages from injury to, destruction of, or loss of natural resources, including reasonable costs of assessing such injury, destruction or loss incurred pursuant to any Hazardous Waste Laws;

(3) liability for personal injury or property damage arising under any statutory or common law tort theory, including, without limitation, damages assessed for the maintenance of a public or private nuisance or for the carrying on of an abnormally dangerous activity at or near the Project Facility; and/or

(4) any other environmental matter affecting the Project Facility within the jurisdiction of the Environmental Protection Agency, any other federal agency, or any state or local agency.

The obligations of Indemnitor under this Agreement shall arise whether or not the Environmental Protection Agency, any other federal agency or any state or local agency has taken or threatened any action in connection with the presence of any Hazardous Substances.

(b) In the event of any discharge of Hazardous Substances, the threat of a discharge of any Hazardous Substances, or the presence of any Hazardous Substances affecting the Project Facility, whether or not the same originates or emanates from the Project Facility or any contiguous real estate, and/or if Indemnitor shall fail to comply with any of the requirements of the Hazardous Waste Laws or related regulations or any other environmental law or regulation, Agency may at its election, but without the obligation so to do, give such notices and/or cause such work to be performed at the Project Facility and/or take any and all other actions as Agency shall deem necessary or advisable in order to abate the discharge of any Hazardous Substance, remove the Hazardous Substance or cure the noncompliance of Indemnitor.

(c) Indemnitor acknowledges that Agency has relied upon the representations, warranties, covenants and indemnities of Indemnitor in this Agreement. All of the representations, warranties, covenants and indemnities of this Agreement shall survive the repayment of Indemnitor's obligations under the Agency Lease or other Company Documents.

5. **Attorney's Fees.** If Agency retains the services of any attorney in connection with the subject of the indemnity herein, Indemnitor shall pay Agency's costs and reasonable attorneys' fees thereby incurred. Agency may employ an attorney of its own choice.

6. **Interest.** In the event that Agency incurs any obligations, costs or expenses for which Indemnitor owes indemnity to the Agency under this Agreement, Indemnitor shall pay such Person promptly on demand, and if such payment is not received within ten (10) days, interest on such amount shall, after the expiration of the ten-day period, accrue at the interest rate set forth in the Agency Lease until such amount, plus interest, is paid in full.

7. **No Waiver.** Notwithstanding any terms of the Company Documents to the contrary, the liability of Indemnitor under this Agreement shall in no way be limited or impaired by: (i) any extensions of time for performance required by any of the Company Documents; (ii) any sale, assignment or foreclosure of the Agency Lease or any sale or transfer of all or part of the Project Facility; (iii) the accuracy or inaccuracy of the representations and warranties made by Indemnitor under any of the Company Documents; or (iv) the release of Indemnitor or any other person from performance or observance of any of the agreements, covenants, terms or conditions contained in the Company Documents by operation of law, Agency's voluntary act, or otherwise; and, in any such case, whether with or without notice to Indemnitor and with or without consideration.

8. **Waiver by Indemnitor.** Indemnitor waives any right or claim of right to cause a marshalling of Indemnitor's assets or to cause Agency to proceed against any of the security for the Agency Lease before proceeding under this Agreement against Indemnitor or to proceed against Indemnitor in any particular order; Indemnitor agrees that any payments required to be made hereunder shall become due on demand; Indemnitor expressly waives and relinquishes all rights and remedies (including any rights of subrogation) accorded by applicable law to indemnitors or guarantors.

9. **Releases.** Any one or more of Indemnitor and any other party liable upon or in respect of this Agreement or the Agency Lease may be released without affecting the liability of any party not so released.

10. **Amendments.** No provision of this Agreement may be changed, waived, discharged or terminated orally, by telephone or by any other means except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

11. **Joint and Several Liability.** In the event that this Agreement is executed by more than one party as Indemnitor, the liability of such parties is joint and several. A separate

action or actions may be brought and prosecuted against each Indemnitor, whether or not an action is brought against any other person or whether or not any other person is joined in such action or actions.

12. **Consent to Jurisdiction.** Indemnitor consents to the exercise of personal jurisdiction over Indemnitor by any federal or state court in the State of New York and consent to the laying of venue in any jurisdiction or locality in the City of Syracuse. Service shall be effected by any means permitted by the court in which any action is filed.

13. **Notices.** All notices, certificates, and other communications hereunder shall be in writing, shall be sufficiently given, and shall be deemed given when (a) sent to the applicable address stated below by registered or certified mail, return receipt requested, and actually received by the intended recipient or by overnight courier or such other means as shall provide the sender with documentary evidence of such delivery, or (b) delivery is refused by the addressee as evidenced by the affidavit of the Person who attempted to effect such delivery. The addresses to which notices, certificates, and other communications hereunder shall be delivered are as follows:

(a) If to the Agency, to:

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202
Attention: Chairman

With a copy to:

City of Syracuse
233 East Washington Street
Syracuse, New York 13202
Attn: Corporation Counsel

(b) To the Company:

BVSHSSF Syracuse, LLC
353 North Clark Street
Chicago, Illinois 60654
Attn: Ronald W. Koretz

With a copy to:

Robert Smith, Esq.
Costello, Cooney and Fearon, PLLC
500 Plum Street, Suite 300
Syracuse, New York 13204

The Agency and the Company, may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, and other communications shall be sent.

14. **Waivers.** The parties waive trial by jury in any action brought on, under or by virtue of this Agreement. Indemnitor waives any right to require Agency at any time to pursue any remedy in such Person's power whatsoever. The failure of Agency to insist upon strict compliance with any of the terms hereof shall not be considered to be a waiver of any such terms, nor shall it prevent Agency from insisting upon strict compliance with this Agreement or any other Company Document at any time thereafter.

15. **Severability.** If any clause or provisions herein contained operates or would prospectively operate to invalidate this Agreement in whole or in part, then such clause or provision shall be held for naught as though not contained herein, and the remainder of this Agreement shall remain operative and in full force and effect.

16. **Inconsistencies Among the Company Documents.** Nothing contained herein is intended to modify in any way the obligations of Indemnitor under the Agency Lease or any other Company Document. Any inconsistencies among the Company Documents shall be construed, interpreted and resolved so as to benefit Agency.

17. **Successors and Assigns.** This Agreement shall be binding upon Indemnitor's successors, assigns, heirs, personal representatives and estate and shall inure to the benefit of Agency and its successors and assigns.

18. **Controlling Laws.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

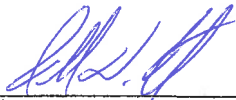
[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Indemnitor has executed this Agreement as of the date first above written.

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company,
its sole Member

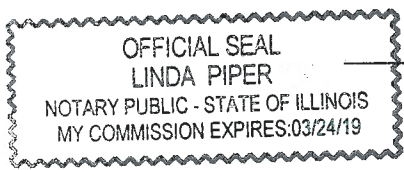
By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

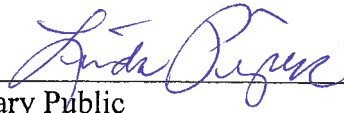
By: 

Ronald W. Koretz, Senior Vice President

STATE OF ILLINOIS)
) SS.:
COUNTY OF COOK)

On the 17 day of May, in the year 2017 before me, the undersigned, a notary public in and for said state, personally appeared **Ronald W. Koretz**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.





Notary Public

SCHEDULE "A"

LEGAL DESCRIPTION

EXHIBIT A

LEGAL DESCRIPTION

NEW LOT No. 100, RESUBIVISION OF PART OF LOT Nos. 18, 19, 21, LOT Nos. 22, 23, 24, 25, 26, 27 & 28 AND ADDITIONAL LANDS PART OF BLOCK No. 240, CITY OF SYRACUSE

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block No. 240 in said City, being New Lot No. 100 of Resubivision of Part of Lot Nos. 18, 19, 21, Lot Nos. 22, 23, 24, 25, 26, 27 & 28 and additional lands according to a map by Ianuzi & Romans Land Surveying, P.C. dated August 11, 2016, last revised December 12, 2016 filed in the Onondaga County Clerk's Office on February 28, 2017, as Map No. 12334, bounded and described as follows:

Beginning at the intersection of the northerly boundary of East Genesee Street with the westerly boundary of South Crouse Avenue (Chestnut Street, formerly), said point being the southeasterly corner of said Block No. 240; running thence N 83°37'20" W along said northerly boundary of East Genesee Street, a distance of 155.32 feet to the easterly boundary of lands conveyed to Caserta, LLC by deed recorded in the Onondaga County Clerk's Office in Book 4912 of Deeds at page 523; thence N 00°29'40" E along said easterly boundary of lands conveyed to Caserta, LLC, a distance of 84.87 feet to the northeasterly corner thereof; thence N 89°30' 50" W along the northerly boundary of said lands conveyed to Caserta, LLC, a distance of 100.51 feet to the easterly boundary of Irving Avenue; thence N 00°29'40" E along said easterly boundary of Irving Avenue, a distance of 240.42 feet to a southerly boundary of lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 69; thence S 89°30'50" E along said southerly boundary

of lands conveyed to 900 East Fayette Group, LLC, a distance of 123.01 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC, a distance of 65.00 feet to a southwesterly corner of other lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 78; thence S 89°30'50" E along the southerly boundary of said other lands conveyed to 900 East Fayette Group, LLC and along a southerly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 42.0 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 100.0 feet to the southerly boundary of East Fayette Street; thence S 89°30'50" E along said southerly boundary of East Fayette Street, a distance of 90.0 feet to the aforementioned westerly boundary of South Crouse Avenue (Chestnut Street, formerly); thence S 00°29'40" W along said westerly boundary of South Crouse Avenue (Chestnut Street, formerly), a distance of 506.23 feet to the point of beginning.

Section: 48

Block: 5

Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

Common Address: 919 East Genesee Street, Syracuse, New York

SCHEDULE "B"

EXCEPTIONS

Hazardous Substances, events and conditions set forth in that certain Phase I Environmental Site Assessment prepared by CHA Consulting, Inc., dated May 26, 2016, and related to the Project Facilities

Hazardous Substances, events and conditions set forth in that certain Limited Subsurface Investigation Report prepared by CHA Consulting, Inc., dated July 20, 2016, and related to the Project Facilities

Memorandum Regarding Subsurface Investigation and Soil Management Plan prepared by CHA Consulting, Inc., dated July 28, 2016, and related to the Project Facilities

10

CLOSING RECEIPT

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY LEASE/SUBLEASE TRANSACTION BVSHSSF SYRACUSE, LLC

CLOSING RECEIPT executed May 19, 2017 by the City of Syracuse Industrial Development Agency (the “*Agency*”) and **BVSHSSF SYRACUSE, LLC** (the “*Company*”) in connection with a certain project (the “*Project*”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street), in the City of Syracuse, New York (the “*Land*”); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet containing new four and five story buildings to be used as mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces, all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*”) and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

WITNESSETH:

(1) The Agency has executed, delivered, sealed and acknowledged, where appropriate, the documents to which it is a party, and acknowledges receipt from the Company of its administrative fee.

(2) The Company has executed, delivered, sealed and acknowledged, where appropriate, the documents to which it is a party.

(Signature page to Closing Receipt)

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

William M. Ryan, Chairman

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company,
its sole Member

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

By: _____

Ronald W. Koretz, Senior Vice President

(Signature page to Closing Receipt)

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
William M. Ryan, Chairman

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company,
its sole Member

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

By: 

Ronald W. Koretz, Senior Vice President

11

City of Syracuse
Industrial Development Agency
City Hall Commons, 7th Floor
201 East Washington Street
Syracuse, NY 13202
Tel (315) 473-3275 Fax (315) 435-3669

May 1, 2017

BVSHSSF Syracuse, LLC
353 North Clark Street
Chicago, Illinois 60654
Attn: Ronald W. Koretz

Re: City of Syracuse Industrial Development Agency
BVSHSSF Syracuse, LLC - Peak Campus Project
Sales Tax Appointment Letter

Dear Mr. Kortez:

Pursuant to a resolution duly adopted on January 24, 2017, the City of Syracuse Industrial Development Agency (the “**Agency**”) appointed BVSHSSF Syracuse, LLC (the “**Company**”) the true and lawful agent of the Agency to undertake a project (the “**Project**”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street), in the City of Syracuse, New York (the “**Land**”); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet containing new four and five story buildings to be used as mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces, all located on the Land (collectively, the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement. The

May 1, 2017

Page 2

amount of State and local sales and use tax exemption benefits comprising the Financial Assistance approved by the Agency for the benefit of the Project shall not exceed **\$1,360,000**.

This appointment includes, and this letter evidences, authority to purchase on behalf of the Agency all materials to be incorporated into and made an integral part of the Project Facility and the following activities as they relate to any renovation, improvement, equipping and completion of any of any buildings, whether or not any materials, equipment or supplies described below are incorporated into or become an integral part of such buildings: (1) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with renovation, improvement and equipping; (2) all purchases, rentals, uses or consumption of supplies, materials, utilities and services of every kind and description used in connection with renovation, improvement and equipping; and (3) all purchases, leases, rentals and uses of equipment, machinery and other tangible personal property (including installation costs), installed or placed in, upon or under such building or facility, including all repairs and replacements of such property, and with respect to such specific purchases or rentals, are exempt from any sales or use tax imposed by the State of New York or any governmental instrumentality located within the State of New York.

This agency appointment includes the power to delegate such agency, in whole or in part, to a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "***Additional Agents***"). Additional Agents must be specifically appointed by the Company in accordance and compliance with the terms of the Agency Lease. The Company hereby agrees to complete "IDA Appointment of Project Operator or Agent for Sales Tax Purposes" (Form ST-60) for itself and each Additional Agent who provide materials, equipment, supplies or services to the Project Facility and deliver said form to the Agency within fifteen (15) days of appointment such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment. The Agency's obligation to execute any Form ST-60 relative to an Additional Agent is subject to the satisfaction of the conditions in the Agency Lease relative to such appointments.

The Company agrees, whenever requested by the Agency, to provide, or cause its Additional Agents to provide and certify, or cause to be certified, such information regarding use of local labor, job creation, exemptions from State and local sales and use tax, real property taxes and mortgage recording taxes and other topics as the Agency from time to time reasonably considers necessary or appropriate, including, but not limited to, such information as to enable the Agency to make any reports required by law or governmental regulation, including but not limited to those required by §875 of the Act.

The Company acknowledges and agrees that pursuant to Section 875(3) of the Act, and in conjunction with the Agency's Recapture of Benefits Policy (the "***Recapture Policy***"), the Agency shall, and in some circumstances may, recover, recapture, receive or otherwise obtain from the Company some or all of the Financial Assistance (the "***Recapture Amount***") in accordance with the Agency's Recapture Policy and the Project Agreement between the Agency and the Company, dated as of May 1, 2017.

Each supplier or vendor should identify the Project Facility on each bill or invoice and indicate thereon which of the Company or its Additional Agents acted as agent for the Agency in making the purchase.

In order to be entitled to use this exemption, you and each Additional Agent should present to the supplier or other vendor of materials for the Project Facility, a completed "IDA Agent or Project Operator Exempt Purchase Certificate" (Form ST-123).

In addition, General Municipal Law §874(8) requires you to file an Annual Statement with the New York State Department of Taxation and Finance ("**NYSDTF**") on "Annual Report of Sales and Use Tax Exemptions" (Form ST-340) regarding the value of sales and use tax exemptions you and your Additional Agents have claimed pursuant to the agency we have conferred on you with respect to this Project. The penalty for failure to file such statement is the removal of your authority to act as our agent. In addition, you must provide a copy of the completed Form ST-340 to the Agency within ten (10) days of the date it is due to be filed with the NYSDTF.

The agency created by this letter is limited to the Project Facility, and will expire on the earlier of: (i) **September 30, 2018**, (ii) the issuance of a certificate of occupancy by the City; or (iii) the termination of the Agency Lease. You may apply to extend this agency authority by showing good cause.

This letter is provided for the sole purpose of evidencing, in part, the exemption from New York State Sales and Use Taxes for this project only. No other principal/agent relationship is intended or may be implied or inferred by this letter.

The Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company shall be the sole party liable thereunder. By acceptance of this letter, the vendor hereby acknowledges the limitations on liability described herein.

Very truly yours

CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY

By:



William M. Ryan, Chairman

12



IDA Appointment of Project Operator or Agent For Sales Tax Purposes

ST-60

(4/13)

The industrial development agency or authority (IDA) must submit this form within 30 days of the appointment of a project operator or agent, whether appointed directly by the IDA or indirectly by the operator or another agent.

For IDA use only

Name of IDA City of Syracuse Industrial Development Agency		IDA project number (use OSC numbering system for projects after 1998) 31021703	
Street address 201 East Washington Street, 7th Floor		Telephone number (315) 448-8127	
City Syracuse		State NY	ZIP code 13202
Name of IDA project operator or agent BVSHSSF Syracuse, LLC		Mark an X in the box if directly appointed by the IDA: <input checked="" type="checkbox"/>	Employer identification or social security number 611800386
Street address 353 North Clark Street		Telephone number (312) 578-0033	Primary operator or agent? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
City Chicago		State IL	ZIP code 60654
Name of project Peak Campus Project (BVSHSSF Syracuse, LLC)		Purpose of project (see instructions) other - commercial	
Street address of project site 945 East Genesee Street			
City Syracuse		State NY	ZIP code
Description of goods and services intended to be exempted from New York State and local sales and use taxes building materials, equipment, fixtures and furnishings installed in the Project Facility			

Date project operator or agent appointed (mm/dd/yy) 03/21/17	Date project operator or agent status ends (mm/dd/yy) 09/30/18	Mark an X in the box if this is an extension to an original project: <input checked="" type="checkbox"/>
Estimated value of goods and services that will be exempt from New York State and local sales and use tax: \$17,000,000	Estimated value of New York State and local sales and use tax exemption provided: \$1,360,000	

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer or employee signing on behalf of the IDA William M. Ryan	Print title Chairman
Signature 	Date 5-9-17
	Telephone number (315) 448-8127

Instructions

Filing requirements

An IDA must file this form within 30 days of the date the IDA appoints any project operator or other person as agent of the IDA, for purposes of extending any sales and compensating use tax exemptions.

The IDA must file a separate form for each person it appoints as agent, whether directly or indirectly, and regardless of whether the person is the primary project operator or agent. If the IDA authorizes a project operator or agent to appoint other persons as agent of the IDA, the operator or agent making such an appointment must advise the IDA that it has done so, so that the IDA can file a form within 30 days of the date of the new agent's appointment. The IDA should not file this form for a person hired to work on an IDA project if that person is not appointed as agent of the IDA. The IDA need not file this form if the IDA does not extend any sales or use tax exemption benefits for the project.

If an IDA modifies a project, such as by extending it beyond its original completion date, or by increasing or decreasing the amount of sales and use tax exemption benefits authorized for the project, the IDA must, within 30 days of the change, file a new form with the new information.

If an IDA amends, revokes, or cancels the appointment of an agent, or if an agent's appointment becomes invalid for any reason, the IDA must, within 30 days, send a letter to the address below for filing this form, indicating that the appointment has been amended, revoked, or cancelled, or is no longer valid, and the effective date of the change. It should attach to the letter a copy of the form it originally filed. The IDA need not send a letter for a form that is not valid merely because the "Completion date of project" has passed.

Purpose of project

For Purpose of project, enter one of the following:

- Services
- Agriculture, forestry, fishing
- Finance, insurance, real estate
- Transportation, communication, electric, gas, sanitary services
- Construction
- Wholesale trade
- Retail trade
- Manufacturing
- Other (specify)

Mailing instructions

Mail completed form to:

**NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227**

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?

Internet access: www.tax.ny.gov
(for information, forms, and publications)

Sales Tax Information Center: (518) 485-2889
To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline
(for persons with hearing and speech disabilities using a TTY): (518) 485-5082

BARCLAY DAMON ^{LLP}

Susan R. Katzoff
Partner

May 23, 2017

VIA CERTIFIED MAIL
7016 1970 0000 3833 2941

New York State Tax Department
IDA Unit
Building 8, Room 738
W.A. Harriman Campus
Albany, New York 12227

Re: IDA Appointment of Project Operator or Agent for Sales Tax Purposes
City of Syracuse Industrial Development Agency Appointment of
BVSHSSF Syracuse, LLC (Peak Campus Project)
IDA Project No. 31021703

Dear Ladies and Gentlemen:

Enclosed for filing on behalf of the City of Syracuse Industrial Development Agency, please find form ST-60 in connection with the appointment by the IDA of BVSHSSF Syracuse, LLC as its agent for sales tax purposes in connection with the IDA project identified therein.

Please do not hesitate to contact me with any questions. Thank you.

Very truly yours,

COPY

Susan R. Katzoff

SRK:llm
Enclosure

USPS TRACKING #



9590 9402 2491 6306 6672 51



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

United States
Postal Service

* Sender: Please print your name, address, and ZIP+4® in this box*

BARCLAY DAMON, LLP
Barclay Damon Tower
125 East Jefferson Street
Syracuse, NY 13202

Attn: Lou McRobbie

05/27



5084112

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1.

New York State Tax Department
IDA Unit
Building 8, Room 738
W.A. Harriman Campus
Albany, New York 12227



9590 9402 2491 6306 6672 51

2. Article Number (Transfer from service label)

7016 1970 0000 3833 2941

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

RECD NY TAX DEPT
ALBANY, NY 12227

MAY 25 2017

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- Return Receipt (hardcopy) \$
- Return Receipt (electronic) \$
- Certified Mail Restricted Delivery \$
- Adult Signature Required \$
- Adult Signature Restricted Delivery \$

Postage

\$

Total Postage and Fees

\$

Sent To

Street and Apt. No., or PO Box No.

City, State, ZIP+4®

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

7016 1970 0000 3833 2941

Postmark
Here

13

12

D1002075 re

		ONONDAGA COUNTY
BASIC TAX	\$	_____
MTG. INS. FUND TAX	\$	_____
NET ADDITIONAL TAX	\$	_____
TOTAL MTG. TAX PAID	\$	_____

This space reserved for Recorder's use only.

**BUILDING LOAN MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

by

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company
and

THE CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY,
A public benefit corporation under the laws of the State of New York

to and for the benefit of

CITIZENS BANK, NATIONAL ASSOCIATION,
a national banking association, in its capacity as administrative agent
for itself and certain other lenders, together with its successors and assigns

Property Address: 919 East Genesee Street
 City and State: Syracuse, New York
 County: Onondaga
 Section: 48
 Block: 5
 Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0,
 12.0 and 13.0]

AFTER RECORDING RETURN TO:

Ginsberg Jacobs LLC
 300 South Wacker Drive, Suite 2750
 Chicago, Illinois 60606
 Attn: Barrett J. Schulz, Esq.

Building Loan

10:53 05/26/17 1722217 MM MB-182949-176

This Building Loan Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing ("Mortgage") is made as of May 19, 2017, by:

BVSHSSF SYRACUSE, LLC, a Delaware limited liability company ("Mortgagor"), having an address at c/o Blue Vista Capital Management, LLC, 353 North Clark Street, Suite 730, Chicago, Illinois 60654, and

THE CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York (the "Agency"), duly organized and existing under the laws of the State of New York, with an office at 201 East Washington Street, 7th Floor, Syracuse, New York 13202.

and

CITIZENS BANK, NATIONAL ASSOCIATION, a national association (in its capacity as administrative agent and together with its successors and assigns, "Administrative Agent", having an address at 71 S. Wacker Drive, Suite IH2915, Chicago, Illinois 60606, as Administrative Agent for those certain lending financial institutions made a party to the Loan Agreement (as defined below) from time to time (such lending financial institutions, together with their respective successors and assigns, the "Lenders").

Mortgagor and Agency (where specifically indicated) state as follows:

A. The Lenders have agreed to make a loan to Mortgagor in the maximum principal amount of Forty-Seven Million Three Hundred Seventy-One Thousand Two Hundred Sixteen and 00/100 Dollars (\$47,371,216.00) (together with all extensions, renewals and modifications thereof, the "Loan") pursuant to the terms of a certain Building Loan Agreement (the "Loan Agreement") dated on or about the date hereof, which Loan is evidenced by, among other things, those certain Building Loan Notes, each dated on or about the date hereof in the maximum aggregate amount of Forty-Seven Million Three Hundred Seventy-One Thousand Two Hundred Sixteen and 00/100 Dollars (\$47,371,216.00) by Mortgagor in favor of Lenders, respectively (individually and collectively, and as the same may be amended, modified and/or restated from time to time, the "Note"); full and final payment of all principal, interest and other amounts payable to Mortgagor with respect to the Loan is due on the date set forth in the Note. Capitalized terms used in this Mortgage and not otherwise defined herein shall have the meaning given such term in the Loan Agreement.

B. Mortgagor and Agency are required, among other things, to execute and deliver this Mortgage for the benefit of the Administrative Agent and the Lenders, as security for the Obligations (as defined herein), which Mortgagor and Agency, where and as indicated, are willing to do in consideration of agreement of the Lenders to make the Loan.

C. Mortgagor is the fee title owner of certain land in the City of Syracuse, County of Onondaga, State of New York, as described on Exhibit A, which is attached hereto and made a part hereof (the "Land"), including all improvements thereon and all rights appurtenant thereto.

D. The Agency obtained a leasehold interest in the Land and improvements pursuant to a lease agreement with the Mortgagor dated as of May 1, 2017 (the "Company Lease") and subleased the Land and improvements back to the Mortgagor pursuant to a sublease agreement with the Mortgagor dated as of May 1, 2017 (the "Sub- Lease" and together with the Company Lease, collectively, the "Agency Leases").

E. The Loan Agreement has been filed with the Office of the Onondaga County Clerk, before recording of this Mortgage.

F. Mortgagor intends and has agreed in the Loan Agreement to pay for costs of improvements (and other items disclosed in Section 22 Lien Law Affidavit identified in the Loan Agreement) incurred after the closing date in the construction, renovation and development of the Project, all as described in the Loan Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor and Agency does hereby irrevocably and unconditionally GRANT, MORTGAGE, WARRANT, BARGAIN, SELL, PLEDGE, REMISE, ALIEN, ASSIGN, CONVEY, TRANSFER, AND SET OVER and, solely with respect to Mortgageor, WARRANT to the Administrative Agent, for the benefit of the Lenders to secure full, timely and complete repayment and performance of the Obligations (as defined herein), all of Mortgageor's and Agency's right, title and interest in and to the Mortgaged Property (as defined herein) together with (excepting therefrom and hereof, the Agency's "Unassigned Rights" as that term is defined in the Agency Lease):

(i) all right, title and interest of Mortgageor and Agency, in and to the Land including any after-acquired title or reversion, in and to the ways, easements, reciprocal easement agreements, streets, alleys, passages, water, water courses, riparian rights, oil, gas and other mineral rights, gaps, gores, rights, hereditaments, liberties and privileges thereof, if any, and in any way appertaining to the Land;

(ii) all rents, royalties, issues, proceeds and profits accruing and to accrue from the Land, as more particularly described in that certain Assignment of Leases and Rents dated on or about the date hereof (the "Assignment") from Mortgageor as Assignor to the Administrative Agent, for the benefit of the Lenders, as Assignee;

(iii) all buildings and improvements of every kind and description now or hereafter erected or placed on the Land including, without limitation, all materials intended for construction, reconstruction, alteration and repair of such improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the Mortgaged Property (as hereinafter defined) immediately upon the delivery thereof to the Land, and all fixtures and articles of personal property now or hereafter owned by Mortgageor and attached to or contained in and used in connection with the Land, including, without limitation, all furniture, apparatus,

machinery, equipment, motors, elevators, fittings, radiators, furnaces, stoves, microwave ovens, awnings, shades, screens, blinds, office equipment, trash and garbage removal equipment, carpeting and other furnishings, and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating, incinerating, air-conditioning, conveyor, security, sprinkler and other equipment, and all fixtures and appurtenances thereof; and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to such improvements in any manner; it being intended that all the above-described property owned by Mortgagor and placed by Mortgagor on the Land shall, so far as permitted by law, be deemed to be fixtures and a part of the realty, and security for the indebtedness of Mortgagor to the Administrative Agent and/or the Lenders hereinafter described and secured by this Mortgage, and as to the balance of the above-described property, this is hereby deemed to be as well a Security Agreement for the purpose of creating hereby a security interest in such property, securing such indebtedness, in favor of the Administrative Agent, for the benefit of Lenders; all of the property described in this paragraph is hereinafter sometimes collectively called the "Improvements";

(iv) any and all warranty claims, maintenance contracts and other contract rights, instruments, documents, chattel papers and general intangibles of Mortgagor with respect to or arising from the Land, the Improvements and the balance of the Mortgaged Property, and all cash and non-cash proceeds and products thereof;

(v) any and all accounts of Mortgagor with respect to the Mortgaged Property (including rights to payment for goods sold or leased or to be sold or leased or for services rendered or to be rendered), escrows, documents, instruments, chattel paper, claims, deposits and general intangibles, as the foregoing terms are defined in the Uniform Commercial Code of the State of New York, as amended from time to time;

(vi) all awards, damages and other compensation heretofore or hereafter to be made to the present and all subsequent owners of the Mortgaged Property for any taking by eminent domain, either permanent or temporary (a "Taking"), of all or any part of the Mortgaged Property or any easement or other appurtenance thereof, including severance and consequential damage and change in grade of streets (collectively, "Taking Proceeds"), and any and all refunds of impositions or other charges relating to the Mortgaged Property or the indebtedness secured by this Mortgage; and

The property described in subparagraphs (i)-(vi) above is hereafter referred to, individually and collectively, respectively as the "Premises" to the extent that such property is realty, and respectively as the "Collateral" to the extent that such property is personalty. The Land, the Premises and the Collateral are hereafter sometimes collectively called the "Mortgaged Property."

TO HAVE AND TO HOLD, all and singular, the above described interest in the Mortgaged Property, whether now owned or held or hereafter acquired by Mortgagor, with the appurtenances thereunto belonging, unto the Administrative Agent, its successors and assigns, for the benefit of the Lenders, forever to secure for the benefit of Lenders the payment of the Obligations (as hereinafter defined) and performance by Mortgagor of every covenant and condition contained in the Loan Documents (as hereinafter defined). Mortgagor does hereby

covenant with Administrative Agent, its successors and assigns, on behalf of the Lenders, that at and until the unsealing of these presents, Mortgagor is well seized of the Premises as a good and indefeasible estate in fee simple and is the sole owner of the Collateral, and has good right to mortgage, bargain, sell and convey the Mortgaged Property in manner and form as above written; that title to the Mortgaged Property is free and clear of all defects, liens and encumbrances except for real estate taxes and assessments not yet due or payable and the matters described on Exhibit B (the "Permitted Exceptions"); and that Mortgagor will warrant and defend the Premises, with the appurtenances thereunto belonging, and the Collateral to Administrative Agent, for the benefit of the Lenders, forever, against all liens, security interests, encumbrances, defects, claims and demands whatsoever, subject to the Permitted Exceptions.

Mortgagor hereby irrevocably assigns to the Administrative Agent, for the benefit of the Lenders, all of Mortgagor's right, title and interest in, to and under: (a) all present and future leases of the Mortgaged Property or any portion thereof, all licenses and agreements relating to the management, leasing, occupancy or operation of the Property, whether such leases, licenses and agreements are now existing or entered into after the date hereof ("Leases"); (b) the rents, issues, revenues, receipts, deposits and profits of the Property, including, without limitation, all amounts payable and all rights and benefits accruing to Mortgagor under the Leases ("Payments"); and (c) Rate Management Agreements (as hereinafter defined), if any, and any proceeds derived thereunder. The term "Leases" shall also include all subleases and other agreements for the use or occupancy of the Property, all guarantees of and security for the tenant's performance thereunder, the right to exercise any landlord's liens and other remedies to which the landlord is entitled, and all amendments, extensions, renewals or modifications thereto. This is a present and absolute assignment, not an assignment for security purposes only, and the Administrative Agent's (for the benefit of the Lender's) right to the Leases and Payments is not contingent upon and may be exercised without, possession of the Property.

The Administrative Agent, on behalf of the Lenders, hereby confers upon Mortgagor a revocable license ("License") to collect, demand, sue for, attach, levy, recover and retain all Payments as they become due and payable, until the occurrence of an Event of Default (as hereinafter defined). Upon an Event of Default, and only upon an Event of Default, the License shall be automatically revoked and Administrative Agent, on behalf of the Lenders, may collect and apply the Payments pursuant to the terms hereof without notice and without taking possession of the Property. All Payments thereafter collected by Mortgagor shall be held by Mortgagor as trustee under a constructive trust for the benefit of Administrative Agent, for the benefit of the Lenders. Mortgagor hereby irrevocably authorizes and directs the tenants under the Leases to rely upon and comply with any notice or demand by the Administrative Agent for the payment to the Administrative Agent, on behalf of the Lenders, of any rentals or other sums which may at any time become due under such Leases, or for the performance of any of the tenants' undertakings under such Leases, and the tenants shall have no duty to inquire as to whether any Event of Default has actually occurred or is then existing. Mortgagor hereby relieves the tenants from any liability to Mortgagor by reason of relying upon and complying with any such notice or demand by the Administrative Agent. The Administrative Agent may apply, in its sole discretion, any Payments so collected by the Administrative Agent, on behalf of the Lenders, against any Obligation, whether existing on the date hereof or hereafter arising. Collection of any rents, royalties, issues, proceeds and profits accruing from the Land by

Administrative Agent, on behalf of the Lenders, shall not cure or waive any Event of Default or notice of an Event of Default or invalidate any acts done pursuant to such notice.

Mortgagor and Agency have executed and delivered this Mortgage to secure the following obligations of Mortgagor that may be outstanding at any time and from time to time (collectively, the "Obligations"):

(a) Payment of principal, interest and all other charges under the Note, together with interest thereon at a rate or rates which may vary from time to time as specified in the Note and the other Loan Documents, with principal and interest payable in accordance with the terms of the Note, and all accrued but unpaid interest and the entire unpaid principal amount being due and payable in accordance with the terms of the Note and the other Loan Documents; the Note also contains an option of the Administrative Agent, on behalf of the Lenders, to declare the unpaid balance under the Note due and payable forthwith upon the occurrence of an Event of Default;

(b) Payment of any and all other amounts or charges required to be paid by Mortgagor pursuant to this or any of the other Loan Documents (as hereinafter defined); including, without limitation, any and all Obligations;

(c) Payment by Mortgagor to the Administrative Agent (for the benefit of the Lenders) of all sums expended or advanced by the Administrative Agent and/or the Lenders pursuant to this Mortgage or any of the other Loan Documents;

(d) Payment of any and all amounts advanced by the Administrative Agent and/or the Lenders with respect to the Mortgaged Property for the payment of taxes, assessments, insurance premiums or costs incurred in the protection of the Mortgaged Property;

(e) Payment of any and all Rate Management Obligations (as defined in Paragraph 43 hereof);

(f) Performance and observance of each covenant and agreement of Mortgagor contained herein or in any of the other Loan Documents, including, without limitation the obligations of Mortgagor under the Assignment of Leases and Rents, dated on or about the date hereof ("Assignment") herewith to enforce all of the terms, covenants and conditions of any Approved Lease; and

(g) Payment by Mortgagor to the Administrative Agent (for the benefit of the Lenders) of any and all other liabilities and indebtedness of Mortgagor to the Administrative Agent and/or the Lenders, relating to the Mortgaged Property, direct or contingent, now or hereafter owing by Mortgagor to Lenders, other than as provided in subparagraphs (a) through (g) above.

PROVIDED, HOWEVER, that if Mortgagor shall pay or cause to be paid to Administrative Agent the principal, interest and all other charges under the Note on or before the date on which the outstanding principal balance of the Note is due and payable in full in accordance with the terms of the Note, and in the manner stipulated therein and herein, all without deduction or credit for taxes or other charges paid by Mortgagor, and if Mortgagor shall

have kept, performed and observed all of the covenants and conditions contained in this Mortgage and all of the other Loan Documents, then the Administrative Agent shall, upon request and at Mortgagor's expense, execute a proper discharge of this Mortgage.

Mortgagor further covenants and agrees as follows:

1. Payment of Indebtedness. Mortgagor shall pay promptly the indebtedness evidenced by the Note at the time and in the manner provided herein and in the Note, and all other sums and charges payable when due by Mortgagor and pursuant to the Note, this Mortgage and any of the other Loan Documents.

2. Tax and Insurance Escrows.

(a) At any time after Substantial Completion and upon Administrative Agent's request given after the occurrence of an Event of Default, Mortgagor shall pay to the Administrative Agent, (for the benefit of the Lenders), in addition to the monthly payments under the Note and concurrently therewith in a single payment monthly until the Note is fully paid, a sum equal to annual real estate taxes, general and special assessments and premiums for insurance required hereunder (all as estimated by the Administrative Agent) less all sums previously paid therefor, divided by the number of full calendar months to elapse before the date which is one (1) month prior to the date when such taxes and assessments and insurance premiums will become due. Such sums shall be held by the Administrative Agent (for the benefit of the Lenders) for payment of such taxes and assessments and insurance premiums as and when due. The Administrative Agent shall have the right to commingle and hold such sums with its general funds, and no interest shall accrue thereon in favor of Mortgagor.

(b) The Administrative Agent shall have the right to make any and all payments notwithstanding that at that time any such tax or assessment is then being protested or contested by Mortgagor, unless Mortgagor shall have notified the Administrative Agent (for the benefit of the Lenders) in writing of such protest or contest of such tax or assessment not less than thirty (30) days prior to the due date. If such protest or contest shall or might result in a penalty or other charges, Mortgagor shall deposit with the Administrative Agent monthly the pro-rata amount of any such penalty or additional charge. If, upon receipt by the Administrative Agent of any refunds of impositions or other charges relating to the Mortgaged Property, Mortgagor is not in default hereunder, then the Administrative Agent shall promptly pay such refund to Mortgagor; if Mortgagor is in default hereunder beyond any applicable grace period, the Administrative Agent shall have the right to apply such refund to reduce the indebtedness secured hereby.

(c) Without limiting the rights of the Administrative Agent and/or the Lenders under this Mortgage, in the event of a sale of the Premises or any other part of the Mortgaged Property by the Administrative Agent and/or the Lenders following the occurrence of an Event of Default, any funds then on deposit with the Administrative Agent (for the benefit of the Lenders) shall, at the Administrative Agent's option, thereupon automatically and without the necessity of notice or written assignment, be transferred to and held thereafter for the account of the new owner, to be applied in accordance with the foregoing. If the Premises or any other part of the Mortgaged Property is purchased by the Administrative Agent and/or any Lender, at foreclosure sale or is otherwise acquired by the Administrative Agent and/or any Lender, after an

Event of Default, the remaining balance, if any, of the funds deposited with the Administrative Agent pursuant to subparagraph 2(a) above shall continue to be applied, subject to the security interest hereunder, first to Administrative Agent's and/or Lender's, as unreimbursed costs and expenses in such purchase or acquisition, then to reduce the indebtedness secured by this Mortgage, and the balance, if any, shall be paid to Mortgagor, subject to the order of the court having jurisdiction in any such proceeding.

3. Protection Against Charges. Except for the Permitted Exceptions, Mortgagor shall keep the Mortgaged Property free from liens of every kind, except only for real estate taxes and general and special assessments of any kind or nature, public or private, which are not yet due and payable, and mortgage taxes, if any, as provided in Paragraph 7 hereof, and shall, unless paid to Administrative Agent in escrow pursuant to Section 2, (a) pay or cause to be paid, before delinquency and before any penalty for non-payment attaches thereto, all taxes, assessments, and other governmental or municipal or public dues, charges, fines or impositions which are or hereafter may be levied against the Mortgaged Property or any part thereof and (b) promptly deliver to the Administrative Agent receipted bills evidencing each such payment, together with any other evidence of payment required by Administrative Agent in its sole and absolute discretion, no later than five (5) days prior to the last day upon which such payment can be made without penalty or interest. Mortgagor shall also pay, in full, under protest or otherwise in the manner provided by law, any tax, assessment, charge, fine or imposition described above which Mortgagor contests in accordance with the provisions of law and this Mortgage.

4. Insurance and Casualty Damage.

(a) To the extent required by the Loan Agreement, Mortgagor shall keep, or cause to be kept, all of the following insurance policies with respect to the Mortgaged Property in companies, forms, amounts and coverage satisfactory to the Administrative Agent, containing waivers of subrogation and first "lender" clauses in favor of Administrative Agent (for the benefit of the Lenders), and, providing for thirty (30) days' prior written notice to Lender of cancellation of said policies for non-payment of premiums or any other reason or for material modification of said policies, and ten (10) days' prior written notice to the Administrative Agent of payment of any insurance claims under said policies to any person:

i. Insurance against loss or damage by fire and such other hazards, casualties and contingencies (including, without limitation, so-called all-risk coverages) as required by the Loan Agreement;

ii. Comprehensive general public liability, property damage and indemnity insurance, including, without limitation, so-called assumed and contractual liability coverage and claims for bodily injury, death or property damage, naming the Administrative Agent, as an additional insured, in such amounts as required by the Loan Agreement;

iii. Insurance against rent loss or abatement of rent, covering payment of rent and like charges from the Mortgaged Property as required by the Loan Agreement; and

iv. Flood insurance in an amount as required by the Loan Agreement.

Mortgagor shall deliver renewal certificates of all insurance required above, together with written evidence of full payment of the annual premiums therefor at least ten (10) days prior to the expiration of the existing insurance. Any such insurance may be provided under so-called "blanket" policies, so long as the amounts and coverages thereunder will, in the Administrative Agent's sole reasonable judgment, provide protection equivalent to that provided under a single policy meeting the requirements hereinabove.

(b) Notice. In case of any material damage or destruction of the Mortgaged Property, or any part thereof, or any interest therein or right accruing thereto, Mortgagor shall promptly give the Administrative Agent written notice generally describing the nature and extent of such damage or destruction which has resulted or which may result therefrom. The Administrative Agent may appear in any such proceedings and negotiations, and Mortgagor shall promptly deliver to Administrative Agent copies of all notices and pleadings in any such proceedings. Mortgagor will, in good faith, file and prosecute all claims necessary for any award or payment resulting from such damage or destruction. All costs and expenses incurred by the Administrative Agent in exercising its rights under this Paragraph 4 shall constitute indebtedness secured by this Mortgage.

(c) Application of Insurance Proceeds. Except as hereinafter provided, upon occurrence of any loss or damage to all or any portion of the Mortgaged Property resulting from fire, vandalism, malicious mischief or any other casualty or physical harm (a "Casualty"), the Administrative Agent may elect, subject to the provisions set forth below, to collect, retain and apply as a Loan prepayment all proceeds (the "Proceeds") of any insurance policies collected or claimed as a result of the Casualty after deduction of all expenses of collection and settlement, including attorney's and adjusters' fees and charges; provided, however, unless an Event of Default has occurred and is continuing, any Proceeds less than or equal to \$250,000.00 shall be disbursed directly to Mortgagor. For Proceeds greater than \$250,000.00, if (i) the Administrative Agent determines, in its reasonable discretion, that such Casualty can be remediated or rebuilt within a reasonable period, but no later than six (6) months prior to the end of the term of the Loan (unless extended as hereinafter provided) and (ii) Mortgagor commences or causes to be commenced such remediation or rebuilding after such casualty, the Administrative Agent shall make the Proceeds available to Mortgagor to rebuild the Mortgaged Property; provided, however, that (A) the Administrative Agent shall have no obligation to make any such Proceeds available to Mortgagor during the last six (6) months of the term of the Loan unless Mortgagor exercises any extension right it may have under the Note (if any) at the time of any such request for use of Proceeds. Mortgagor hereby authorizes the Administrative Agent, at the Administrative Agent's option, to collect, (subject to Mortgagor's permission to collect up to \$250,000.00 in accordance with this subparagraph) adjust and compromise any losses under any insurance with respect to the Mortgaged Property which is kept, or caused to be kept, by Mortgagor (subject to Mortgagor's consent to the terms of such compromise or settlement, which shall not be unreasonably withheld, delayed or conditioned), and hereby irrevocably appoints the Administrative Agent as its attorney-in-fact, coupled with an interest, for such purposes. Any Proceeds remaining after payment in full of the Loan and all other sums due the Administrative Agent and/or the Lenders hereunder shall be paid by the Administrative Agent to Mortgagor without any allowance for interest thereon.

(d) For proceeds greater than \$250,000.00, if the Administrative Agent is required to or elects to allow Mortgagor to restore or rebuild the Mortgaged Property and the Proceeds would not be sufficient to restore or rebuild the Mortgaged Property, then Mortgagor shall deposit with the Administrative Agent (for the benefit of the Lenders) cash, letters of credit, surety bonds or equivalent assurances of the availability of funds with which to pay for the restoration or rebuilding of the Mortgaged Property. Such letters of credit, surety bonds or equivalent assurances shall in all respects be in form, substance, execution and sufficiency acceptable to the Administrative Agent. Mortgagor shall promptly proceed with restoration of the Mortgaged Property resulting from any Casualty.

5. Maintenance of Improvements.

(a) Except for the construction, rehabilitation and renovation of the Improvements contemplated by or permitted by the Loan Agreement, none of the Improvements shall be structurally or otherwise materially altered, removed or demolished, and none of the fixtures or any portion of the Collateral on, in or about the Premises shall be severed, removed, sold, mortgaged or otherwise encumbered, without the prior written consent of the Administrative Agent in each case; except, however, that Mortgagor shall have the right, without such consent, to remove and dispose of, free from the lien of this Mortgage, such Collateral as from time to time may become worn out or obsolete, *provided that* simultaneously with or prior to such removal, such Collateral shall be replaced with other new Collateral of reasonably equivalent kind and quality, and by such removal, Mortgagor shall be deemed to have subjected the replacement Collateral to the lien of this Mortgage. Except for the construction, rehabilitation and renovation of the Improvements contemplated by or permitted by the Loan Agreement, any Improvements or any Collateral which is demolished or destroyed in whole or in part shall be replaced promptly by similar Improvements and Collateral of comparable quality, condition and value as those demolished or destroyed, thereupon becoming part of the Mortgaged Property free from any other lien, security interest or encumbrance on or reservation of title to such property. Mortgagor shall not permit, commit or suffer any waste, impairment or deterioration of the Mortgaged Property or any part thereof and shall keep and maintain (or cause to be kept and maintained) the same in good repair and condition, reasonable wear and tear excepted. Mortgagor shall make (or cause to be made) all necessary and proper repairs and replacements so that the building and improvements to the Project and the Mortgaged Property will, at all times, be in good condition, fit and proper for the respective purposes for which they were erected or installed.

(b) Mortgagor hereby grants to the Administrative Agent and its agents the right in their reasonable discretion upon reasonable advance notice to Mortgagor, but the Administrative Agent and its agents shall have no obligation, to enter upon the Premises for the purpose of inspecting and appraising the Mortgaged Property and conducting tests and surveys thereof. If Mortgagor shall fail fully to comply with any of the requirements of this Paragraph 5, without prejudice to any other right or remedy that may be available to the Administrative Agent and/or Lenders hereunder or under any of the Loan Documents in such event, the Administrative Agent (for the benefit of the Lenders) shall have the right to recover, as damages for such failure, an amount equivalent to the cost required to restore the Mortgaged Property to the condition hereby required.

(c) Mortgagor hereby covenants and agrees to comply with, and to cause all occupants of all or any portion of the Mortgaged Property to comply with, all applicable zoning, building, use and environmental restrictions and all laws, rules, statutes, ordinances, regulations, orders and requirements, including, without limitation, environmental matters and notices of violation of all governmental authorities having jurisdiction over the Mortgaged Property or the maintenance, use and operation thereof, and all applicable restrictions, agreements and requirements, whether or not of record (collectively, "Laws"). Mortgagor will deliver to the Administrative Agent within five (5) business days after receipt thereof any additional permits or renewals issued and approved or disapproved with respect to the Mortgaged Property. Mortgagor hereby agrees to indemnify, defend and hold harmless the Administrative Agent and Lenders, and each of their officers, directors, shareholders, employees, agents and partners and their respective heirs, successors and assigns (as applicable, individually and collectively, the "Indemnified Parties") from and against any and all claims, demands, losses, reasonable costs, damages, liabilities or expenses incurred or suffered by the Indemnified Parties, other than arising from the gross negligence or willful misconduct of any Indemnified Party, arising from any failure of the Mortgaged Property to comply with Laws, or from any failure of Mortgagor to obtain, maintain or renew, or to have obtained, maintained or renewed, any permit or approval required with respect to the Mortgaged Property.

6. Hazardous Materials and Wetlands.

(a) Without limiting the generality of any provision herein or in any of the Loan Documents, except as set forth in certain environmental reports and documents listed in Exhibit C attached hereto (collectively, the "Existing Conditions"), Mortgagor hereby represents and warrants to the Administrative Agent, for the benefit of the Lenders, that neither Mortgagor nor, to the best knowledge and belief of Mortgagor, any previous owner or user of the Mortgaged Property has used, generated, stored or disposed of any Regulated Material (as defined below) in, on, under, or above the Mortgaged Property in violation of Environmental Law (as defined below); that, to the best knowledge and belief of Mortgagor, the Mortgaged Property is not currently in violation of any Environmental Law; that the Mortgaged Property does not contain one or more facilities which are subject to reporting under Section 312 of the federal Emergency Planning and Community Right-to-Know Act of 1986 and the federal regulations promulgated thereunder; and that, to the best knowledge and belief of the Mortgagor, the Mortgaged Property does not contain any underground storage tanks. "Regulated Material" means flammable explosives, radioactive materials, solid waste, hazardous substances, hazardous waste, hazardous materials, asbestos containing materials, petroleum or any fraction thereof, pollutants, irritants, contaminants, toxic substances, or any other materials respectively defined as such in, or regulated by, any applicable Environmental Law, excepting materials, substances and petroleum stored, used and/or disposed of by Mortgagor, its agents, contractors, subcontractors and Tenants for construction and normal maintenance activities on the Mortgaged Property, for motor vehicles, and for normal household purposes. "Environmental Law" means any federal, state or local law, regulation or ordinance, as each may be validly interpreted and applied by the appropriate governmental entity, governing any Regulated Material for the protection of human health, safety or the environment, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 and the Emergency Planning and Community Right-to-Know Act

of 1986, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act and the Oil Pollution Act of 1990, in each case as amended and as effective at the date of this Mortgage. Mortgagor shall use reasonable efforts to cause all tenants and any other persons present on or occupying the Mortgaged Property ("Tenants"), employees, agents, contractors and subcontractors of Mortgagor and Tenants, to keep and maintain the Mortgaged Property, including, without limitation, the soil and ground water thereof, in compliance with, and not cause or knowingly permit the Mortgaged Property, including the soil and ground water thereof, to be in violation of, any federal, state or local laws, ordinances or regulations relating to industrial hygiene or to the environmental conditions thereon (including but not limited to any Environmental Law). Neither Mortgagor nor Tenants nor any employees, agents, contractors and subcontractors of Mortgagor or Tenants shall (i) use, generate, manufacture, store or dispose of in violation of Environmental Law on, under or about the Mortgaged Property or transport to or from the Mortgaged Property any Regulated Material, except as such may be required to be used, stored, or transported in connection with the permitted uses of the Mortgaged Property and then only to the extent permitted by law after obtaining all necessary permits and licenses therefor; or (ii) perform, cause to be performed or permit any fill activities or other acts which would in any way destroy, eliminate, alter, obstruct, interfere with, or otherwise affect any Wetlands, as defined in 33 C.F.R. Section 328.3 and in any comparable state and local law, statute, ordinance, rule or regulation ("Wetlands"), in violation of any federal, state or local laws, statutes, ordinances, rules or regulations pertaining to Wetlands ("Wetlands Law").

(b) Mortgagor shall advise the Administrative Agent in writing immediately upon Mortgagor obtaining knowledge of: (i) any notices (whether such notices are received from the Environmental Protection Agency or any other federal, state or local governmental agency or regional office thereof) which are received by Mortgagor regarding violation or potential violation of any Environmental Law or any Wetlands Law with respect to the Mortgaged Property; (ii) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened pursuant to any Environmental Law or Wetlands Law; (iii) all claims made or threatened in writing by any third party against Mortgagor or the Mortgaged Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Environmental Law or Wetlands Law (the matters set forth in clauses (i), (ii) and (iii) above are hereinafter referred to as "Environmental or Wetlands Claims"); and (iv) discovery by Mortgagor of any occurrence or condition on any Land adjoining or in the vicinity of the Mortgaged Property that could cause the Mortgaged Property or any part thereof to be classified as in violation of any Environmental Law or Wetlands Law or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Mortgaged Property under any Environmental Law or Wetlands Law.

(c) The Administrative Agent shall have the right, but not the obligation, to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Environmental or Wetlands Claims, and to have its reasonable attorneys' and consultants' fees in connection therewith paid by Mortgagor upon demand.

(d) Mortgagor shall be solely responsible for, and hereby agrees to indemnify, defend and hold harmless the Indemnified Parties from and against any loss, damage, cost or expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence (whether prior to or during the term of the Loan) of Regulated Material on, under or about the Mortgaged Property (whether by Mortgagor or a predecessor in title or any Tenants, employees, agents, contractors or subcontractors of Mortgagor or any predecessor in title or any third persons at any time occupying or present on the Mortgaged Property), other than arising from the gross negligence or willful misconduct of the Administrative Agent and/or the Lenders, including, without limitation: (i) all foreseeable damages, (ii) the cost of any required or necessary repair, cleanup or detoxification of the Mortgaged Property required by applicable Environmental Law, including the soil and ground water thereof, and the preparation and implementation of any closure, remedial or other required plans; (iii) damage to any Wetlands or natural resources; and (iv) all reasonable costs and expenses incurred by the Administrative Agent and/or the Lenders in connection with clauses (i) and (ii), including but not limited to reasonable attorneys' and consultants' fees; *provided, however*, that nothing contained in this paragraph shall be deemed to create or give any rights to any person other than the Administrative Agent and the Lenders, and their successors and assigns, it being intended that there shall be no third party beneficiary of such provisions, or preclude Mortgagor from seeking indemnification from, or otherwise proceeding against, any third party including, without limitation, any tenant or previous owner or user of the Mortgaged Property. Notwithstanding the foregoing, Mortgagor shall not be liable hereunder with respect to (a) the gross negligence or willful misconduct of any Indemnified Party; or (b) any Regulated Material first introduced to the Mortgaged Property after the Administrative Agent, on behalf of the Lender and/or any Lender, shall have taken possession of the Mortgaged Property or acquired title to the Mortgaged Property pursuant to foreclosure or deed in lieu of foreclosure.

(e) Mortgagor shall pay to the Administrative Agent within ten (10) days of written demand any costs or expenses incurred by the Administrative Agent and/or the Lenders for which Mortgagor is responsible or for which Mortgagor has indemnified the Administrative Agent and/or the Lenders (as applicable), and any amount that is not so paid shall bear interest at the default rate of interest set forth in the Note (the "Default Rate").

(f) Mortgagor shall take any and all remedial action in response to the presence of any Regulated Material or Wetlands on, under, or about the Mortgaged Property, required to be taken by Mortgagor pursuant to any settlement agreement, consent decree or other governmental proceeding.

(g) Upon the Administrative Agent's written request and for reasonable cause, Mortgagor shall retain, at Mortgagor's sole cost and expense, a licensed geologist, industrial hygienist or environmental consultant (referred to hereinafter as the "Consultant") acceptable to the Administrative Agent to conduct a baseline investigation of the Mortgaged Property for the presence of Regulated Material or Wetlands ("Environmental Audit"). The Environmental Audit shall be performed in a manner reasonably calculated to discover the presence of Regulated Materials or Wetlands; *provided, however*, such investigation shall be of a scope and intensity no greater than a baseline investigation conducted in accordance with the general standards of persons providing such services taking into consideration the known uses of the

Mortgaged Property and property in the vicinity of the Mortgaged Property and any factors unique to the Mortgaged Property. The Consultant shall concurrently deliver the results of its investigation in writing directly to Mortgagor and the Administrative Agent. Such results shall be kept confidential by both Mortgagor and the Administrative Agent unless legally compelled or required to disclose such results or disclosure is reasonably required in order to pursue rights or remedies provided herein or at law.

(h) Mortgagor covenants to reasonably cooperate with the Consultant and to allow entry and reasonable access to all portions of the Mortgaged Property for the purpose of the Consultant's investigation. Mortgagor covenants to comply, at its sole cost and expense, with all recommendations contained in the Environmental Audit reasonably required to bring the Mortgaged Property into compliance with all Environmental Laws and Wetlands Laws, including any recommendation for additional testing and studies to detect the quantity and types of Regulated Material or Wetlands present, if the Administrative Agent requires the implementation of the same.

7. Mortgage Tax. If, notwithstanding the Agency's interest in the Mortgaged Property, at any time any governmental authority, whether federal, state or municipal, or any agency or subdivision of any of them, shall require Internal Revenue or other documentary stamps on the Note, this Mortgage or any of the other Loan Documents, or upon the passage of any law of the State of New York deducting from the value of land for the purposes of real estate taxation the amount of any lien thereon, or changing in any way the laws for the taxation of mortgages or debts secured by mortgages for federal, state or local purposes, or the manner of the collection of any such taxes so as to impose, in any such event, a tax (other than an income tax) upon or otherwise to substantially and adversely affect the value of this Mortgage, then all indebtedness secured hereby shall become due and payable at the election of the Administrative Agent thirty (30) days after the mailing of notice of such election to Mortgagor; *provided, however,* this Mortgage, the Note and the other Loan Documents shall be and remain in effect if Mortgagor lawfully may pay, and does in fact pay, when payable and before the same becomes a lien against the Mortgaged Property, for such stamps and taxes, including interest and penalties thereon, to or for the Administrative Agent. Mortgagor further agrees to deliver to the Administrative Agent, at any time, upon demand, such evidence as may be required by any government agency having jurisdiction in order to determine whether the obligation secured hereby is subject to or exempt from any such tax.

8. Indemnification for Costs. Mortgagor hereby agrees to indemnify, defend and hold harmless the Administrative Agent, the Lenders and the Indemnified Parties from and against all costs, liabilities and expenses, including but not limited to reasonable attorneys' fees and expenses, except, by reason of the gross negligence or willful misconduct of any Indemnified Party to the fullest extent not then prohibited by applicable law, and costs of any Environmental Audit, title search, continuation of abstract and preparation of survey, incurred by reason of any action, suit, proceeding, hearing, motion or application before any court or administrative body, including an action to foreclose or to collect any indebtedness or obligation secured hereby, or incurred in connection with any extra-judicial collection procedure, in and to which the Administrative Agent and/or the Lenders may be or become a party by reason hereof, including, without limitation, any Taking, bankruptcy, probate and administration proceedings,

as well as any other proceeding wherein proof of claims required to be filed by law or in which it becomes necessary to defend or uphold the terms of and the lien created by this Mortgage.

9. Taking.

(a) Except as hereinafter provided, and subject to paragraph (d) of this Paragraph, if all or any part of the Mortgaged Property shall be damaged or taken as a result of a Taking, either temporarily or permanently, Mortgagor shall assign, transfer and set over unto the Administrative Agent (for the benefit of the Lenders), the Taking Proceeds or any claim for damages for any of the Mortgaged Property taken or damaged under the power of eminent domain, and agrees that if the whole or any part of the Mortgaged Property is taken by eminent domain proceedings, then all sums awarded to Mortgagor as damages for the Taking shall be applied as set forth in this paragraph. In the event (i) the Administrative Agent determines, in its reasonable discretion, that any such portion of the Mortgaged Property can be remediated or rebuilt within a reasonable period of time, and (ii) Mortgagor commences, or causes to be commenced, construction of any such remediation or rebuilding within a reasonable period of time after such Taking, the Administrative Agent shall make the Taking Proceeds available to Mortgagor to rebuild the Mortgaged Property; *provided, however*, that (A) the Administrative Agent shall have no obligation to make any such Taking Proceeds available to Mortgagor for rebuilding during the last six (6) months of the term of the Loan unless Mortgagor exercises any extension rights it may have under the Note at the time of any such request for use of Taking Proceeds. Any and all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and expenses to the fullest extent not then prohibited by applicable law, incurred by the Administrative Agent and/or the Lenders by reason of any condemnation, threatened condemnation or proceedings thereunder shall be secured hereby and Mortgagor shall reimburse the Administrative Agent and the Lenders, as applicable, therefor immediately, or the Administrative Agent shall have the right, at its option, to deduct such costs and expenses from any Taking Proceeds paid to the Administrative Agent (for the benefit of the Lenders) hereunder. If the Mortgaged Property is wholly condemned, the Administrative Agent shall receive from Mortgagor and/or from the Taking Proceeds payment of the entire amount of the indebtedness secured by this Mortgage.

(b) Subject to paragraph (a) and paragraph (d) of this Paragraph, Mortgagor will immediately notify the Administrative Agent of the actual or threatened commencement of any Taking proceedings affecting all or any part of the Mortgaged Property, including any easement therein or appurtenance thereof, including severance and consequential damage and change in grade of streets, and will deliver to the Administrative Agent copies of any and all papers served in connection with any such proceedings. Mortgagor further covenants and agrees to make, execute and deliver to the Administrative Agent, from time to time upon request, free, clear and discharged of any encumbrances of any kind whatsoever, any and all further assignments or other instruments deemed necessary by the Administrative Agent for the purpose of validly and sufficiently assigning the Taking Proceeds and all other awards and compensation heretofore and hereafter to be made to Mortgagor, including the assignment of any award from the United States Government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for payment thereof, for any Taking, either permanent or temporary, under any such proceedings. In the event of a Taking, the Administrative Agent shall not be limited to the rate of interest paid on the award by the

condemning authority but shall be entitled to receive out of the Taking Proceeds interest on the entire unpaid principal sum under the Note and the other Loan Documents at the applicable rate(s) provided therein. Mortgagor hereby assigns to the Administrative Agent (for the benefit of the Lenders), so much of the balance of the Taking Proceeds payable by the condemning authority as is required to pay such interest.

(c) Subject to paragraph (a) and paragraph (d) of this Paragraph, Mortgagor hereby irrevocably authorizes and appoints the Administrative Agent its attorney-in-fact, coupled with an interest, to collect and receive any such Taking Proceeds from the authorities making the same, to appear in any proceeding therefor, to give receipts and acquittances therefor, and to apply the same to payment on account of the indebtedness secured hereby whether then matured or not. Mortgagor shall execute and deliver to the Administrative Agent on demand such assignments and other instruments as the Administrative Agent may require for such purposes.

10. Estoppel Certificate. Within ten (10) business days after request by the Administrative Agent, but not more frequently than three times during a calendar year, Mortgagor shall furnish to the Administrative Agent a written statement, duly acknowledged, of the aggregate amount of indebtedness secured by this Mortgage, confirming (to the extent true) that no right of offset exists under the Loan Documents or otherwise, and stating either that no defenses exist against the indebtedness secured hereby, or, if such defenses are alleged to exist, the nature thereof, and any other information which Lender may reasonably request.

11. Title Warranty; Title Evidence. Mortgagor hereby confirms the warranties and representations as to title to the Mortgaged Property made in the granting clause of this Mortgage, and agrees to pay the costs of title insurance or other title evidence satisfactory to the Administrative Agent showing title to the Mortgaged Property to be as herein warranted. In the event of any subsequent change in title to the Mortgaged Property, other than a change expressly permitted by the Loan Documents, Mortgagor agrees to pay the cost of (a) an extension or endorsement to such title evidence showing such change in title, and (b) changing any and all insurance and other records in connection with the Loan made necessary by such change in title.

12. Reliance. Except during the pendency of any lien contested pursuant to the Loan Agreement and *provided that* Mortgagor shall have posted security as required by the Loan Agreement, the Administrative Agent, in advancing any payment relating to taxes, assessments and other governmental or municipal charges, fines, impositions or liens asserted against the Mortgaged Property, shall have the right to do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy or validity thereof. The Administrative Agent shall have the right to make any such payment whenever the Administrative Agent, in its sole discretion, shall deem such payment to be necessary or desirable to protect the security intended to be created by this Mortgage. In connection with any such advance, the Administrative Agent, at its option, shall have the right to and is hereby authorized to obtain, at Mortgagor's sole cost and expense, a date down or continuation endorsement to the loan policy of title insurance insuring this Mortgage prepared by a title insurance company of Lender's choice.

13. Default. Each of the following events shall be deemed to be an "Event of Default" hereunder:

(a) Mortgagor shall fail to make payment of the indebtedness evidenced by the Note prior to the expiration of any grace period provided in the Note; or

(b) Mortgagor shall fail to make payment of any sum of money due and payable under this Mortgage or any of the other Loan Documents (other than the Note, including, without limitation, payment of any and all other Obligations) within five (5) days after the date such payment is due; or

(c) Mortgagor shall file a voluntary petition in bankruptcy or under any bankruptcy act or similar law, state or federal, whether now or hereafter existing, or make an assignment for the benefit of creditors or file an answer admitting insolvency or inability to pay its debts generally as they become due, or shall fail to obtain a vacation or stay of any such proceedings which are involuntary within sixty (60) days after the institution of such proceedings; or

(d) Any plan of liquidation or reorganization is filed by or on behalf of Mortgagor in any bankruptcy, insolvency or other judicial proceeding, or a trustee or a receiver shall be appointed for the Mortgaged Property in any involuntary proceeding and such trustee or receiver shall not be discharged or such jurisdiction relinquished, vacated or stayed on appeal within sixty (60) days after the appointment thereof; or

(e) Failure of Mortgagor to commence, diligently pursue and/or complete actions as and when provided in Paragraph 2, (if any sum of money due thereunder is not paid within ten (10) days after the date such payment is due) or Paragraph 6 of this Mortgage; or

(f) Any sale or transfer of the Mortgaged Property in violation of Paragraph 18 of this Mortgage; or

(g) The occurrence of an involuntary transfer under subparagraph 28(d) of this Mortgage; or

(h) Any violation of the representations and warranties, or the filing of formal charges or commencement of proceedings as contemplated by Paragraph 37 of this Mortgage; or

(i) Default shall be made in the due observance or performance of any of the covenants, agreements or conditions required to be kept, performed or observed by Mortgagor under this Mortgage not enumerated elsewhere in this Section 13, and such default is not cured within thirty (30) days after written notice thereof has been delivered to Mortgagor by the Administrative Agent; *provided, however* if such default cannot reasonably be cured within the thirty (30)-day period, and Mortgagor promptly commences such cure within the thirty (30)-day period, then within such additional period during which Mortgagor diligently pursues and prosecutes such cure to completion and so long as the value of the Mortgaged Property is not impaired; or

(j) The occurrence of an Event of Default under any other Loan Document.

(k) Default shall be made in the due observance or performance of any of the covenants, agreements or conditions required to be kept, performed or observed by Mortgagor

under any Permitted Encumbrance beyond the expiration of any applicable notice and grace period contained therein;

then and upon any such Event of Default, the entire amount of the indebtedness hereby secured, shall, at the option of the Administrative Agent, become immediately due and payable, without execution or other process and without further notice or demand, all of which are hereby expressly waived. Upon and after any such Event of Default, the indebtedness hereby secured shall, at the option of the Administrative Agent, bear interest at the Default Rate, payable on demand. Acceleration of maturity, once claimed hereunder by the Administrative Agent, may, at the option of the Administrative Agent, be rescinded by written acknowledgment to that effect by the Administrative Agent, but the tender and acceptance of partial payments alone shall not in any way affect or rescind such acceleration of maturity, nor extend or affect the grace period, if any.

14. Additional Rights upon Default. Without limiting the generality of the foregoing, the Administrative Agent shall have the following additional rights during the continuance of any Event of Default, to the extent permitted by applicable law:

(a) the immediate right to collect, as the same become due, any and all unearned insurance premiums or refunds of insurance premiums, due or to become due, and all proceeds and other benefits to be received under insurance policies of every nature affecting or covering the Mortgaged Property, any and all refunds of taxes, assessments and other charges heretofore or hereafter paid on or with respect to the Mortgaged Property, together with all rents and profits of the Mortgaged Property, all of which have been hereby assigned to the Administrative Agent. In addition, the Administrative Agent shall have the right, but shall not be obligated, without notice or demand, to enter immediately upon and take possession of the Mortgaged Property, together with all documents, books, records, papers and accounts of Mortgagor relating to the Mortgaged Property or any portion thereof without further consent or assignment by Mortgagor; to cause to be conducted environmental investigations and analyses; to operate, manage, lease and control the Mortgaged Property and conduct the business thereof, if any, either personally or by its agents; to terminate any management agreements, contracts, agents or managers responsible for the management of the Mortgaged Property; and to use such measures, legal or equitable, as the Administrative Agent may deem proper or necessary to enforce the payment or security of the rents, issues and profits of the Mortgaged Property.

(b) Mortgagor hereby grants full power and authority to the Administrative Agent as follows: to exercise each and every one of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagor; to make all alterations, additions, improvements, renovations, replacements and repairs as the Administrative Agent may deem proper; to demolish any part or all of the Improvements which, in the judgment of the Administrative Agent, may be in unsafe condition and dangerous to life or property; to remodel any or all of the Improvements so as to make the same available in whole or in part for business, commercial, or retail uses contemplated by the Loan Agreement and as permitted under the terms of the Agency Leases, multiple dwelling or other student housing purposes; to lease the Mortgaged Property, or any part thereof, to Mortgagor or any other person or persons, on such terms and for such periods of time as the Administrative Agent may deem proper, and the provisions of any lease made by the Administrative Agent pursuant hereto shall be valid and

binding upon Mortgagor, notwithstanding the fact that the Administrative Agent's right of possession may (for the benefit of the Lenders) terminate or this Mortgage may be satisfied of record prior to the expiration of the term of such lease; and to collect and receive all of the rents, issues, profits and all other amounts past due or to become due to Mortgagor and to apply the same in such order of priority as the Administrative Agent may determine to all necessary charges and expenses in connection with the Mortgaged Property, or for interest, principal, whether matured or not, taxes, water charges and assessments, insurance premiums and any advances made by the Administrative Agent for improvements, alterations or repairs for the account of Mortgagor or on account of the indebtedness hereby secured. Neither the taking of possession nor the collection of rents by the Administrative Agent (for the benefit of the Lenders) as described above shall be construed to be an affirmation of any lease of the Mortgaged Property or any part thereof, and the Administrative Agent or any other purchaser at any foreclosure sale shall have the right to exercise the right to terminate any such lease as though such taking of possession and collection of rents had not occurred, subject, however, to the terms of any subordination, nondisturbance and attornment agreement which may be in effect from time to time with respect to any part of the Mortgaged Property.

(c) Without limiting the foregoing, Mortgagor hereby irrevocably appoints the Administrative Agent its attorney-in-fact, coupled with an interest, upon an Event of Default and only during the continuation thereof, to institute summary proceedings against any lessee of the Mortgaged Property who fails to comply with the provisions of his or its lease. If Mortgagor is occupying all or any part of the Mortgaged Property upon an Event of Default, Mortgagor agrees to either (i) immediately surrender possession of the Mortgaged Property to the Administrative Agent (for the benefit of the Lenders) and vacate the Mortgaged Property so occupied by Mortgagor, or (ii) pay a reasonable rental, determined by the Administrative Agent, for the use thereof, monthly in advance, to the Administrative Agent (for the benefit of the Lenders), and, in default of so doing, may be dispossessed by summary proceedings or otherwise.

(d) To the extent permitted by law, the Administrative Agent is hereby authorized and empowered to sell or cause the Mortgaged Property to be sold at public or private auction, and to convey same by execution and delivery to the purchaser at such sale a good and sufficient deed of conveyance, to retain out of the proceeds of such sale the amounts due under the terms of this Mortgage and the other Loan Documents, the costs and charges of such sale and attorneys' fees and expenses, all to the fullest extent not prohibited by applicable law, and amounts due to any other person asserting a lien or otherwise claiming an interest in the Mortgaged Property and to deliver the surplus moneys, if any, to Mortgagor.

(e) To the extent permitted by law, the Administrative Agent shall be entitled to the appointment of a receiver of the Mortgaged Property as a matter of right and without notice, which is hereby expressly waived, with power to collect the rents, issues and profits of the Mortgaged Property, due and to become due without regard to the value of the Mortgaged Property and regardless of whether the Administrative Agent and/or the Lenders has an adequate remedy at law. Mortgagor, for itself and its successors and assigns, hereby waives any and all defenses to the application for a receiver as set forth above and hereby specifically consents to such appointment without notice, but nothing herein contained is to be construed to deprive the Administrative Agent and/or the Lenders of any other right, remedy or privilege it may now have, or may hereafter obtain, to have a receiver appointed. From such rents, issues and profits

collected by the receiver or by the Administrative Agent (for the benefit of the Lenders), prior to a foreclosure sale, there shall be deducted the cost of collection thereof, including, without limitation, real estate commissions, if any, for new leases, if any, receiver's fees, reasonable attorneys' fees and expenses to the fullest extent not prohibited by applicable law, and any court costs; the remainder shall be applied against the indebtedness hereby secured.

(f) The Administrative Agent shall have the right to bring foreclosure proceedings hereunder and whether or not any order or decree shall have been entered therein and to the fullest extent not prohibited by applicable law, a reasonable sum shall be allowed for the Administrative Agent's and the Lender's reasonable attorneys' fees and expenses in such proceeding. There shall be included in any judgment or decree foreclosing this Mortgage and be paid out of any rents, issues and profits or out of the proceeds of any sale made in pursuance of any such judgment or decree: (i) all costs and expenses of such suit or suits, advertising, sale and conveyance, including reasonable attorneys' fees and expenses to the fullest extent not prohibited by applicable law, costs of documentary evidence and costs of any abstract, examination of title and title insurance; (ii) all moneys advanced by the Administrative Agent and/or the Lenders, if any, for any purpose authorized in this Mortgage with interest as herein provided; (iii) all accrued interest remaining unpaid on the indebtedness hereby secured; and (iv) the principal balance of the indebtedness hereby secured. The surplus proceeds, if any, shall be paid to Mortgagor or as the court may direct.

(g) Upon the occurrence and continuance of any default in payment of any amount due and owing under the Note, this Mortgage or any of the other Loan Documents, the Administrative Agent, may in its sole and reasonable discretion, require Mortgagor to establish and maintain a "lock box" account at the Administrative Agent (for the benefit of the Lenders) subject to the control of the Administrative Agent (for the benefit of the Lenders) and, Mortgagor, at its expense, will notify or cause to be notified all tenants to pay directly any sum or sums then due or to become due pursuant to its leases with such tenants to such lock box account at the Administrative Agent (for the benefit of the Lenders).

15. Waiver. Mortgagor shall not, and anyone claiming through or under Mortgagor shall not, set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the final and absolute sale of the Mortgaged Property, or the final and absolute placing into possession thereof, immediately after such sale, of the purchaser or purchasers thereof. Mortgagor, for itself and all who may claim through or under it, waive, if and to the fullest extent not prohibited by applicable law, all benefits and protections under such appraisal, valuation, stay, extension and redemption laws.

16. Marshalling of Assets. Mortgagor hereby waives for itself and, to the fullest extent not prohibited by applicable law, for any subsequent lienor, any right to apply for an order, decree, judgment, or ruling requiring or providing for a marshalling of assets which would require the Administrative Agent and/or the Lenders to proceed against certain of the Mortgaged Property before proceeding against any of the other Mortgaged Property. The Administrative Agent shall have the right to proceed, in its sole discretion, against the Mortgaged Property in such order and in such portions as the Administrative Agent may determine, without regard to the adequacy of value or other liens on any such Mortgaged Property. No such action shall in

any way be considered as a waiver of any of the rights, benefits, liens or security interests created hereby or by any of the Loan Documents.

17. Subrogation. If the indebtedness hereby secured or any part thereof, including any amounts advanced by the Administrative Agent and/or the Lenders, is used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any prior lien or encumbrance upon the Mortgaged Property or any part thereof, then the Administrative Agent and/or the Lenders (as applicable) shall be subrogated to such other liens or encumbrances and to any additional security held by the holder thereof and shall have the benefit of the priority of all of the same, whether or not any such lien, encumbrance or additional security is canceled of record upon such payment or advancement or otherwise, and in addition to the security afforded by this Mortgage and the other Loan Documents.

18. Sale or Transfer. (a) Except for transfers permitted by the Loan Agreement, and the other Loan Documents, if any, Mortgagor, without the prior written consent of the Administrative Agent, shall not effect, suffer or permit any Prohibited Transfer (as defined herein). Any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or any agreement to do any of the foregoing) of any of the following properties or interests shall constitute a "Prohibited Transfer":

(i) The Premises or any part thereof or interest therein, excepting only sales or other dispositions of Collateral (herein called "Obsolete Collateral") no longer useful in connection with the operation of the Premises, *provided that* prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by Collateral of at least equal value and utility which is subject to the lien hereof with the same priority as with respect to the Obsolete Collateral;

(ii) Any shares of capital stock of a corporate Mortgagor, a corporation which is a general partner or managing member/manager in a partnership or limited liability company Mortgagor, or a corporation which is the owner of substantially all of the capital stock of any corporation described in this subparagraph (other than the shares of capital stock of a corporate trustee or a corporation whose stock is publicly traded on a national securities exchange or on the National Association of Securities Dealers' Automated Quotation System);

(iii) All or any part of the managing member or manager interest, as the case may be, in a limited liability company Mortgagor or a limited liability company which is a general partner of a partnership Mortgagor;

(iv) All or any part of the general partner or joint venture interest, as the case may be, of a partnership Mortgagor or a partnership which is a manager of a limited liability company Mortgagor or the conversion of a partnership Mortgagor to a corporation or limited liability company; or

(v) If there shall be any change in control (by way of transfers of stock, partnership or member interests or otherwise) in any partner, member, manager or shareholder, as applicable, which directly or indirectly controls the

day-to-day operations and management of Mortgagor or Guarantor and/or owns a controlling interest in Mortgagor;

in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly (including the nominee agreement), voluntarily or involuntarily, by operation of law or otherwise; *provided, however,* that the foregoing provisions of this Paragraph 18 shall not apply (i) to liens securing the Indebtedness, (ii) to the lien of current taxes and assessments not in default, (iii) to any transfers of the Premises, or part thereof, or interest therein, or any beneficial interests, or shares of stock, membership, partnership or joint venture interests, as the case may be, by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate or personal representatives, or (iv) to leases permitted by the terms of the Loan Documents, if any, or (v) lien claims contested by Mortgagor and bonded over or indemnified in accordance with the Loan Agreement.

(b) In determining whether or not to make the Loan, the Administrative Agent and the Lenders have evaluated the background and experience of Mortgagor and its partners/members/officers in owning and operating property such as the Premises, found it acceptable and relied and continues to rely upon same as the means of maintaining the value of the Premises which is the Lender's security for the Note. Mortgagor and its partners/members/officers are well experienced in borrowing money and owning and operating property such as the Premises, were ably represented by a licensed attorney at law in the negotiation and documentation of the Loan and bargained at arm's length and without duress of any kind for all of the terms and conditions of the Loan, including this provision. Mortgagor recognizes that the Lenders are entitled to keep their respective loan portfolio at current interest rates by either making new loans at such rates or collecting assumption fees and/or increasing the interest rate on a loan, the security for which is purchased by a party other than the original Mortgagor. Mortgagor further recognizes that any secondary junior financing placed upon the Premises (a) may divert funds which would otherwise be used to pay the Note; (b) could result in acceleration and foreclosure by any such junior encumbrancer which would force the Administrative Agent and/or the Lenders to take measures and incur expenses to protect its security; (c) would detract from the value of the Premises should the Administrative Agent, for the benefit of the Lenders, come into possession thereof with the intention of selling same; and (d) would impair the Administrative Agent, for the benefit of the Lenders, and/or any Lender's right to accept a deed in lieu of foreclosure, as a foreclosure by the Administrative Agent, on behalf of the Lenders, would be necessary to clear the title to the Premises. In accordance with the foregoing and for the purposes of (i) protecting the Administrative Agent's and/or any Lender's security, both of repayment and of value of the Premises; (ii) giving the Lenders the full benefit of their bargain and contract with Mortgagor; (iii) allowing the Lenders to raise the interest rate and collect assumption fees; and (iv) keeping the Premises free of subordinate financing liens, Mortgagor agree that if this Paragraph 18 is deemed a restraint on alienation, that it is a reasonable one.

19. Cost of Collection or Performance. If any action or proceeding is commenced by or against the Administrative Agent and/or the Lenders, including, without limitation, condemnation proceedings, proceedings involving the foreclosure of this Mortgage or of any other liens or encumbrances, the enforcement or interpretation of contracts, leases or other

documents relating to the Mortgaged Property, or any other proceeding of any nature, legal or otherwise, affecting the Mortgaged Property or any part thereof, or the title thereto, or the validity or priority of the lien of this Mortgage, the Administrative Agent and/or the Lenders (as applicable) shall have the right to appear, defend, prosecute, retain counsel, and take such action as the Administrative Agent shall determine. In addition, upon an Event of Default hereunder, the Administrative Agent is authorized, but not obligated, to discharge Mortgagor's obligations hereunder. Mortgagor shall pay to the Administrative Agent, promptly upon demand, all costs, including, without limitation, "late charges" payable under the Note, out-of-pocket expenses and reasonable attorneys' fees and expenses, to the fullest extent not prohibited by applicable law, and the costs of any environmental examination and analysis, title examination, supplemental examination of title or title insurance, that may be incurred by the Administrative Agent and/or the Lenders in connection with any proceedings affecting the Mortgaged Property, or any part thereof, to cause the enforcement of the covenants or agreements of Mortgagor contained herein or in any of the other Loan Documents, or with or without the institution of an action or proceeding, or that may otherwise be incurred by the Administrative Agent and/or the Lenders in the performance of any other action by the Administrative Agent and/or the Lenders (as applicable) authorized by this Mortgage. All such costs, expenses and attorneys' fees and expenses, and any other moneys advanced by the Administrative Agent and/or the Lenders to protect the Mortgaged Property shall, to the fullest extent not prohibited by applicable law, bear interest from the date of payment thereof at the Default Rate until repaid by Mortgagor, and shall be repaid by Mortgagor to the Administrative Agent (for the benefit of the Lenders) immediately upon demand. Mortgagor hereby agrees that if a default is made in the payment of the indebtedness secured hereby when due, even if the indebtedness secured hereby shall not have been declared due and payable upon any Event of Default, the Administrative Agent (for the benefit of the Lenders), shall be entitled to receive interest thereon at the Default Rate, to be computed from the due date through actual receipt and collection of the amount then in default. The preceding sentence shall not be construed as an agreement or privilege to extend the time for performance of any obligation under this Mortgage or any of the other Loan Documents, or as a waiver of any other right or remedy accruing to the Administrative Agent by reason of any such default.

20. Partial Release. The Administrative Agent, without notice, and without regard to any consideration paid therefor, and notwithstanding the existence at the time of any inferior liens thereon, shall have the right to release (a) any part of the security for the indebtedness secured hereby, including, without limitation, the interest under this Mortgage in and to any of the Mortgaged Property, or (b) any person liable for any indebtedness secured hereby, without affecting the priority of any part of the security and the obligations of any person not expressly released, and shall have the right to agree with any party remaining liable for such indebtedness or having any interest therein to extend the time for payment of any part or all of the indebtedness secured hereby. Such agreement shall not in any way release or impair the lien hereof, but shall extend the lien hereof as against all parties having any interest in such security.

21. Non-Waiver. If the Administrative Agent (a) releases, as aforesaid, any part of such security or any person liable for any indebtedness secured hereby; (b) grants an extension of time for any payments of the indebtedness secured hereby; (c) takes other or additional security for the payment thereof; (d) accepts partial payments; or (e) otherwise exercises or waives or fails to exercise any right granted herein or in any of the other Loan Documents, no such act or

omission shall constitute a waiver of any default, or extend or affect the grace period, if any, release Mortgagor, subsequent owners of the Mortgaged Property or any part thereof, or makers or guarantors of the Note, this Mortgage, or any of the other Loan Documents, or preclude the Administrative Agent and/or the Lenders from exercising any right, power or privilege herein granted or intended to be granted for any Event of Default.

22. Agency Leases. So long as any portion of the indebtedness secured by this Agreement shall remain unpaid, unless the Administrative Agent, on behalf of itself and the Lenders, shall otherwise consent, the fee title to the Mortgaged Property and the leasehold and subleasehold estates therein created pursuant to the provisions of the Agency Leases shall not merge but shall always be kept separate and distinct, notwithstanding the union of such estates in the Agency, the Mortgagor or any other person by purchase, operation of law or otherwise. Mortgagor shall (a) diligently perform and observe all of the terms, covenants and conditions of the Agency Leases, and (b) promptly notify the Administrative Agent of the giving of any notice under the Agency Leases to Mortgagor of any default by Mortgagor, and deliver to the Administrative Agent a true copy of each such notice. Mortgagor shall not, without the prior written consent of the Administrative Agent, terminate or cancel the Agency Leases or modify, change, supplement, alter or amend the Economic Incentive Agreement, in any respect, either orally or in writing, provided, however, that Administrative Agent's consent to any such modification, change, supplement, alteration or amendment shall not be unreasonably withheld or delayed. If Mortgagor shall default in the performance or observance of any term, covenant or condition of the Agency Leases on the part of the Mortgagor, to be performed or observed beyond any applicable grace and/or cure period, then, without limiting the generality of the other provisions of this Agreement, and without waiving or releasing Mortgagor from any of its obligations hereunder, the Administrative Agent shall have the right, but shall be under no obligation, to pay any sums and to perform any act or take any action as may be appropriate to cause all of the terms, covenants and conditions of the Agency Leases on the part of the Mortgagor to be performed or observed or to be promptly performed or observed on behalf of Mortgagor, to the end that the rights of Mortgagor in, to and under the Agency Leases shall be kept unimpaired and free from default, provided same is done within any applicable cure period under the Agency Leases.

23. Additional Remedies. The Administrative Agent, on behalf of the Lenders, shall have all other remedies provided by applicable law, including, without limitation, the right to pursue a judicial sale of the Property or any portion thereof by deed, assignment or otherwise.

24. The Mortgagor agrees and acknowledges that the acceptance by the Administrative Agent (for the benefit of Lenders) of any payments from either the Mortgagor or any guarantor after the occurrence of any Event of Default, the exercise by the Administrative Agent of any remedy set forth herein or the commencement, discontinuance or abandonment of foreclosure proceedings against the Mortgaged Property shall not waive the Administrative Agent's subsequent or concurrent right to foreclose or operate as a bar or estoppel to the exercise of any other rights or remedies of the Administrative Agent and/or the Lenders. The Mortgagor agrees and acknowledges that the Administrative Agent, by making payments or incurring costs described herein, shall be subrogated to any right of the Mortgagor to seek reimbursement from any third parties, including, without limitation, any predecessor in interest to the Mortgagor's

title or other party who may be responsible under any law, regulation or ordinance relating to the presence or cleanup of Hazardous Materials.

25. Further Assurances. Upon request of the Administrative Agent, Mortgagor shall execute, acknowledge and deliver to the Administrative Agent, in form satisfactory to the Administrative Agent, financing statements covering as collateral any personal property owned by Mortgagor, which, in the sole opinion of the Administrative Agent, is essential to the operation of any of the Mortgaged Property, and any supplemental mortgage, security agreement, financing statement, assignment of leases, rents, income and profits from the Mortgaged Property, affidavit, continuation statement or certification as the Administrative Agent may reasonably request in order to protect, preserve, maintain, continue and extend the lien and security interest hereunder or the priority hereof. Mortgagor hereby irrevocably appoints the Administrative Agent its attorney-in-fact, coupled with an interest, and authorizes, directs and empowers such attorney, at its option, to execute, acknowledge and deliver on behalf of Mortgagor, its successors and assigns, any such documents if Mortgagor shall fail so to do within five (5) days after request by the Administrative Agent. Mortgagor shall pay to the Administrative Agent on demand all actual costs and expenses incurred by the Administrative Agent in connection with the preparation, execution, recording and filing of any such documents.

26. Application of Proceeds. All payments made by Mortgagor under the Note, this Mortgage or any of the other Loan Documents shall be applied by the Administrative Agent to the following items and in such order as the Administrative Agent may determine in its sole discretion: (a) advances by the Administrative Agent and/or the Lenders for payment of taxes, assessments, insurance premiums and other costs and expenses, as set forth in the Note, this Mortgage or any of the other Loan Documents; (b) any amounts which may be overdue under the Note, this Mortgage or any of the other Loan Documents; (c) interest on the indebtedness secured hereby; and (d) outstanding principal under the Note.

27. Subordination Right. At the option of the Administrative Agent, this Mortgage shall become subject and subordinate, but not with respect to the priority of entitlement to Proceeds of a Casualty or any Taking Proceeds, to any and all leases of all or any part of the Mortgaged Property, upon the execution by the Administrative Agent and recording of a unilateral declaration to that effect at any time hereafter, in the Office of the County Clerk of the County in which the Mortgaged Property is located.

28. UCC Security Agreement. This Mortgage is hereby deemed to be as well a Security Agreement and creates a security interest in and to the Collateral. Without derogating any of the provisions of this instrument, Mortgagor to the extent permitted by law hereby:

(a) grants to the Administrative Agent, for the benefit of the Lenders, a security interest in and to all Collateral, including without limitation the items referred to above and the tax and insurance escrow payments and deposits made by Mortgagor pursuant to Paragraph 2 hereof, together with all additions, accessions and substitutions and all similar property hereafter acquired and used or obtained for use on or in connection with the Mortgaged Property. The proceeds of the Collateral are intended to be secured hereby; however, such intent shall never constitute an expressed or implied consent on the part of the Administrative Agent and/or the Lenders to the sale of any or all Collateral;

(b) agrees that the security interest hereby granted shall secure the payment of the indebtedness specifically described herein together with payment of any future debt or advancement owing by Mortgagor to the Administrative Agent and/or the Lenders with respect to the Mortgaged Property;

(c) except as otherwise provided herein, agrees not to remove from the Mortgaged Property, and except for interests granted to the Agency pursuant to the Agency Leases, sell, convey, mortgage or grant a security interest in, or otherwise dispose of or encumber, any of the Collateral or any of Mortgagor's right, title or interest therein, without first obtaining the Administrative Agent's written consent; the Administrative Agent shall have the right, at its sole option, to require Mortgagor to apply the proceeds from the disposition of the Collateral in reduction of the indebtedness secured hereby;

(d) agrees that if Mortgagor's rights in the Collateral are voluntarily or involuntarily transferred, whether by sale, creation of a security interest, attachment, levy, garnishment or other judicial process, without the prior written consent of the Administrative Agent, such transfer shall constitute an Event of Default hereunder;

(e) agrees that, upon or after the occurrence of any Event of Default, the Administrative Agent shall have all rights and remedies of a "Secured Party" under the UCC as adopted in the State of Illinois in addition to all other rights and remedies contemplated hereunder, including, without limitation, the right to take possession of the Collateral, and for this purpose the Administrative Agent shall have the right to enter upon any premises on which any or all of the Collateral is situated without being deemed guilty of trespass and without liability for damages thereby occasioned, and to take possession of and operate the Collateral or remove it therefrom. The Administrative Agent shall have the further right, as the Administrative Agent may determine, to repair, refurbish or otherwise prepare the Collateral for sale, lease or other use or disposition, and to sell at public or private sale or otherwise dispose of, lease or utilize the Collateral and any part thereof in any manner authorized or permitted by law and to apply the proceeds thereof toward payment of any costs and expenses incurred by the Administrative Agent and/or the Lenders including, to the fullest extent not prohibited by applicable law, reasonable attorneys' fees and expenses, and toward payment of the indebtedness secured hereby, in such order and manner as the Administrative Agent may determine. To the fullest extent not prohibited by applicable law, Mortgagor expressly waives any notice of sale or other disposition of the Collateral and any other rights or remedies of a debtor or formalities prescribed by law relative to a sale or disposition of the Collateral or any other right or remedy existing after an Event of Default. To the extent any notice is required and cannot be waived, Mortgagor agrees that if such notice is deposited for mailing, postage prepaid, certified or registered mail, to the owner of record of the Mortgaged Property, directed to the owner at the last address actually furnished to the Administrative Agent at least five (5) days before the time of sale or disposition, such notice shall be deemed reasonable and shall fully satisfy any requirements for giving of such notice; and

(f) authorizes Administrative Agent in the jurisdiction where this Agreement will be given effect financing statements covering the Collateral and the proceeds of Collateral. At the request of the Administrative Agent, Mortgagor will join the Administrative Agent in executing one or more such financing statements pursuant to this Mortgage. To the extent

permitted by law, a carbon, photographic or other reproduction of this instrument or any financing statement executed in accordance herewith shall be sufficient as a financing statement.

29. Management. The Administrative Agent shall have the right to give or withhold its prior consent to any contract or other arrangement for the management of all or any part of the Mortgaged Property; *provided, however*, that such consent shall not be unreasonably withheld, conditioned or delayed. The Administrative Agent shall have the right, exercisable at its option upon an Event of Default or an event which, with the passage of time, the giving of notice, or both, would constitute an Event of Default, to terminate the rights of any party engaged to manage the Mortgaged Property and any and all other agreements or contracts relating to the operation or management of the Mortgaged Property, if, in the Administrative Agent's sole discretion, the management and/or operation of the Mortgaged Property is unsatisfactory.

30. Notices. Any notice, demand, request or other communication which any party hereto may be required or may desire to give hereunder shall be in writing and shall be deemed to have been properly given (i) if hand delivered, or if sent by telecopy, effective upon receipt, or (ii) if delivered by overnight courier service, effective on the day following delivery to such courier service or (iii) if mailed by United States registered or certified mail, postage prepaid, return receipt requested, effective two (2) business days after deposit in the United States mails addressed as follows:

If to Mortgagor:

BVSHSSF SYRACUSE, LLC
c/o Blue Vista Capital Management, LLC
353 North Clark Street, Suite 730
Chicago, Illinois 60654
Attention: Ronald W. Koretz
Telecopy: (312) 828-0139

With a copy to:

Faegre Baker Daniels LLP
110 Berry Street, Suite 2400
Fort Wayne, Indiana 46802
Attention: Patrick A. Scheiderer
Telecopy: (260) 460-1700

If to Administrative Agent and/or to Lenders:

Citizens Bank, National Association
1215 Superior Avenue, 6th Floor
Mail Code OHS-675
Cleveland, Ohio 44114
Attention: Judi Paskert
Telephone: (216) 277-0341
Telecopy: (216) 277-7106

and

Citizens Bank, National Association
71 South Wacker Drive
Chicago, Illinois 60606
Attention: Matthew R. Adams
Telecopy: (312) 777-3691

With a copy to:

Ginsberg Jacobs LLC
300 South Wacker Drive, Suite 2750
Chicago, Illinois 60606
Attention: Steven F. Ginsberg, Esq.

or at such other address or to such other addressee as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice.

31. Loan Documents. The term "Loan Documents" as used herein collectively refers to the "Loan Documents" as defined in the Loan Agreement.

32. Financial and Other Reporting. Mortgagor shall provide and shall cause Guarantor to provide the financial information required in the Loan Agreement and the Guaranty.

33. Operating Accounts. Mortgagor shall maintain Operating Accounts and deposit accounts as required by the Loan Agreement.

34. Intentionally Omitted.

35. Waiver of Right of Redemption. Mortgagor hereby waives any and all redemption rights upon any sale of the Mortgaged Property at any foreclosure pursuant to this Mortgage.

36. Advances. (a) This Mortgage shall secure the indebtedness of Mortgagor to Lender that is evidenced, permitted or secured by the Loan Documents, including future advances made by Lender to Mortgagor. All of such indebtedness, including future advances,

shall be a lien from the time that this Mortgage is recorded in the Office of the County Clerk of the County in which the Mortgaged Property is located.

(b) The total amount of the indebtedness to which the Mortgaged Property may be subjected for payment may not exceed the principal sum of three (3) times the original aggregate principal amount of the Note, plus, without limitation as to amount, (a) interest and charges under the Note and other Loan Documents at the rates therein provided, or if no interest is provided, at the judgment rate, (b) all costs, expenses, and reasonable attorneys' fees incurred by the Administrative Agent and/or the Lenders in connection with the collection of any of the foregoing or in the protection or enforcement of the Administrative Agent's and/or the Lender's rights or remedies hereunder or under any instrument or document given in connection with any of the loan Documents, (c) all expenditures by the Administrative Agent and/or the Lenders for the maintenance, preservation or realization of any security, and (d) the payment and performance of all of the covenants contained in this Mortgage (the "Maximum Amount").

(c) In addition to the loan advances referred to in subparagraph (a) above, the Administrative Agent shall have the right, but not the obligation, to make protective advances with respect to the Mortgaged Property for the payment of taxes, assessments, insurance premiums, repairs, maintenance and other costs incurred in the protection of the Mortgaged Property, and such protective advances, together with interest thereon at the Default Rate from the date of each such advance until it is repaid in full, shall be secured by this Mortgage with priority running from the time of the recording of this Mortgage with the Office of the County Clerk of the County in which the Mortgaged Property is located.

37. Anti-Forfeiture. Mortgagor hereby further expressly represents and warrants to The Administrative Agent and the Lenders that, to the best of Mortgagor's knowledge, there has not been committed by Mortgagor or any other person involved with the Mortgaged Property or Mortgagor any act or omission affording the federal government or any state or local government the right and/or remedy of forfeiture as against the Mortgaged Property or any part thereof or any monies paid in performance of its obligations under the Note or under any of the other Loan Documents, and Mortgagor hereby covenants and agrees not to commit, permit or suffer to exist any act or omission affording such right and/or remedy of forfeiture. In furtherance thereof, Mortgagor hereby agrees to indemnify, defend and hold harmless the Administrative Agent and the Lenders (and their respective employees and agents) from and against any loss, damage or other injury, including without limitation, reasonable attorneys' fees and expenses, to the fullest extent not prohibited by applicable law, and all other costs and expenses incurred by the Administrative Agent and/or the Lenders (as applicable) in preserving its lien, security interest and other rights and interests in the Mortgaged Property and any additional collateral under any of the Loan Documents in any proceeding or other governmental action asserting forfeiture thereof, by reason of, or in any manner resulting from, the breach of the covenants and agreements or the warranties and representations set forth in the preceding sentence. Without limiting the generality of the foregoing, the filing of formal charges or the commencement of proceedings against Mortgagor, the Administrative Agent, and/or the Lender, any guarantor, any additional collateral under any of the Loan Documents or all or any part of the Mortgaged Property under any federal or state law in respect of which forfeiture of the Mortgaged Property or any part thereof or of any monies paid in performance of Mortgagor's obligations under the Loan Documents is a potential result shall, unless vacated or dismissed at least ten (10) days

prior to forfeiture but no later than twenty (20) days after filing, at the election of Lender in its absolute discretion, constitute an Event of Default hereunder without notice or opportunity to cure.

38. Miscellaneous.

(a) THIS MORTGAGE WAS NEGOTIATED IN THE STATE OF ILLINOIS AND THE PROCEEDS OF THE NOTE DELIVERED PURSUANT HERETO WERE DISBURSED FROM THE STATE OF ILLINOIS, WHICH STATE THE ADMINISTRATIVE AGENT AND MORTGAGOR AGREE HAS A SUBSTANTIAL RELATIONSHIP TO ADMINISTRATIVE AGENT, LENDERS AND MORTGAGOR AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS MORTGAGE AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, AND ENFORCEMENT OF THE LIENS CREATED PURSUANT TO THE LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE IN WHICH THE MORTGAGED PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF ILLINOIS SHALL GOVERN THE VALIDITY AND THE ENFORCEABILITY OF ALL LOAN DOCUMENTS AND THE DEBT. TO THE FULLEST EXTENT PERMITTED BY LAW, MORTGAGOR HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS MORTGAGE AND THE NOTE, AND THIS MORTGAGE AND THE NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, AND SOLELY WITH RESPECT TO THE AGENCY, THIS MORTGAGE IS DEEMED TO HAVE BEEN NEGOTIATED IN THE STATE OF NEW YORK AND ANY AND ALL CLAIMS OR CAUSES OF ACTION ARISING OUT OF ITS CONSTRUCTION, NEGOTIATION, ENFORCEMENT OR OTHERWISE, AS SUCH CLAIMS OR CAUSES OF ACTION RELATE TO THE AGENCY, SHALL BE GOVERNED AND CONSTRUED UNDER AND BY THE LAWS OF THE STATE OF NEW YORK.

(b) If any provision of this is inconsistent with any applicable provision of the laws of the State of New York (as amended) ("New York Law"), the provisions of New York Law shall take precedence over the provisions of this Mortgage, but New York Law shall not invalidate or render unenforceable any other provision of this Mortgage that can be fairly construed in a manner consistent with New York Law. Without in any way limiting any of the Administrative Agent's and/or the Lenders' rights, remedies, powers and authorities provided in this Mortgage or otherwise, and in addition to all of such rights, remedies, powers and authorities, the Administrative Agent and the Lenders shall also have all rights, remedies, powers and authorities permitted to the holder of a mortgage under New York Law, as the same may be

amended from time to time. If any provision of this Mortgage shall grant to the Administrative Agent and the Lenders any rights, remedies, powers or authorities upon default of Mortgagor which are more limited than what would be vested in the Administrative Agent and the Lenders under New York Law in the absence of said provision, the Administrative Agent and the Lenders shall each have such rights, remedies, powers and authorities that would be otherwise vested in it under New York Law. Without limitation, all expenses (including reasonable attorneys' fees and costs) incurred by the Administrative Agent and/or the Lenders to the extent reimbursable under any provision of New York Law, whether incurred before or after any foreclosure, shall be added to the indebtedness secured by this Mortgage and included in the amount due and or judgment of foreclosure.

39. UCC Financing Statement/Fixture Filing. This Mortgage is intended to be a UCC Financing Statement/Fixture Filing within the purview of Section 9-502 (c) of the Uniform Commercial Code as adopted by the State of New York with respect to the Collateral and the goods described herein, which goods are and may become fixtures relating to the Premises. The addresses of Mortgagor as Debtor and the Administrative Agent, for the benefit of the Lenders, as Secured Party are set forth herein. This Mortgage is to be filed for record with the Office of the County Clerk of the county or counties where the Mortgaged Property is located.

(a) Mortgagor and Lender agree that this Mortgage shall constitute a Security Agreement within the meaning of the New York Uniform Commercial Code (hereafter referred to as the "UCC") with respect to (i) all sums at any time on deposit for the benefit of Lender or held by the Lender (whether deposited by or on behalf of Mortgagor or anyone else) pursuant to any of the provisions of the Note, this Mortgage or the other Loan Documents and (ii) with respect to any personal property included in the granting clauses of this Mortgage, which personal property may not be deemed to be affixed to the Property or may not constitute a "fixture" (within the meaning of Section 9-313 of the UCC) (which property is hereinafter referred to as "Personal Property"), and that a security interest in and to the Collateral is hereby granted to the Lender, and the Collateral and all of Mortgagor's right, title and interest therein are hereby assigned to Lender, all to secure payment of the Debt. All of the provisions contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Property.

40. WAIVER OF JURY TRIAL. MORTGAGOR ONLY, AND NOT THE AGENCY, HEREBY, AND THE ADMINISTRATIVE AGENT BY ITS ACCEPTANCE HEREOF, EACH WAIVE THE RIGHT OF A JURY TRIAL IN EACH AND EVERY ACTION ON THIS MORTGAGE OR ANY OF THE OTHER LOAN DOCUMENTS, IT BEING ACKNOWLEDGED AND AGREED THAT ANY ISSUES OF FACT IN ANY SUCH ACTION ARE MORE APPROPRIATELY DETERMINED BY THE COURTS; FURTHER, MORTGAGOR ONLY, AND NOT THE AGENCY, HEREBY CONSENTS AND SUBJECTS ITSELF TO THE JURISDICTION OF COURTS OF THE STATE OF ILLINOIS AND, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TO THE VENUE OF SUCH COURTS IN THE COUNTY IN WHICH THE MORTGAGED PROPERTY IS LOCATED.

41. New York Specific Provisions.

(a) Section 291-f. In connection with the Assignment, Lender shall have all the rights against lessees of the Real Property as set forth in Section 291(f) of the Real Property Law of New York.

(b) Provisions Construed. The provisions hereof shall be construed as affording to Lenders rights additional to and not exclusive of the rights conferred under the provisions of Sections 254, 271 and 272 of the Real Property Law of the State of New York; provided, however, in the event of any inconsistency between the provisions hereof and the provisions of said Sections 254, 271 and 272, the provisions hereof shall govern.

(c) Residential Dwelling Units. This Agreement covers real property principally improved or to be improved by one or more structures containing in the aggregate more than six residential dwelling units, each having their own separate cooking facilities.

(d) Trust Fund Provisions.

(i) Mortgagor shall receive all advances and hold the right to receive all advances hereunder, as a trust fund in accordance with the provisions of the Section 13 of the Lien Law of the State of New York to be applied first for the purpose of paying the cost of improvement before using any part of such advance for any other purpose.

(ii) Mortgagor shall indemnify and hold Administrative Agent and each of the Lenders harmless from and against any and all losses, liabilities, proceedings, costs and expenses (including without limitation attorneys' fees and disbursements) suffered or incurred by Administrative Agent and/or any Lender arising out of or relating to any violation or alleged violation by the Mortgagor of the foregoing provisions of this Section or of any applicable law relating thereto, including without limitation, any violation of New York Lien Law Article 3-A.

(e) Insurance Covenants. The provisions of subsection 4 of Section 254 of the New York Real Property Law covering insurance of buildings against loss by fire shall not apply to this Mortgage or to the Loan Agreement. In the event of any conflict, inconsistency, or ambiguity between the provisions of this Mortgage (and the Loan Agreement) and the provisions of subsection 4 of Section 254 of the New York Real Property Law covering the insurance of buildings against loss by fire, the provisions of this Mortgage and the Loan Agreement shall control.

(f) Mortgage Taxes. Subject to the terms of the Agency Leases, the Mortgagor shall pay any and all taxes, charges, filing, registration and recording fees, excises and levies imposed upon the Lender by reason of its ownership of the Note or this Mortgage or any mortgage supplemental hereto, any security instrument with respect to the Project or any part thereof or any instrument of further assurance, other than income, franchise and doing business taxes, and shall pay all stamp and other taxes, if any, required to be paid on or in respect of the Note. If the Mortgagor fails to make any such payment upon demand then, in addition to all other rights and/or remedies available to the Lender upon the occurrence of an Event of Default, Lender shall

have the right, but shall not be obligated, to pay the amount due, and the Mortgagor shall, on demand, reimburse the Lender for said amount, which until so reimbursed to the Lender, shall be deemed to be part of the Indebtedness and shall be secured by the lien of this Mortgage.

42. Building Loan Mortgage.

(a) This Mortgage is intended to secure only advances made under the Building Loan Agreement for "costs of improvement" and other permitted items and no advances that would cause this mortgage not to constitute a "building loan mortgage" under Section 13 of the Lien Law.

(b) The determination of whether any advance made by the Lenders is an advance for purposes of this Building Loan Mortgage shall not be affected by whether Administrative Agent or any Lender maintains separate records specifically identifying advances as such.

(c) Notwithstanding anything to the contrary in this mortgage, this Mortgage is intended to constitute a "building loan mortgage" as defined in the Lien Law and secures only advances made pursuant to a "building loan contract".

43. Rate Management. The following terms have the following meanings:

(a) "Rate Management Agreement" means any Rate Management Transactions and any other agreement, device or arrangement providing for payments which are related to fluctuations of interest rates, exchange rates or forward rates, including, but not limited to, dollar-denominated or cross-currency interest rate exchange agreements, forward currency exchange agreements, interest rate cap or collar protection agreements, forward rate currency or interest rate options, puts and warrants, including without limitation any ISDA Master Agreement between Mortgagor and a Lender (or any of affiliates of any Lender, including without limitation Citizens Bank, National Association), and any schedules, confirmations and documents and other confirming evidence between the parties confirming transactions thereunder, all whether now existing or hereafter arising, and in each case as amended, modified or supplemented from time to time.

(b) "Rate Management Obligations" means any and all obligations of Mortgagor to Lender (or any affiliates of any Lender, including without limitation Citizens Bank, National Association), whether absolute, contingent or otherwise and howsoever and whensoever (whether now or hereafter) created, arising, evidence or acquired (including all renewals, extension and modifications thereof and substitutions therefor), under or in connection with (i) any and all Rate Management Agreements, and (ii) any and all cancellations, buybacks, reversals, terminations or assignments of any Rate Management Agreement.

(c) "Rate Management Transaction" means any transaction (including an agreement with respect thereto) now existing or hereafter entered into between Mortgagor and Lender (or any affiliates of any Lender, including without limitation Citizens Bank, National Association) which is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar

transaction, forward transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether linked to one or more interest rates, foreign currencies, commodity prices, equity prices or other financial measures, or any other transaction which is governed by any ISDA Master Agreement between Mortgagor and Lender (or any affiliates of any Lender, including without limitation Citizens Bank, National Association).

44. Right to Assign. Subject to Section 13.11 of the Loan Agreement, the Administrative Agent shall have the right at no cost to Mortgagor, to assign, transfer, sell, negotiate, pledge or otherwise hypothecate the Note and any of its rights and security hereunder, including this Mortgage, and any other Loan Documents without the consent of or notice to Mortgagor. Mortgagor hereby agrees that all of the rights and remedies of the Administrative Agent and/or the Lenders in connection with the interest so assigned shall be enforceable against Mortgagor by such assignee with the same force and effect and to the same extent as the same would have been enforceable by the Administrative Agent but for such assignment. Subject to Section 13.11 of the Loan Agreement, Mortgagor agrees that the Lender shall have the right to sell participations in the Loan without the consent of the Mortgagor.

45. Oral Agreements. **ORAL AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE, REGARDLESS OF THE LEGAL THEORY UPON WHICH IT IS BASED THAT IS IN ANY WAY RELATED TO THE CREDIT AGREEMENT. TO PROTECT YOU (BORROWER(S)) AND US (CREDITOR) FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS WE REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS WRITING, WHICH IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN US, EXCEPT AS WE MAY LATER AGREE IN WRITING TO MODIFY IT.**

46. Exculpation. Mortgagor's liability hereunder is limited as provided in Section 21 of the Note.

47. Intentionally Omitted.

48. Mortgagor's Obligations to Comply with the Agency Leases. Mortgagor shall: (i) pay the all other sums of money due and payable at any time and from time to time under the Company Lease and the Sub-Lease, as and when such sums become due and payable, but in any event before the expiration of any grace period provided in the Company Lease and the Sub-Lease for the payment of any such sum; and (ii) at all times fully perform, observe and comply with all other terms, covenants and conditions of the Company Lease and Sub-Lease to be performed, observed or complied with by Mortgagor as lessor under the Company Lease and lessee under the Sub-Lease. If the Company Lease and/or the Sub-Lease do not provide for a grace period for the payment of a sum of money, Mortgagor shall make the payment on or before the date on which the payment becomes due and payable. Mortgagor shall deliver evidence of the payment to Administrative Agent within ten (10) days after receipt of a written request from Administrative Agent for evidence of the payment.

49. Agency Executing at the Direction of Mortgagor. The Mortgagor directs the Agency to execute and deliver this Mortgage to the Administrative Agent, and further agrees to indemnify the Agency (and its members, officers, directors, agents, servants and employees) for all fees and costs incurred in connection with the execution, delivery, recording, performing and enforcing of this Mortgage, including but not limited to reasonable attorney's fees.

50. Hold Harmless Provisions. The Mortgagor acknowledges that the terms of the Sub-Lease, as amended and restated from time to time, are in full force and effect, including but not limited to the "Hold Harmless Provisions" contained in Section 8.2 thereof and incorporates same in this instrument and makes same applicable hereto as if fully set forth herein.

51. No Recourse; Special Obligation.

(1) The obligations and agreements of the Agency contained herein and in any other instrument or document executed in connection herewith, and any instrument or document supplemental hereto, shall be deemed the obligations and agreements of the Agency and not of any member, officer, agent or employee of the Agency in his individual capacity; and the members, officers, agents and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State New York or of the City of Syracuse, and neither the State of New York nor the City of Syracuse shall be liable hereon or thereon. Further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, payable solely from the revenues of the Agency derived, and to be derived from, the lease, sale, or other disposition of the Project Facility, other than revenues derived from or constituting Unassigned Rights (as those terms are defined in the Sub-Lease). No order or decree of specific performance with respect to any of the obligations of the Agency hereunder or thereunder shall be sought or enforced against the Agency unless:

(a) The party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and thirty (30) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or if compliance therewith would reasonably be expected to take longer than thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period; and

(b) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses; and

(c) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents or employees shall be subject to potential liability, the party seeking such order or decree shall (1) agree to indemnify and hold harmless the Agency and its members, officers, agents and employees against any liability incurred as a result of its compliance with such demand; and (2)

if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents and employees against all liability expected to be incurred as a result of compliance with such request.

(d) Any failure to provide notice, indemnity, or security to the Agency pursuant to this Section shall not alter the full force and effect of any Event of Default under the Agency Lease.

(e) For purposes of this Section, the Mortgagor shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

(2) Notwithstanding anything else herein to the contrary, the Administrative Agent acknowledges and agrees that the Agency has agreed to participate herein solely to subject its interests, if any, in the Mortgaged Property to this Mortgage and that any recourse or remedies the Mortgagee may have as against the Agency hereunder shall be sought solely against the Agency's interest in the Mortgaged Property and not against any other assets of the Agency.

52. Miscellaneous Provision. The Mortgagor and the Administrative Agent hereto, by accepting this Mortgage, acknowledge that the Agency is executing this Mortgage solely to subject its interest in the Mortgaged Property, if any, to this Mortgage. Notwithstanding anything herein to the contrary, the Administrative Agent acknowledges and agrees that their sole recourse against the Agency for any default hereunder shall be with respect to the Agency's interest in the Mortgaged Property.

[SIGNATURE PAGE FOLLOWS]

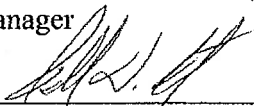
IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be duly executed and delivered as of the date first above written.

MORTGAGOR:

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: **BVSHSSF REIT, LLC,**
a Delaware limited liability company
Its Sole Member

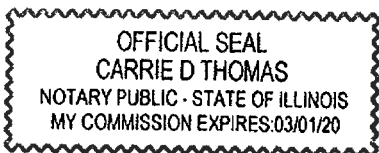
By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

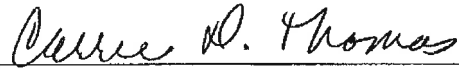
By: 
Name: Ronald W. Koretz
Its: Senior Vice President and Secretary

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

BEFORE ME, a Notary Public in and for said County and State, personally appeared Ronald W. Koretz the Senior Vice President and Secretary of Blue Vista Student Housing Select Strategies Manager, LLC, a Delaware limited liability company, in its capacity as the manager of BVSHSSF REIT, LLC, a Delaware limited liability company, in its capacity as the sole member of BVSHSSF SYRACUSE, LLC, a Delaware limited liability company, who acknowledged that such person did sign the foregoing instrument and that the same is the free act and deed of such person personally, and of said corporation and such limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 8th day of May, 2017.




Notary Public

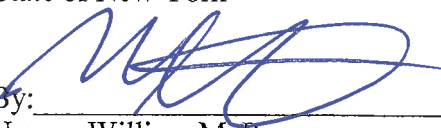
3-1-20
ILLINOIS

(Seal)
Term expires: 03/01/20

IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be duly executed and delivered as of the date first above written.


MORTGAGOR:

THE CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY,
a public benefit corporation under the laws of the State of New York

By: 
Name: William M. Ryan
Its: Chairman

STATE OF NEW YORK)
) SS.
COUNTY OF ONONDAGA)

On the 15th day of May in the year 2017 before me, the undersigned, a Notary Public in and for said State, personally appeared William M. Ryan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

(Seal) . **LORI L. McROBBIE**
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 2018
Term expires: 2-12-18

EXHIBIT A
LEGAL DESCRIPTION

NEW LOT No. 100, RESUBIVISION OF PART OF LOT Nos. 18, 19, 21, LOT Nos. 22, 23, 24, 25, 26, 27 & 28 AND ADDITIONAL LANDS PART OF BLOCK No. 240, CITY OF SYRACUSE

56
All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block No. 240 in said City, being New Lot No. 100 of Resubivision of Part of Lot Nos. 18, 19, 21, Lot Nos. 22, 23, 24, 25, 26, 27 & 28 and additional lands according to a map by Ianuzi & Romans Land Surveying, P.C. dated August 11, 2016, last revised December 12, 2016 filed in the Onondaga County Clerk's Office on February 28, 2017, as Map No. 12334, bounded and described as follows:

Beginning at the intersection of the northerly boundary of East Genesee Street with the westerly boundary of South Crouse Avenue (Chestnut Street, formerly), said point being the southeasterly corner of said Block No. 240; running thence N 83°37'20" W along said northerly boundary of East Genesee Street, a distance of 155.32 feet to the easterly boundary of lands conveyed to Caserta, LLC by deed recorded in the Onondaga County Clerk's Office in Book 4912 of Deeds at page 523; thence N 00°29'40" E along said easterly boundary of lands conveyed to Caserta, LLC, a distance of 84.87 feet to the northeasterly corner thereof; thence N 89°30' 50" W along the northerly boundary of said lands conveyed to Caserta, LLC, a distance of 100.51 feet to the easterly boundary of Irving Avenue; thence N 00°29'40" E along said easterly boundary of Irving Avenue, a distance of 240.42 feet to a southerly boundary of lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 69; thence S 89°30'50" E along said southerly boundary of lands conveyed to 900 East Fayette Group, LLC, a distance of 123.01 feet to a southeasterly

corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC, a distance of 65.00 feet to a southwesterly corner of other lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 78; thence S 89°30'50" E along the southerly boundary of said other lands conveyed to 900 East Fayette Group, LLC and along a southerly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 42.0 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 100.0 feet to the southerly boundary of East Fayette Street; thence S 89°30'50" E along said southerly boundary of East Fayette Street, a distance of 90.0 feet to the aforementioned westerly boundary of South Crouse Avenue (Chestnut Street, formerly); thence S 00°29'40" W along said westerly boundary of South Crouse Avenue (Chestnut Street, formerly), a distance of 506.23 feet to the point of beginning.

Section: 48

Block: 5

Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

Common Address: 919 East Genesee Street, Syracuse, New York

EXHIBIT B

PERMITTED EXCEPTIONS

1. County/Town Taxes for the Year(s) 2017 not yet due and payable.
2. City/School Taxes for the 2016/2017 fiscal year not yet due and payable.
3. Bill of Sale from BVSHSSF Syracuse, LLC to City of Syracuse Industrial Development Agency dated as of May 1, 2017.
4. Company Lease Agreement between BVSHSSF Syracuse, LLC and City of Syracuse Industrial Development Agency dated as of May 1, 2017.
5. Sub-Lease Agreement between BVSHSSF Syracuse, LLC and City of Syracuse Industrial Development Agency dated as of May 1, 2017.
6. Deed Covenant Against Grantor dated December 21, 1983 by and between Syracuse Urban Renewal Agency, a public benefit corporate of the State of New York to Richard D. Gerle, an individual, recorded in the Onondaga County Clerk's Office on December 29, 1983 in Liber 3061 of Deeds, at page 276.
7. Warranty Deed from 938 Fayette Street Parking, LLC to BVSHSSF Syracuse, LLC, dated December 1, 2016 and recorded in the Onondaga County Clerk's Office on December 6, 2016 in Liber of Deeds 5403, at page 534.
8. Memorandum of Parking Space Lease by and between BVSHSSF Syracuse, LLC and 938 Fayette Street Parking, LLC, dated December 1, 2016 and recorded in the Onondaga County Clerk's Office on December 6, 2016 in Liber of Deeds 5403, at page 540.
9. Access Easement granted to City of Syracuse by instrument dated February 28, 2017, and recorded in the Onondaga County Clerk's Office on February 28, 2017, in Liber 5414 of Deeds, at page 505.
10. Stormwater Control Facility Maintenance Agreement between the City of Syracuse and BVSHSSF Syracuse, LLC by instrument dated February 28, 2017, and recorded in the Onondaga County Clerk's Office on February 28, 2017, in Liber 5414 of Deeds, at 513.
11. Liens of the Subordinate Project Loan Documents (as defined in the Loan Agreement).

EXHIBIT C

ENVIRONMENTAL REPORTS

1. Phase I Environmental Site Assessment dated May 25, 2016, by CHA as CHA Project No. 31631.
2. Memorandum re: Subsurface Investigation dated July 28, 2016 from CHA to Andrew Vendal.

AFFIDAVIT RE: MORTGAGE TAX EXEMPTION

STATE OF NEW YORK)
)
COUNTY OF ONONDAGA) SS.

WILLIAM M. RYAN, being duly sworn, deposes and says:

He is Chairman of the City of Syracuse Industrial Development Agency (the "Agency").

The Agency is an industrial development agency duly established under Title I of Article 18-A of the General Municipal Law of the State of New York (the "State"), as amended, and Chapter 641 of the Laws of 1979 of the State (collectively, the "Act"), and it is a corporate governmental agency constituting a public benefit corporation of the State.

On or about January 24, 2017 the Agency adopted a resolution at the request of BVSHSSF Syracuse, LLC (the "Applicant" and/or "Company") agreeing to undertake a project (the "Project") consisting of: (A)(i) the acquisition of a leasehold interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street), in the City of Syracuse, New York (the "Land"); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet containing new four and five story buildings to be used as mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces, all located on the Land (collectively, the "Facility"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "Equipment" and together with the Land and the Facility, the "Project Facility"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the "Financial Assistance"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company and the Agency are mortgaging their respective interests in the improved real property described on Exhibit "A" to: Citizens Bank, National Association (the "Mortgagee"), pursuant to a certain Building Loan Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated May 19, 2017 in the amount of \$47,371,216.00 (the "Building Loan Mortgage"), a Project Loan Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated May 19, 2017 in the amount of \$2,863,917.00 (the "Project Loan Mortgage" and together with the Building Loan Mortgage, the "Mortgages"), an Assignment of Leases and Rents dated May 19, 2017 ("Assignment of Leases and Rents") and a

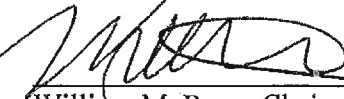
Project Loan Assignment of Leases and Rents dated May 19, 2017 (the "*Project Loan Assignment of Leases and Rents*") and together with the Assignment of Leases and Rents, the "*Assignments of Leases and Rents*"). The Mortgages are pledged to secure notes given by the Company to the Mortgagee.

Pursuant to Article 18-A of the New York General Municipal Law, as amended from time to time (the "*Act*"), the Agency is regarded as performing a governmental function and is generally not required to pay taxes or assessments upon any property acquired by it or under its jurisdiction, control or supervision or upon its activities.

Deponent submits that no mortgage tax, should be imposed upon the Mortgages and the Assignments of Rents, insomuch as the Mortgages and the Assignments of Rents are being executed and delivered under the State authority creating the Agency, insomuch as the use by the Agency of its powers to secure the payment of principal and interest on the loan is deemed by Article 18-A public purpose essential to the public interest, and insomuch as both the New York State Department of Taxation and Finance and Counsel to the New York State Department of Taxation and Finance have expressed their opinion that the recording of similar documents by similar agencies organized under Article 18-A of the New York General Municipal Law are operations of said agencies entitled to exemption from the mortgage recording tax.

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**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
William M. Ryan, Chairman

Subscribed and sworn to before me
this 9th day of May, 2017.

Lori McRobbie
Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 2018.

Lori McRobbie

2-12-18

ONOND
CO.

New York

EXHIBIT A

LEGAL DESCRIPTION

NEW LOT No. 100, RESUBIVISION OF PART OF LOT Nos. 18, 19, 21, LOT Nos. 22, 23, 24, 25, 26, 27 & 28 AND ADDITIONAL LANDS PART OF BLOCK No. 240, CITY OF SYRACUSE

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block No. 240 in said City, being New Lot No. 100 of Resubivision of Part of Lot Nos. 18, 19, 21, Lot Nos. 22, 23, 24, 25, 26, 27 & 28 and additional lands according to a map by Ianuzi & Romans Land Surveying, P.C. dated August 11, 2016, last revised December 12, 2016 filed in the Onondaga County Clerk's Office on February 28, 2017, as Map No. 12334, bounded and described as follows:

Beginning at the intersection of the northerly boundary of East Genesee Street with the westerly boundary of South Crouse Avenue (Chestnut Street, formerly), said point being the southeasterly corner of said Block No. 240; running thence N 83°37'20" W along said northerly boundary of East Genesee Street, a distance of 155.32 feet to the easterly boundary of lands conveyed to Caserta, LLC by deed recorded in the Onondaga County Clerk's Office in Book 4912 of Deeds at page 523; thence N 00°29'40" E along said easterly boundary of lands conveyed to Caserta, LLC, a distance of 84.87 feet to the northeasterly corner thereof; thence N 89°30' 50" W along the northerly boundary of said lands conveyed to Caserta, LLC, a distance of 100.51 feet to the easterly boundary of Irving Avenue; thence N 00°29'40" E along said easterly boundary of Irving Avenue, a distance of 240.42 feet to a southerly boundary of lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 69; thence S 89°30'50" E along said southerly boundary

of lands conveyed to 900 East Fayette Group, LLC, a distance of 123.01 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC, a distance of 65.00 feet to a southwesterly corner of other lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 78; thence S 89°30'50" E along the southerly boundary of said other lands conveyed to 900 East Fayette Group, LLC and along a southerly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 42.0 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 100.0 feet to the southerly boundary of East Fayette Street; thence S 89°30'50" E along said southerly boundary of East Fayette Street, a distance of 90.0 feet to the aforementioned westerly boundary of South Crouse Avenue (Chestnut Street, formerly); thence S 00°29'40" W along said westerly boundary of South Crouse Avenue (Chestnut Street, formerly), a distance of 506.23 feet to the point of beginning.

Section: 48

Block: 5

Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

Common Address: 919 East Genesee Street, Syracuse, New York

14

18296/176

DL 002077

ONONDAGA COUNTY

BASIC TAX	\$	
MTG. INS. FUND TAX	\$	
NET ADDITIONAL TAX	\$	
TOTAL MTG. TAX PAID	\$	

This space reserved for Recorder's use only.

ASSIGNMENT OF LEASES AND RENTS

by

BVSHSSF SYRACUSE, LLC
a Delaware limited liability company
and

THE CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY,
A public benefit corporation under the laws of the State of New York

to and for the benefit of

CITIZENS BANK, NATIONAL ASSOCIATION,
a national banking association, in its capacity as administrative agent
for itself and certain other lenders, together with its successors and assigns

Property Address: 919 East Genesee Street
City and State: Syracuse, New York
County: Onondaga
Section: 48
Block: 5
Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

AFTER RECORDING RETURN TO:
Ginsberg Jacobs LLC
300 South Wacker Drive, Suite 2750
Chicago, Illinois 60606
Attn: Barrett J. Schulz, Esq.

Building Loan

mtg 18296 p176

10:58 05/26/17 1722417 MM MB-18296P-221

This ASSIGNMENT OF LEASES AND RENTS (this "Assignment"), is made as of May 19, 2017, by **BVSHSSF SYRACUSE, LLC**, a Delaware limited liability company, having a mailing address at c/o Blue Vista Capital Management, LLC, 353 North Clark Street, Suite 730, Chicago, Illinois 60654 ("Assignor") and **THE CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York (the "Agency"), duly organized and existing under the laws of the State of New York, with an office at 201 East Washington Street, 7th Floor, Syracuse, New York 13202 in favor of **CITIZENS BANK, NATIONAL ASSOCIATION**, a national banking association (in its capacity as administrative agent and together with its successors and assigns, "Administrative Agent"), having an address at 71 South Wacker Drive, IH2915, Chicago, Illinois 60606, as administrative agent for those certain lending financial institutions made a party to the Loan Agreement (as defined below) from time to time (such lending financial institutions, together with their respective successors and assigns, the "Lenders").

WITNESSETH:

FOR VALUE RECEIVED, Assignor and Agency do hereby SELL, ASSIGN, TRANSFER, SET OVER and DELIVER unto the Administrative Agent, for the benefit of the Lenders, all leases and tenancies of all or any portion of the premises situated in the City of Syracuse, County of Onondaga, State of New York, and more particularly described in Exhibit A attached hereto and made a part hereof, together with the buildings and improvements thereon, excepting therefrom the Agency Leases (as defined in the Mortgage) (collectively, the "Premises");

TOGETHER with Assignor's and Agency's right, title and interest in, to and under: (a) all present and future leases of the Mortgaged Property (as defined in the Mortgage) or any portion thereof, all licenses and agreements relating to the management, leasing, occupancy or operation of the Property, whether such leases, licenses and agreements are now existing or entered into after the date hereof, excepting therefrom the Agency Leases (as defined in the Mortgage) (collectively, the "Leases"); and (b) the rents, issues, revenues, receipts, deposits and profits of the Property, including, without limitation, all amounts payable and all rights and benefits accruing to Assignor under the Leases ("Rents"). The term "Leases" shall also include all subleases and other agreements for the use or occupancy of the Property, all guarantees of and security for the tenant's performance thereunder, the right to exercise any landlord's liens and other remedies to which the landlord is entitled, and all amendments, extensions, renewals or modifications thereto, but specifically excepting therefrom the Agency Leases (as defined in the Mortgage). This is a present and absolute assignment, not an assignment for security purposes only, and the Administrative Agent's right to the Leases and Rents is not contingent upon and may be exercised without, possession of the Premises.

The Administrative Agent confers upon Assignor a revocable license ("License"), pursuant to Section 5 hereof, to collect, demand, sue for, attach, levy, recover and retain all Rents as they become due and payable (including the limited right to collect Rents more than one (1) month in advance as herein provided in Section 1 and Section 3 below and to otherwise enjoy the benefits of the Leases and Rents in Assignor's capacity as landlord), until the occurrence of an

Event of Default (as hereinafter defined). Upon an Event of Default, and only upon an Event of Default, the License shall be automatically revoked and the Administrative Agent may collect and apply the Rents pursuant to the terms hereof without notice and without taking possession of the Property. All Rents thereafter collected by Assignor shall be held by Assignor as trustee under a constructive trust for the benefit of the Administrative Agent, for the benefit of the Lenders. Assignor hereby irrevocably authorizes and directs the tenants under the Leases to rely upon and comply with any notice or demand by the Administrative Agent for the payment to the Administrative Agent of any rentals or other sums which may at any time become due under such Leases, or for the performance of any of the tenants' undertakings under such Leases, and the tenants shall have no duty to inquire as to whether any Event of Default has actually occurred or is then existing. Assignor hereby relieves the tenants from any liability to Assignor by reason of relying upon and complying with any such notice or demand by the Administrative Agent. Administrative Agent may apply, in its sole discretion, any Rents so collected by the Administrative Agent against any Obligation, whether existing on the date hereof or hereafter arising. Collection of any rents, royalties, issues, proceeds and profits accruing from the Land by the Administrative Agent shall not cure or waive any Event of Default or notice of an Event of Default or invalidate any acts done pursuant to such notice.;

TO HAVE AND TO HOLD the same unto the Administrative Agent, for the benefit of the Lenders, forever, or for such shorter period as hereinafter may be indicated.

FOR THE PURPOSE OF SECURING the payment of the indebtedness in the original principal amount of Forty-Seven Million Three Hundred Seventy-One Thousand Two Hundred Sixteen and 00/100 Dollars (\$47,371,216.00) as evidenced by those certain Building Loan Notes, dated on or about the date hereof, executed and delivered by Assignor in favor of the Administrative Agent, for the benefit of the Lenders, as the same may be amended, extended, supplemented, modified and/or renewed, and all replacements and substitutions therefor (alternatively and collectively, the "Note"), as well as the payment, observance, performance and discharge of all other obligations, covenants, conditions, and warranties outstanding at any time, from time to time and contained in the Building Loan Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated on or about the date hereof covering the Premises and securing the Note, executed and delivered by Assignor in favor of the Administrative Agent, for the benefit of the Lenders, recorded concurrently herewith, and any amendments, modifications, extensions, supplements and/or consolidations thereof (the "Mortgage"), the Loan Agreement (as defined in the Mortgage) and all of the other Loan Documents (as defined in the Mortgage). Capitalized terms used in this Assignment and not otherwise defined herein shall have the meaning given such term in the Loan Agreement.

Notwithstanding any other provisions hereof, if a court of competent jurisdiction construes this Assignment to be a collateral assignment that secures the indebtedness secured hereby rather than an absolute and unconditional assignment, then such assignment will constitute an assignment of rents and thereby create a security interest in the Leases and all rents or other monies payable thereunder or with respect thereto that will be perfected upon the recording of this Assignment.

TO PROTECT THE SECURITY OF THIS ASSIGNMENT, IT IS COVENANTED AND AGREED AS FOLLOWS:

1. Assignor's Warranties. Assignor represents and warrants that (a) Assignor is the owner of a fee and sub-leasehold estate in the Premises, and has good title to the Leases and Rents and, with the exception of the rights of the Agency pursuant to (i) the certain Agency Lease Agreement between Assignor and the Agency dated as of May 1, 2017 (the "Sub-Lease"), and (ii) the certain Company Lease Agreement between Assignor and the Agency dated as of May 1, 2017 (the "Company Lease" and together with the Sub-Lease, collectively, the "Agency Leases"), good right to assign the same, and that no other person or entity has any right, title or interest therein, other than the rights of Agency as described above; (b) to the extent required as of the date of this Assignment, Assignor has performed in all material aspects all of the terms, covenants, conditions and warranties of the Leases on Assignor's part to be kept, observed and performed; (c) to the best of Assignor's knowledge, the Leases are valid and unmodified except as indicated herein and in full force and effect; (d) Assignor has not previously sold, assigned, transferred, mortgaged or pledged the Leases or the Rents, whether now due or hereafter to become due; (e) none of the Rents due for any period subsequent to the month in which this Assignment is made have been collected by Assignor (other than Rents for up to twenty percent (20%) of the residential Leases collected more than one (1) month but no more than twelve (12) months in advance), and payment of the Rents has not otherwise been anticipated, waived, released, discounted, setoff, or otherwise discharged or compromised by Assignor, nor does Assignor have knowledge thereof; (f) Assignor has not received any funds or deposits from any lessee, other than security deposits pursuant to the terms of the applicable Leases, for which credit has not already been made on account of accrued Rents; and (g) to the knowledge of Assignor, neither Assignor nor any of the lessee(s) under the Leases is in default of any of the terms thereof beyond any applicable cure or grace period.

2. Covenants of Assignor. Assignor covenants and agrees as follows: (a) to observe, perform and discharge promptly all obligations, terms, covenants, conditions and warranties of the Loan Documents, and of the Leases, on the part of Assignor to be observed, performed and discharged; (b) to the extent required by applicable law, notify and direct in writing each and every present or future lessee or occupant of the Premises or any part thereof that any security or other deposit heretofore delivered to Assignor has been retained by Assignor or assigned and delivered to the Administrative Agent, for the benefit of the Lenders, as the case may be; (c) to enforce or secure in the name of the Administrative Agent, for the benefit of the Lenders, the performance in all material respects of each and every obligation, term, covenant, condition and agreement in the Leases to be performed by any lessee; (d) to appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases or the obligations, duties or liabilities of Assignor and any lessee thereunder, and, upon request by the Administrative Agent, will do so in the name and on behalf of the Administrative Agent but at the expense of Assignor, and to pay all costs and expenses of the Administrative Agent and/or the Lenders, including reasonable attorney's fees to the fullest extent not prohibited by applicable law, in any action or proceeding in which the Administrative Agent and/or the Lenders may appear.

3. Negative Covenants of Assignor. Assignor further covenants and agrees as follows: (a) not to receive or collect any Rents from any lessee of the Premises or any part thereof more than one (1) month in advance of the due date thereof (whether in cash or by promissory note) (other than Rents for up to twenty percent (20%) of the residential Leases collected more than one (1) month but no more than twelve (12) months in advance); (b) not to

waive, excuse, condone, discount, set-off, compromise, or in any manner release or discharge any lessee under any Lease, of and from any material obligations, covenants, conditions and agreements by the lessee to be kept, observed and performed, including the obligation to pay the Rents thereunder, in the manner and at the place and time specified therein without the prior written consent of the Administrative Agent; (c) not to cancel, terminate or consent to any surrender of any of the Leases, nor materially (in the Administrative Agent's reasonable determination) modify or alter the terms thereof to the detriment of the Administrative Agent without the prior written consent of the Administrative Agent, not to be unreasonably withheld, conditioned or delayed; (d) not to consent, without the prior written consent of the Administrative Agent, not to be unreasonably withheld, conditioned or delayed, to any subletting of the Premises or any part thereof, or to any assignment of any of the Leases by any lessee thereunder, unless the lessee has the right under the terms of the Lease (i) to assign or sublet to specified assignees or sublessees, in which event Assignor shall provide the Administrative Agent written notice of any such assignment or subletting, or (ii) to generally assign or sublet to unspecified assignees or sublessees with the prior consent of Assignor, as landlord, not to be unreasonably withheld, in which event the consent of the Administrative Agent required under this clause (d) shall not be unreasonably withheld; and (e) not to enter into any renewal or extension of any of the Leases, other than renewals or extensions of Approved Leases to residential tenants or upon exercise of an express option therefor contained in such Lease, without the prior written consent of the Administrative Agent, not to be unreasonably withheld, conditioned or delayed, nor enter into any new Lease unless the same shall be an Approved Lease (as defined in the Loan Agreement). Any of the above acts done without the prior written consent of the Administrative Agent shall be null and void at the option of the Administrative Agent.

4. Cross-Default. In the event any representation or warranty herein of Assignor shall be found to be untrue when made in any material respect, or Assignor shall default in the observance or performance of any obligation, term, covenant, condition or warranty herein which shall not be cured within a period of thirty (30) days from Assignor's receipt of written notice from the Administrative Agent, then, in each such instance, the same shall be a default under this Assignment and under each of the other Loan Documents. In the event Assignor shall default in the observance or performance of any obligation, term, covenant, condition or warranty in any of the other Loan Documents beyond any applicable grace or cure period, then, in each such instance, the same shall be deemed to be a default hereunder. Upon any default hereunder or under any of the other Loan Documents beyond all applicable notice and/or cure periods, the Administrative Agent shall be entitled to declare all sums evidenced and/or secured thereby and hereby immediately due and payable, and to exercise any and all of the rights and remedies provided under this Assignment, any of the other Loan Documents, or by law or at equity.

5. License to Receive Rents. (a) Assignor has and hereby does authorize the Administrative Agent or its representatives to collect the Rents and hereby directs each tenant of the Premises and lessee under the Leases to pay all Rents to Assignor or its representatives; *provided, however,* so long as there shall exist no Event of Default (as defined in the Mortgage) by Assignor herein or in any of the other Loan Documents or any uncured default hereunder, Assignor shall have the right, but limited as provided in this Assignment and in any of the other Loan Documents: (i) to collect upon, but not prior to one (1) month in advance of, the due date

thereof (other than Rents for up to 20% of the residential Leases collected more than one (1) month but no more than twelve (12) months in advance), all of the Rents, and Assignor shall receive and apply the Rents, subject to any obligation to escrow same with the Administrative Agent, to the payment of taxes and assessments upon the Premises before penalty or interest is due thereon, to the cost of such insurance, maintenance and repairs as may be required by the terms of the Mortgage, to pay other operating expenses of the Premises, to satisfy all of Assignor's obligations under the Leases, and pay interest and principal and other charges becoming due, as and when due and payable, under the Loan Documents and otherwise as required by the Loan Documents before using such Rents for any other purpose permitted under the Loan Agreement; and (ii) to otherwise deal with, and enjoy the rights of the lessor under, the Leases.

(b) Upon receipt by Assignor of any written notice from the Administrative Agent, stating that a default, following any applicable notice and expiration of any applicable cure period, or any "Event of Default", by Assignor exists in the payments due under, or in the performance of any of the terms, covenants or conditions of, the Loan Documents, the license referred to in Subparagraph 5(a) above shall thereupon be revoked by the Administrative Agent, and Assignor hereby authorizes and directs any lessee under any of the Leases and any successor to all or any part of the interests of any such lessee to pay to the Administrative Agent the Rents due and to become due under the Leases. A demand on any lessee made by the Administrative Agent for such payment of Rents shall be sufficient warrant to the lessee to make future payments of Rents to the Administrative Agent without the necessity for further consent by Assignor. Assignor agrees that (i) each lessee under any of the Leases shall have the right to rely upon any such request by the Administrative Agent, (ii) each lessee shall pay Rents to the Administrative Agent without any obligation or right to inquire as to whether such default actually exists and notwithstanding any notice from or claim of Assignor to the contrary, and (iii) Assignor shall have no right to claim against any lessee for any such Rents so paid by the lessee to the Administrative Agent. Nothing contained herein shall be construed as constituting the Administrative Agent and/or the Lenders as a "mortgagee in possession" in the absence of the Administrative Agent and/or the Lenders taking actual possession of the Premises pursuant to the provisions of the Mortgage. As between the Administrative Agent, for the benefit of the Lenders, Assignor and any person claiming through or under Assignor, this Assignment is intended to be absolute, unconditional and presently effective, and the provisions of this Subparagraph 5(b) regarding written demand for the Rents by the Administrative Agent to the lessees are intended solely for the benefit of such lessees and shall never inure to the benefit of Assignor or any person claiming through or under Assignor, other than a tenant who has not received such written demand.

6. Rights Upon Transfer. (a) Subject to the restrictions on the sale and conveyance of the Premises set forth in the Loan Documents, upon the sale or conveyance by Assignor, or its successors and assigns, of title to the Premises, all right, title, interest and powers granted to Assignor shall, unless amended or revoked as provided in the Loan Documents, automatically pass to and may be exercised by each such subsequent owner. At any time after any Event of Default under this Assignment or under any of the Loan Documents, the Administrative Agent, at its option, shall have the right, power and authority to exercise and enforce any or all of the following rights and remedies: (i) to terminate the license granted above to Assignor to collect the Rents, and thereafter, without taking or being deemed to have taken possession, in the

Administrative Agent's own name, for the benefit of the Lenders, to demand, collect, receive, sue for, attach and levy the Rents, to give proper receipts, releases and acquittances therefor, and after deducting all reasonable costs and reasonable out-of-pocket expenses of operation and collection, as determined by the Administrative Agent, including reasonable attorneys' fees to the fullest extent not prohibited by applicable law, to apply the net proceeds thereof, together with any funds of Assignor deposited with the Administrative Agent, upon any indebtedness secured hereby and in such order as the Administrative Agent may determine; (ii) to declare all sums secured hereby immediately due and payable and, at its option, exercise any and all of the rights and remedies contained in any of the Loan Documents; and (iii) without regard to the adequacy of the security, to the fullest extent not prohibited by applicable law, through any person or agent, then or thereafter (1) to enter upon, take possession of, manage and operate the Premises and the other Mortgaged Property (as defined in the Mortgage) or any part thereof; (2) make, modify or enforce any of the Leases, other than the Agency Leases, which may only be modified in accordance with its terms; (3) remove and evict any lessee, other than the Agency pursuant to the terms of the Mortgage; (4) increase or decrease Rents, other than Rents payable under the Agency Leases, which may only be modified in accordance with its terms; (5) decorate, clean and repair the Premises; and (6) otherwise do any act or incur any costs or expenses as the Administrative Agent shall deem reasonably necessary to protect the security hereof, as fully and to the same extent as Assignor could do if in possession, and in such event to apply the Rents so collected to the operation and management of the Premises, but in such order as the Administrative Agent shall deem proper, and including the payment of management, brokerage and attorneys' fees to the fullest extent not prohibited by applicable law, payment of the indebtedness under the Loan Documents, and maintenance, without interest, of a reserve for replacement.

(b) The acceptance by the Administrative Agent, for the benefit of the Lenders, of this Assignment, and the exercise of any or all of the rights, powers, privileges and authority herein created, shall not, prior to entry upon and taking of possession of the Premises by the Administrative Agent, be deemed or construed to constitute the Administrative Agent and/or the Lenders as a mortgagee in possession, or thereafter or at any time or in any event obligate the Administrative Agent and/or the Lenders: (i) to appear in or defend any action or proceeding relating to any of the Leases or the Premises; (ii) to take any action hereunder; (iii) to expend any money or incur any expenses or perform or discharge any obligation, duty or liability under any of the Leases; or (iv) to assume any obligation or responsibility for any security or other deposits delivered to Assignor by any of the lessee(s) thereunder and not assigned and delivered to the Administrative Agent. Neither the Administrative Agent nor any Lender shall be liable in any way for any injury or damage to person or property sustained by any person or entity in or about the Premises unless arising from the gross negligence or willful misconduct of the Administrative Agent and/or such Lender.

(c) Collection and application of the Rents by Assignor, or its agent, as set forth above, and/or the entry upon and taking possession of the Premises, shall not cure or waive any default, or waive, modify or affect any notice of default, under the Loan Documents or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by the Administrative Agent, once exercised, shall continue for so long as the Administrative Agent shall elect during the pendency of the default. If the Administrative Agent shall thereafter elect

to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent default.

7. Collection Authority. Upon a default, following any applicable notice and expiration of any applicable grace period, or any Event of Default, by Assignor hereunder or under any of the other Loan Documents, Assignor hereby constitutes and irrevocably appoints the Administrative Agent the true and lawful attorney-in-fact, coupled with an interest, of Assignor, and authorizes the Administrative Agent, for the benefit of the Lenders, in the name, place and stead of Assignor, in the exercise of the powers provided and set forth in Subparagraph 5(b) and the remedies provided for in clause (i) of Subparagraph 6(a) above, but subject to and not in limitation of the provisions of Subparagraph 5(b) hereof or the absolute assignment of the Rents made hereby, to demand, sue for, attach, levy, recover and receive any premium or penalty payable upon the exercise, by any lessee under any of the Leases, of a privilege of cancellation provided in any of the Leases, and to give proper receipts, releases and acquittances therefor, and, after deducting expenses of collection, to apply the net proceeds as a credit upon any portion, as selected by the Administrative Agent, of the indebtedness evidenced or secured by the Loan Documents. Assignor hereby authorizes and directs any such lessee to deliver such payment to the Administrative Agent in accordance with the foregoing, and hereby ratifies and confirms all actions whatsoever that its attorney, the Administrative Agent, shall do or cause to be done by virtue of the powers granted hereby. The foregoing appointment shall be continuing, and such rights, powers and privileges shall be exclusive in the Administrative Agent, its successors and assigns, so long as any part of the indebtedness secured hereby shall remain unpaid.

8. Subordination Authority. Assignor hereby constitutes and irrevocably appoints the Administrative Agent, its successors and assigns, the true and lawful attorney-in-fact, coupled with an interest, of Assignor and in the name, place and stead of Assignor, at any time and from time to time, to subject and subordinate any of the Leases to the Mortgage, or to request or require such subordination of the lessee as the case may be, to the extent Assignor would have the right, power or authority so to do. This appointment is to be continuing, and these rights, powers and privileges shall be exclusive in the Administrative Agent, for the benefit of the Lenders, so long as the indebtedness secured hereby remains unpaid. Assignor hereby warrants that Assignor has not, at any time prior to the date hereof, exercised any such right, and covenants not to exercise any such right, to so subordinate any of the Leases to any other mortgage or lien except only those which exist under this Assignment or any of the other Loan Documents.

9. Indemnification. Assignor hereby indemnifies the Administrative Agent and the Lenders and agrees to defend and hold the Administrative Agent and the Lenders harmless from and against any and all liability, loss, damage or expense which the Administrative Agent and/or the Lenders may incur under or by reason of this Assignment, or for any action taken by the Administrative Agent and/or the Lenders as contemplated herein, (other than the negligence or willful misconduct of the Administrative Agent and/or the Lenders) or by reason or in defense of any and all claims and demands whatsoever which may be asserted against the Administrative Agent and/or the Lenders arising out of any of the Leases, including, without limitation, any claim by any lessee of credit for rental paid to and received by Assignor but not delivered to the Administrative Agent for any period under any of the Leases more than one (1) month in

advance of the due date thereof. Should the Administrative Agent and/or the Lenders incur any such liability, loss, damage or expense, the amount thereof (including reasonable attorneys' fees to the fullest extent not prohibited by applicable law), with interest thereon at the Default Rate (as defined in the Note), shall be payable by Assignor within twenty (20) days of written demand by the Administrative Agent and/or the Lenders, and shall be secured hereby and by the other Loan Documents.

10. Lease Copies and Further Assurances. Until the indebtedness secured by the Loan Documents is paid in full, Assignor will deliver to the Administrative Agent photocopies certified by Assignor as true, correct and complete, of executed originals of (a) any and all existing Leases, and (b) all other and future Leases upon all or any part of the Premises. Upon request of the Administrative Agent, Assignor will specifically transfer and assign to the Administrative Agent, for the benefit of the Lenders, such other and future Leases upon the same terms and conditions as herein contained. Assignor hereby covenants and agrees to make, execute and deliver to the Administrative Agent, upon demand and at any time or times, any and all further assignments and other instruments as the Administrative Agent may reasonably determine for carrying out the purposes and intent of this Assignment.

11. Non-Waiver. The failure of the Administrative Agent to avail itself of any of the terms, covenants and conditions of this Assignment for any period of time or at any time or times, shall not be construed or deemed to be a waiver of any such right, an amendment to any of the Loan Documents, or an estoppel against the Administrative Agent and/or the Lenders in any respect, and nothing herein contained nor anything done or omitted to be done by the Administrative Agent pursuant hereto shall be deemed a waiver by the Administrative Agent and/or the Lenders of any of its/their respective rights and remedies under the Loan Documents or under the laws of the State of Illinois. The right of the Administrative Agent to collect the indebtedness and to enforce any other security therefor may be exercised by the Administrative Agent, either prior to, simultaneously with, or subsequent to any action taken hereunder.

12. Non-Merger. So long as any of the indebtedness evidenced or secured by the Loan Documents shall remain unpaid, unless the Administrative Agent shall otherwise consent in writing, the fee title and the leasehold estate(s) on the Premises shall not merge, but shall always be kept separate and distinct, notwithstanding the union of both such estates in Assignor, any lessee or a third party by purchase or otherwise.

13. Defeasance. Upon payment in full of the unpaid balance of the principal, interest, advances and other charges evidenced or secured by the Loan Documents, this Assignment shall become void and of no effect, and all the Leases shall be immediately and automatically revested, reconveyed and released to Assignor. Upon demand from Assignor in such event, the Administrative Agent, on behalf of the Lenders, shall mark this Assignment as void and paid in full, satisfied and discharged and return this Assignment to Assignor; *provided, however*, that an affidavit, certificate, letter or statement of the Administrative Agent showing any part of the indebtedness remaining unpaid shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment, and any person or entity may and is hereby authorized to rely thereon. Administrative Agent, on behalf of the Lenders, agrees to take such other and further actions upon payment in full as may be required to discharge this Assignment of record in the County and State in which the Premises is located.

14. Notices. Any notice required hereunder shall be in writing, and shall be given in accordance with the requirements of, and to the addresses, as set forth in Paragraph 28 of the Mortgage.

15. Binding Effect. The terms, covenants, conditions and warranties contained herein and the powers granted hereby shall run with the land, shall inure to the benefit of and bind all parties hereto and their respective heirs, executors, administrators, successors and assigns, and all lessees, subtenants, assigns, and all subsequent owners of the Premises, subject however to the terms of Paragraph 6 above, and all subsequent holders of the Loan Documents.

16. Miscellaneous. The captions and headings in this Assignment are inserted only as a matter of convenience and for reference, and they in no way define, limit or describe the scope of this Assignment or the intent of any provision thereof. Whenever the context so requires, the masculine gender shall include the feminine and/or neuter and the singular number shall include the plural and conversely in each case.

17. WAIVER OF JURY TRIAL. ASSIGNOR ONLY, AND NOT THE AGENCY, HEREBY AND THE ADMINISTRATIVE AGENT, FOR ITSELF AND ON BEHALF OF THE LENDERS, BY ITS ACCEPTANCE HEREOF, EACH WAIVE THE RIGHT OF A JURY TRIAL IN EACH AND EVERY ACTION ON THIS ASSIGNMENT OR ANY OF THE OTHER LOAN DOCUMENTS, IT BEING ACKNOWLEDGED AND AGREED THAT ANY ISSUES OF FACT IN ANY SUCH ACTION ARE MORE APPROPRIATELY DETERMINED BY THE COURTS.

18. JURISDICTION. ASSIGNOR ONLY, AND NOT THE AGENCY, HEREBY CONSENTS AND SUBJECTS ITSELF TO THE JURISDICTION OF COURTS OF THE STATE OF ILLINOIS AND, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TO THE VENUE OF SUCH COURTS IN COOK COUNTY, STATE OF ILLINOIS.

19. **THIS ASSIGNMENT WAS NEGOTIATED IN THE STATE OF ILLINOIS AND THE PROCEEDS OF THE NOTE DELIVERED PURSUANT HERETO WERE DISBURSED FROM THE STATE OF ILLINOIS, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS ASSIGNMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, AND ENFORCEMENT OF THE LIENS CREATED PURSUANT TO THE LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE IN WHICH THE PREMISES IS LOCATED, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF ILLINOIS SHALL GOVERN THE VALIDITY AND THE ENFORCEABILITY OF**

ALL LOAN DOCUMENTS AND THE DEBT. TO THE FULLEST EXTENT PERMITTED BY LAW, ASSIGNOR HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS ASSIGNMENT AND THE NOTE, AND THIS ASSIGNMENT AND THE NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, AND SOLELY WITH RESPECT TO THE AGENCY, THIS ASSIGNMENT IS DEEMED TO HAVE BEEN NEGOTIATED IN THE STATE OF NEW YORK AND ANY AND ALL CLAIMS OR CAUSES OF ACTION ARISING OUT OF ITS CONSTRUCTION, NEGOTIATION, ENFORCEMENT OR OTHERWISE, AS SUCH CLAIMS OR CAUSES OF ACTION RELATE TO THE AGENCY, SHALL BE GOVERNED AND CONSTRUED UNDER AND BY THE LAWS OF THE STATE OF NEW YORK.

20. Exculpation. Assignor's liability hereunder is limited as provided in Section 21 of the Note.

21. Intentionally Omitted.

22. Assignor's Obligations to Comply with the Agency Leases. Assignor shall: (i) pay the all other sums of money due and payable at any time and from time to time under the Company Lease and the Sub-Lease, as and when such sums become due and payable, but in any event before the expiration of any grace period provided in the Company Lease and the Sub-Lease for the payment of any such sum; and (ii) at all times fully perform, observe and comply with all other terms, covenants and conditions of the Company Lease and Sub-Lease to be performed, observed or complied with by Assignor as lessor under the Company Lease and lessee under the Sub-Lease. If the Company Lease and/or the Sub-Lease do not provide for a grace period for the payment of a sum of money, Assignor shall make the payment on or before the date on which the payment becomes due and payable. Company shall deliver evidence of the payment to Administrative Agent within ten (10) days after receipt of a written request from Administrative Agent for evidence of the payment.

23. Agency Executing at the Direction of Assignor. The Assignor directs the Agency to execute and deliver this Assignment to the Administrative Agent, and further agrees to indemnify the Agency (and its members, officers, directors, agents, servants and employees) for all fees and costs incurred in connection with the execution, delivery, recording, performing and enforcing of this Assignment, including but not limited to reasonable attorney's fees.

24. Hold Harmless Provisions. The Assignor acknowledges that the terms of the Agency Lease, as amended and restated from time to time, are in full force and effect, including but not limited to the "Hold Harmless Provisions" contained in Section 8.2 thereof and incorporates same in this instrument and makes same applicable hereto as if fully set forth herein.

25. No Recourse; Special Obligation.

(1) The obligations and agreements of the Agency contained herein and in any other instrument or document executed in connection herewith, and any instrument or document supplemental hereto, shall be deemed the obligations and agreements of the Agency and not of any member, officer, agent or employee of the Agency in his individual capacity; and the members, officers, agents and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State New York or of the City of Syracuse, and neither the State of New York nor the City of Syracuse shall be liable hereon or thereon. Further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, payable solely from the revenues of the Agency derived, and to be derived from, the lease, sale, or other disposition of the Project Facility, other than revenues derived from or constituting Unassigned Rights (as those terms are defined in the Agency Leases). No order or decree of specific performance with respect to any of the obligations of the Agency hereunder or thereunder shall be sought or enforced against the Agency unless:

(a) The party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and thirty (30) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or if compliance therewith would reasonably be expected to take longer than thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period; and

(b) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses; and

(c) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents or employees shall be subject to potential liability, the party seeking such order or decree shall (1) agree to indemnify and hold harmless the Agency and its members, officers, agents and employees against any liability incurred as a result of its compliance with such demand; and (2) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents and employees against all liability expected to be incurred as a result of compliance with such request.

(d) Any failure to provide notice, indemnity, or security to the Agency pursuant to this Section shall not alter the full force and effect of any Event of Default under the Agency Lease.

(e) For purposes of this Section, the Assignor shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

(2) Notwithstanding anything else herein to the contrary, the Administrative Agent acknowledges and agrees that the Agency has agreed to participate herein solely to subject its

interests, if any, in the Premises to this Assignment and that any recourse or remedies the Administrative Agent may have as against the Agency hereunder shall be sought solely against the Agency's interest in the Premises and not against any other assets of the Agency.

26. Miscellaneous Provision. The Assignor and the Administrative Agent hereto, by accepting this Assignment, acknowledge that the Agency is executing this Assignment solely to subject its interest in the Premises, if any, to this Assignment. Notwithstanding anything herein to the contrary, the Administrative Agent acknowledges and agrees that their sole recourse against the Agency for any default hereunder shall be with respect to the Agency's interest in the Premises.

[signature page follows]


IN WITNESS WHEREOF, this Assignment of Leases and Rents has been duly executed by Assignor as of the date first above written.

ASSIGNOR:

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company
Its Sole Member

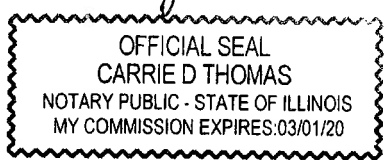
By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

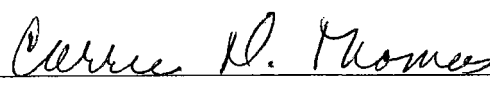
By: 
Name: Ronald W. Koretz
Its: Senior Vice President and Secretary

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

BEFORE ME, a Notary Public in and for said County and State, personally appeared Ronald W. Koretz the Senior Vice President and Secretary of Blue Vista Student Housing Select Strategies Manager, LLC, a Delaware limited liability company, in its capacity as the manager of BVSHSSF REIT, LLC, a Delaware limited liability company, in its capacity as the sole member of BVSHSSF SYRACUSE, LLC, a Delaware limited liability company, who acknowledged that such person did sign the foregoing instrument and that the same is the free act and deed of such person personally, and of said corporation and such limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 8th day of May, 2017.



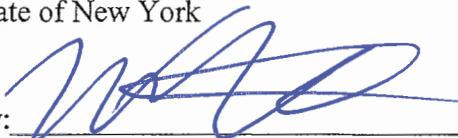

Notary Public

(Seal)
Term expires: 03/01/20 3-1-20

IN WITNESS WHEREOF, Agency has caused this Assignment to be duly executed and delivered as of the date first above written.


AGENCY:

THE CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY,
a public benefit corporation under the laws of the State of New York

By: 
Name: William M. Ryan
Its: Chairman

STATE OF NEW YORK)
) SS.
COUNTY OF ONONDAGA)

On the 15th day of May in the year 2017 before me, the undersigned, a Notary Public in and for said State, personally appeared William M. Ryan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

(Seal)

Term expires: 2/12/18

EXHIBIT A

LEGAL DESCRIPTION

NEW LOT No. 100, RESUBDIVISION OF PART OF LOT Nos. 18, 19, 21, LOT Nos. 22, 23, 24, 25, 26, 27 & 28 AND ADDITIONAL LANDS PART OF BLOCK No. 240, CITY OF SYRACUSE

56
All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block No. 240 in said City, being New Lot No. 100 of Resubivision of Part of Lot Nos. 18, 19, 21, Lot Nos. 22, 23, 24, 25, 26, 27 & 28 and additional lands according to a map by Ianuzi & Romans Land Surveying, P.C. dated August 11, 2016, last revised December 12, 2016 filed in the Onondaga County Clerk's Office on February 28, 2017, as Map No. 12334, bounded and described as follows:

Beginning at the intersection of the northerly boundary of East Genesee Street with the westerly boundary of South Crouse Avenue (Chestnut Street, formerly), said point being the southeasterly corner of said Block No. 240; running thence N 83°37'20" W along said northerly boundary of East Genesee Street, a distance of 155.32 feet to the easterly boundary of lands conveyed to Caserta, LLC by deed recorded in the Onondaga County Clerk's Office in Book 4912 of Deeds at page 523; thence N 00°29'40" E along said easterly boundary of lands conveyed to Caserta, LLC, a distance of 84.87 feet to the northeasterly corner thereof; thence N 89°30' 50" W along the northerly boundary of said lands conveyed to Caserta, LLC, a distance of 100.51 feet to the easterly boundary of Irving Avenue; thence N 00°29'40" E along said easterly boundary of Irving Avenue, a distance of 240.42 feet to a southerly boundary of lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 69; thence S 89°30'50" E along said southerly boundary

of lands conveyed to 900 East Fayette Group, LLC, a distance of 123.01 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC, a distance of 65.00 feet to a southwesterly corner of other lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 78; thence S 89°30'50" E along the southerly boundary of said other lands conveyed to 900 East Fayette Group, LLC and along a southerly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 42.0 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 100.0 feet to the southerly boundary of East Fayette Street; thence S 89°30'50" E along said southerly boundary of East Fayette Street, a distance of 90.0 feet to the aforementioned westerly boundary of South Crouse Avenue (Chestnut Street, formerly); thence S 00°29'40" W along said westerly boundary of South Crouse Avenue (Chestnut Street, formerly), a distance of 506.23 feet to the point of beginning.

Section: 48

Block: 5

Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

Common Address: 919 East Genesee Street, Syracuse, New York

AFFIDAVIT

Affidavit Pursuant to Section 255 of
the Tax Law of the State of New York

STATE OF NEW YORK)
 ss.:
COUNTY OF ONONDAGA)

I, Ronald W. Koretz, duly sworn, deposes and says:

1. I am the counsel of BVSHSSF SYRACUSE, LLC (the "Borrower").
2. Borrower is the mortgagor named in a certain Building Loan Mortgage, Security Agreement, and Fixture Filing ("Mortgage"), dated as of May 19, 2017 in the aggregate principal sum of \$47,371,216, made by Borrower to CITIZENS BANK, NATIONAL ASSOCIATION, in its capacity as administrative agent for itself and certain other lenders ("Bank"), and intended to be recorded in the Onondaga County Clerk's Office ("Clerk's Office"). All mortgage recording taxes required to be paid upon recording of the Mortgage have been paid or will be paid with respect to the Mortgage.
3. The maximum principal indebtedness which under any contingency may be secured by the Mortgage is \$47,371,216.
4. Being offered for recording in the Clerk's Office contemporaneously with the Mortgage is a certain Assignment of Rents and Leases, dated as of May 19, 2017 ("Assignment"), given by Borrower, as Assignor, to Bank, as Assignee, which Assignment does not create or secure any new or further indebtedness, other than the indebtedness secured by, or which under any contingency may be secured by, the Mortgage referred to in paragraph "2" hereof.

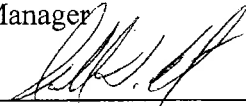
WHEREFORE, I respectfully request that the Assignment be accepted for recording without the payment of any mortgage recording tax.

BORROWER

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company
Its Sole Member

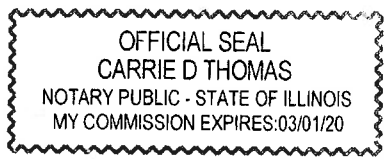
By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

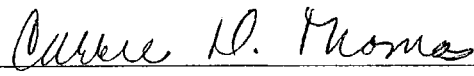
By: 
Name: Ronald W. Koretz
Its: Senior Vice President and Secretary

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

BEFORE ME, a Notary Public in and for said County and State, personally appeared Ronald W. Koretz the Senior Vice President and Secretary of Blue Vista Student Housing Select Strategies Manager, LLC, a Delaware limited liability company, in its capacity as the manager of BVSHSSF REIT, LLC, a Delaware limited liability company, in its capacity as the sole member of BVSHSSF SYRACUSE, LLC, a Delaware limited liability company, who acknowledged that such person did sign the foregoing instrument and that the same is the free act and deed of such person personally, and of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 8th day of May, 2017.




Notary Public

3-1-20

(Seal)
Term expires: 03/01/20

15

112

DL00207872

ONONDAGA COUNTY

BASIC TAX	\$	_____
MTG. INS. FUND TAX	\$	_____
NET ADDITIONAL TAX	\$	_____
TOTAL MTG. TAX PAID	\$	_____

This space reserved for Recorder's use only.

PROJECT LOAN MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

by

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company
and

THE CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY,
A public benefit corporation under the laws of the State of New York

to and for the benefit of

CITIZENS BANK, NATIONAL ASSOCIATION,
a national banking association, in its capacity as administrative agent
for itself and certain other lenders, together with its successors and assigns

Property Address: 919 East Genesee Street
 City and State: Syracuse, New York
 County: Onondaga
 Section: 48
 Block: 5
 Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0,
 12.0 and 13.0]

AFTER RECORDING RETURN TO:
Ginsberg Jacobs LLC
300 South Wacker Drive, Suite 2750
Chicago, Illinois 60606
Attn: Barrett J. Schulz, Esq.

Project Loan

10:57 05/26/17 1722317 MM MB-182768-212

This Project Loan Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing ("Mortgage") is made as of May 19, 2017, by:

BVSHSSF SYRACUSE, LLC, a Delaware limited liability company ("Mortgagor"), having an address at c/o Blue Vista Capital Management, LLC, 353 North Clark Street, Suite 730, Chicago, Illinois 60654, and

THE CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York (the "Agency"), duly organized and existing under the laws of the State of New York, with an office at 201 East Washington Street, 7th Floor, Syracuse, New York 13202.

and

CITIZENS BANK, NATIONAL ASSOCIATION, a national association (in its capacity as administrative agent and together with its successors and assigns, "Administrative Agent", having an address at 71 S. Wacker Drive, Suite IH2915, Chicago, Illinois 60606, as Administrative Agent for those certain lending financial institutions made a party to the Loan Agreement (as defined below) from time to time (such lending financial institutions, together with their respective successors and assigns, the "Lenders").

Mortgagor and Agency (where specifically indicated) state as follows:

A. The Lenders have agreed to make a loan to Mortgagor in the maximum principal amount of Two Million Eight Hundred Sixty-Three Thousand Nine Hundred Seventeen and 00/100 Dollars (\$2,863,917.00) (together with all extensions, renewals and modifications thereof, the "Loan") pursuant to the terms of a certain Project Loan Agreement (the "Loan Agreement") dated on or about the date hereof, which Loan is evidenced by, among other things, those certain Project Loan Notes, each dated on or about the date hereof in the maximum aggregate amount of Two Million Eight Hundred Sixty-Three Thousand Nine Hundred Seventeen and 00/100 Dollars (\$2,863,917.00) by Mortgagor in favor of Lenders, respectively (individually and collectively, and as the same may be amended, modified and/or restated from time to time, the "Note"); full and final payment of all principal, interest and other amounts payable to Mortgagor with respect to the Loan is due on the date set forth in the Note. Capitalized terms used in this Mortgage and not otherwise defined herein shall have the meaning given such term in the Loan Agreement.

B. Mortgagor and Agency are required, among other things, to execute and deliver this Mortgage for the benefit of the Administrative Agent and the Lenders, as security for the Obligations (as defined herein), which Mortgagor and Agency, where and as indicated, are willing to do in consideration of agreement of the Lenders to make the Loan.

C. Mortgagor is the fee title owner of certain land in the City of Syracuse, County of Onondaga, State of New York, as described on Exhibit A, which is attached hereto and made a part hereof (the "Land"), including all improvements thereon and all rights appurtenant thereto.

D. The Agency obtained a leasehold interest in the Land and improvements pursuant to a lease agreement with the Mortgagor dated as of May 1, 2017 (the "Company Lease") and subleased the Land and improvements back to the Mortgagor pursuant to a sublease agreement with the Mortgagor dated as of May 1, 2017 (the "Sub- Lease" and together with the Company Lease, collectively, the "Agency Leases").

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor and Agency does hereby irrevocably and unconditionally GRANT, MORTGAGE, WARRANT, BARGAIN, SELL, PLEDGE, REMISE, ALIEN, ASSIGN, CONVEY, TRANSFER, AND SET OVER and, solely with respect to Mortgageor, WARRANT to the Administrative Agent, for the benefit of the Lenders to secure full, timely and complete repayment and performance of the Obligations (as defined herein), all of Mortgageor's and Agency's right, title and interest in and to the Mortgaged Property (as defined herein) together with (excepting therefrom and hereof, the Agency's "Unassigned Rights" as that term is defined in the Agency Lease):

(i) all right, title and interest of Mortgageor and Agency, in and to the Land including any after-acquired title or reversion, in and to the ways, easements, reciprocal easement agreements, streets, alleys, passages, water, water courses, riparian rights, oil, gas and other mineral rights, gaps, gores, rights, hereditaments, liberties and privileges thereof, if any, and in any way appertaining to the Land;

(ii) all rents, royalties, issues, proceeds and profits accruing and to accrue from the Land, as more particularly described in that certain Assignment of Leases and Rents dated on or about the date hereof (the "Assignment") from Mortgageor as Assignor to the Administrative Agent, for the benefit of the Lenders, as Assignee;

(iii) all buildings and improvements of every kind and description now or hereafter erected or placed on the Land including, without limitation, all materials intended for construction, reconstruction, alteration and repair of such improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the Mortgaged Property (as hereinafter defined) immediately upon the delivery thereof to the Land, and all fixtures and articles of personal property now or hereafter owned by Mortgageor and attached to or contained in and used in connection with the Land, including, without limitation, all furniture, apparatus, machinery, equipment, motors, elevators, fittings, radiators, furnaces, stoves, microwave ovens, awnings, shades, screens, blinds, office equipment, trash and garbage removal equipment, carpeting and other furnishings, and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating, incinerating, air-conditioning, conveyor, security, sprinkler and other equipment, and all fixtures and appurtenances thereof; and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to such improvements in any manner; it being intended that all the above-described property owned by Mortgageor and placed by Mortgageor on the Land shall, so far as permitted by law, be deemed to

be fixtures and a part of the realty, and security for the indebtedness of Mortgagor to the Administrative Agent and/or the Lenders hereinafter described and secured by this Mortgage, and as to the balance of the above-described property, this is hereby deemed to be as well a Security Agreement for the purpose of creating hereby a security interest in such property, securing such indebtedness, in favor of the Administrative Agent, for the benefit of Lenders; all of the property described in this paragraph is hereinafter sometimes collectively called the "Improvements";

(iv) any and all warranty claims, maintenance contracts and other contract rights, instruments, documents, chattel papers and general intangibles of Mortgagor with respect to or arising from the Land, the Improvements and the balance of the Mortgaged Property, and all cash and non-cash proceeds and products thereof;

(v) any and all accounts of Mortgagor with respect to the Mortgaged Property (including rights to payment for goods sold or leased or to be sold or leased or for services rendered or to be rendered), escrows, documents, instruments, chattel paper, claims, deposits and general intangibles, as the foregoing terms are defined in the Uniform Commercial Code of the State of New York, as amended from time to time;

(vi) all awards, damages and other compensation heretofore or hereafter to be made to the present and all subsequent owners of the Mortgaged Property for any taking by eminent domain, either permanent or temporary (a "Taking"), of all or any part of the Mortgaged Property or any easement or other appurtenance thereof, including severance and consequential damage and change in grade of streets (collectively, "Taking Proceeds"), and any and all refunds of impositions or other charges relating to the Mortgaged Property or the indebtedness secured by this Mortgage; and

The property described in subparagraphs (i)-(vi) above is hereafter referred to, individually and collectively, respectively as the "Premises" to the extent that such property is realty, and respectively as the "Collateral" to the extent that such property is personalty. The Land, the Premises and the Collateral are hereafter sometimes collectively called the "Mortgaged Property."

TO HAVE AND TO HOLD, all and singular, the above described interest in the Mortgaged Property, whether now owned or held or hereafter acquired by Mortgagor, with the appurtenances thereunto belonging, unto the Administrative Agent, its successors and assigns, for the benefit of the Lenders, forever to secure for the benefit of Lenders the payment of the Obligations (as hereinafter defined) and performance by Mortgagor of every covenant and condition contained in the Loan Documents (as hereinafter defined). Mortgagor does hereby covenant with Administrative Agent, its successors and assigns, on behalf of the Lenders, that at and until the unsealing of these presents, Mortgagor is well seized of the Premises as a good and indefeasible estate in fee simple and is the sole owner of the Collateral, and has good right to mortgage, bargain, sell and convey the Mortgaged Property in manner and form as above written; that title to the Mortgaged Property is free and clear of all defects, liens and encumbrances except for real estate taxes and assessments not yet due or payable and the matters described on Exhibit B (the "Permitted Exceptions"); and that Mortgagor will warrant and defend the Premises, with the appurtenances thereunto belonging, and the Collateral to

Administrative Agent, for the benefit of the Lenders, forever, against all liens, security interests, encumbrances, defects, claims and demands whatsoever, subject to the Permitted Exceptions.

Mortgagor hereby irrevocably assigns to the Administrative Agent, for the benefit of the Lenders, all of Mortgagor's right, title and interest in, to and under: (a) all present and future leases of the Mortgaged Property or any portion thereof, all licenses and agreements relating to the management, leasing, occupancy or operation of the Property, whether such leases, licenses and agreements are now existing or entered into after the date hereof ("Leases"); (b) the rents, issues, revenues, receipts, deposits and profits of the Property, including, without limitation, all amounts payable and all rights and benefits accruing to Mortgagor under the Leases ("Payments"); and (c) Rate Management Agreements (as hereinafter defined), if any, and any proceeds derived thereunder. The term "Leases" shall also include all subleases and other agreements for the use or occupancy of the Property, all guarantees of and security for the tenant's performance thereunder, the right to exercise any landlord's liens and other remedies to which the landlord is entitled, and all amendments, extensions, renewals or modifications thereto. This is a present and absolute assignment, not an assignment for security purposes only, and the Administrative Agent's (for the benefit of the Lender's) right to the Leases and Payments is not contingent upon and may be exercised without, possession of the Property.

The Administrative Agent, on behalf of the Lenders, hereby confers upon Mortgagor a revocable license ("License") to collect, demand, sue for, attach, levy, recover and retain all Payments as they become due and payable, until the occurrence of an Event of Default (as hereinafter defined). Upon an Event of Default, and only upon an Event of Default, the License shall be automatically revoked and Administrative Agent, on behalf of the Lenders, may collect and apply the Payments pursuant to the terms hereof without notice and without taking possession of the Property. All Payments thereafter collected by Mortgagor shall be held by Mortgagor as trustee under a constructive trust for the benefit of Administrative Agent, for the benefit of the Lenders. Mortgagor hereby irrevocably authorizes and directs the tenants under the Leases to rely upon and comply with any notice or demand by the Administrative Agent for the payment to the Administrative Agent, on behalf of the Lenders, of any rentals or other sums which may at any time become due under such Leases, or for the performance of any of the tenants' undertakings under such Leases, and the tenants shall have no duty to inquire as to whether any Event of Default has actually occurred or is then existing. Mortgagor hereby relieves the tenants from any liability to Mortgagor by reason of relying upon and complying with any such notice or demand by the Administrative Agent. The Administrative Agent may apply, in its sole discretion, any Payments so collected by the Administrative Agent, on behalf of the Lenders, against any Obligation, whether existing on the date hereof or hereafter arising. Collection of any rents, royalties, issues, proceeds and profits accruing from the Land by Administrative Agent, on behalf of the Lenders, shall not cure or waive any Event of Default or notice of an Event of Default or invalidate any acts done pursuant to such notice.

Mortgagor and Agency have executed and delivered this Mortgage to secure the following obligations of Mortgagor that may be outstanding at any time and from time to time (collectively, the "Obligations"):

(a) Payment of principal, interest and all other charges under the Note, together with interest thereon at a rate or rates which may vary from time to time as specified in the Note and

the other Loan Documents, with principal and interest payable in accordance with the terms of the Note, and all accrued but unpaid interest and the entire unpaid principal amount being due and payable in accordance with the terms of the Note and the other Loan Documents; the Note also contains an option of the Administrative Agent, on behalf of the Lenders, to declare the unpaid balance under the Note due and payable forthwith upon the occurrence of an Event of Default;

(b) Payment of any and all other amounts or charges required to be paid by Mortgagor pursuant to this or any of the other Loan Documents (as hereinafter defined); including, without limitation, any and all Obligations;

(c) Payment by Mortgagor to the Administrative Agent (for the benefit of the Lenders) of all sums expended or advanced by the Administrative Agent and/or the Lenders pursuant to this Mortgage or any of the other Loan Documents;

(d) Payment of any and all amounts advanced by the Administrative Agent and/or the Lenders with respect to the Mortgaged Property for the payment of taxes, assessments, insurance premiums or costs incurred in the protection of the Mortgaged Property;

(e) Payment of any and all Rate Management Obligations (as defined in Paragraph 43 hereof);

(f) Performance and observance of each covenant and agreement of Mortgagor contained herein or in any of the other Loan Documents, including, without limitation the obligations of Mortgagor under the Assignment of Leases and Rents, dated on or about the date hereof ("Assignment") herewith to enforce all of the terms, covenants and conditions of any Approved Lease; and

(g) Payment by Mortgagor to the Administrative Agent (for the benefit of the Lenders) of any and all other liabilities and indebtedness of Mortgagor to the Administrative Agent and/or the Lenders, relating to the Mortgaged Property, direct or contingent, now or hereafter owing by Mortgagor to Lenders, other than as provided in subparagraphs (a) through (g) above.

PROVIDED, HOWEVER, that if Mortgagor shall pay or cause to be paid to Administrative Agent the principal, interest and all other charges under the Note on or before the date on which the outstanding principal balance of the Note is due and payable in full in accordance with the terms of the Note, and in the manner stipulated therein and herein, all without deduction or credit for taxes or other charges paid by Mortgagor, and if Mortgagor shall have kept, performed and observed all of the covenants and conditions contained in this Mortgage and all of the other Loan Documents, then the Administrative Agent shall, upon request and at Mortgagor's expense, execute a proper discharge of this Mortgage.

Mortgagor further covenants and agrees as follows:

1. Payment of Indebtedness. Mortgagor shall pay promptly the indebtedness evidenced by the Note at the time and in the manner provided herein and in the Note, and all

other sums and charges payable when due by Mortgagor and pursuant to the Note, this Mortgage and any of the other Loan Documents.

2. Tax and Insurance Escrows.

(a) At any time after Substantial Completion and upon Administrative Agent's request given after the occurrence of an Event of Default, Mortgagor shall pay to the Administrative Agent, (for the benefit of the Lenders), in addition to the monthly payments under the Note and concurrently therewith in a single payment monthly until the Note is fully paid, a sum equal to annual real estate taxes, general and special assessments and premiums for insurance required hereunder (all as estimated by the Administrative Agent) less all sums previously paid therefor, divided by the number of full calendar months to elapse before the date which is one (1) month prior to the date when such taxes and assessments and insurance premiums will become due. Such sums shall be held by the Administrative Agent (for the benefit of the Lenders) for payment of such taxes and assessments and insurance premiums as and when due. The Administrative Agent shall have the right to commingle and hold such sums with its general funds, and no interest shall accrue thereon in favor of Mortgagor.

(b) The Administrative Agent shall have the right to make any and all payments notwithstanding that at that time any such tax or assessment is then being protested or contested by Mortgagor, unless Mortgagor shall have notified the Administrative Agent (for the benefit of the Lenders) in writing of such protest or contest of such tax or assessment not less than thirty (30) days prior to the due date. If such protest or contest shall or might result in a penalty or other charges, Mortgagor shall deposit with the Administrative Agent monthly the pro-rata amount of any such penalty or additional charge. If, upon receipt by the Administrative Agent of any refunds of impositions or other charges relating to the Mortgaged Property, Mortgagor is not in default hereunder, then the Administrative Agent shall promptly pay such refund to Mortgagor; if Mortgagor is in default hereunder beyond any applicable grace period, the Administrative Agent shall have the right to apply such refund to reduce the indebtedness secured hereby.

(c) Without limiting the rights of the Administrative Agent and/or the Lenders under this Mortgage, in the event of a sale of the Premises or any other part of the Mortgaged Property by the Administrative Agent and/or the Lenders following the occurrence of an Event of Default, any funds then on deposit with the Administrative Agent (for the benefit of the Lenders) shall, at the Administrative Agent's option, thereupon automatically and without the necessity of notice or written assignment, be transferred to and held thereafter for the account of the new owner, to be applied in accordance with the foregoing. If the Premises or any other part of the Mortgaged Property is purchased by the Administrative Agent and/or any Lender, at foreclosure sale or is otherwise acquired by the Administrative Agent and/or any Lender, after an Event of Default, the remaining balance, if any, of the funds deposited with the Administrative Agent pursuant to subparagraph 2(a) above shall continue to be applied, subject to the security interest hereunder, first to Administrative Agent's and/or Lender's, as unreimbursed costs and expenses in such purchase or acquisition, then to reduce the indebtedness secured by this Mortgage, and the balance, if any, shall be paid to Mortgagor, subject to the order of the court having jurisdiction in any such proceeding.

3. Protection Against Charges. Except for the Permitted Exceptions, Mortgagor shall keep the Mortgaged Property free from liens of every kind, except only for real estate taxes and general and special assessments of any kind or nature, public or private, which are not yet due and payable, and mortgage taxes, if any, as provided in Paragraph 7 hereof, and shall, unless paid to Administrative Agent in escrow pursuant to Section 2, (a) pay or cause to be paid, before delinquency and before any penalty for non-payment attaches thereto, all taxes, assessments, and other governmental or municipal or public dues, charges, fines or impositions which are or hereafter may be levied against the Mortgaged Property or any part thereof and (b) promptly deliver to the Administrative Agent receipted bills evidencing each such payment, together with any other evidence of payment required by Administrative Agent in its sole and absolute discretion, no later than five (5) days prior to the last day upon which such payment can be made without penalty or interest. Mortgagor shall also pay, in full, under protest or otherwise in the manner provided by law, any tax, assessment, charge, fine or imposition described above which Mortgagor contests in accordance with the provisions of law and this Mortgage.

4. Insurance and Casualty Damage.

(a) To the extent required by the Loan Agreement, Mortgagor shall keep, or cause to be kept, all of the following insurance policies with respect to the Mortgaged Property in companies, forms, amounts and coverage satisfactory to the Administrative Agent, containing waivers of subrogation and first "lender" clauses in favor of Administrative Agent (for the benefit of the Lenders), and, providing for thirty (30) days' prior written notice to Lender of cancellation of said policies for non-payment of premiums or any other reason or for material modification of said policies, and ten (10) days' prior written notice to the Administrative Agent of payment of any insurance claims under said policies to any person:

i. Insurance against loss or damage by fire and such other hazards, casualties and contingencies (including, without limitation, so-called all-risk coverages) as required by the Loan Agreement;

ii. Comprehensive general public liability, property damage and indemnity insurance, including, without limitation, so-called assumed and contractual liability coverage and claims for bodily injury, death or property damage, naming the Administrative Agent, as an additional insured, in such amounts as required by the Loan Agreement;

iii. Insurance against rent loss or abatement of rent, covering payment of rent and like charges from the Mortgaged Property as required by the Loan Agreement; and

iv. Flood insurance in an amount as required by the Loan Agreement.

Mortgagor shall deliver renewal certificates of all insurance required above, together with written evidence of full payment of the annual premiums therefor at least ten (10) days prior to the expiration of the existing insurance. Any such insurance may be provided under so-called "blanket" policies, so long as the amounts and coverages thereunder will, in the Administrative

Agent's sole reasonable judgment, provide protection equivalent to that provided under a single policy meeting the requirements hereinabove.

(b) Notice. In case of any material damage or destruction of the Mortgaged Property, or any part thereof, or any interest therein or right accruing thereto, Mortgagor shall promptly give the Administrative Agent written notice generally describing the nature and extent of such damage or destruction which has resulted or which may result therefrom. The Administrative Agent may appear in any such proceedings and negotiations, and Mortgagor shall promptly deliver to Administrative Agent copies of all notices and pleadings in any such proceedings. Mortgagor will, in good faith, file and prosecute all claims necessary for any award or payment resulting from such damage or destruction. All costs and expenses incurred by the Administrative Agent in exercising its rights under this Paragraph 4 shall constitute indebtedness secured by this Mortgage.

(c) Application of Insurance Proceeds. Except as hereinafter provided, upon occurrence of any loss or damage to all or any portion of the Mortgaged Property resulting from fire, vandalism, malicious mischief or any other casualty or physical harm (a "Casualty"), the Administrative Agent may elect, subject to the provisions set forth below, to collect, retain and apply as a Loan prepayment all proceeds (the "Proceeds") of any insurance policies collected or claimed as a result of the Casualty after deduction of all expenses of collection and settlement, including attorney's and adjusters' fees and charges; provided, however, unless an Event of Default has occurred and is continuing, any Proceeds less than or equal to \$250,000.00 shall be disbursed directly to Mortgagor. For Proceeds greater than \$250,000.00, if (i) the Administrative Agent determines, in its reasonable discretion, that such Casualty can be remediated or rebuilt within a reasonable period, but no later than six (6) months prior to the end of the term of the Loan (unless extended as hereinafter provided) and (ii) Mortgagor commences or causes to be commenced such remediation or rebuilding after such casualty, the Administrative Agent shall make the Proceeds available to Mortgagor to rebuild the Mortgaged Property; provided, however, that (A) the Administrative Agent shall have no obligation to make any such Proceeds available to Mortgagor during the last six (6) months of the term of the Loan unless Mortgagor exercises any extension right it may have under the Note (if any) at the time of any such request for use of Proceeds. Mortgagor hereby authorizes the Administrative Agent, at the Administrative Agent's option, to collect, (subject to Mortgagor's permission to collect up to \$250,000.00 in accordance with this subparagraph) adjust and compromise any losses under any insurance with respect to the Mortgaged Property which is kept, or caused to be kept, by Mortgagor (subject to Mortgagor's consent to the terms of such compromise or settlement, which shall not be unreasonably withheld, delayed or conditioned), and hereby irrevocably appoints the Administrative Agent as its attorney-in-fact, coupled with an interest, for such purposes. Any Proceeds remaining after payment in full of the Loan and all other sums due the Administrative Agent and/or the Lenders hereunder shall be paid by the Administrative Agent to Mortgagor without any allowance for interest thereon.

(d) For proceeds greater than \$250,000.00, if the Administrative Agent is required to or elects to allow Mortgagor to restore or rebuild the Mortgaged Property and the Proceeds would not be sufficient to restore or rebuild the Mortgaged Property, then Mortgagor shall deposit with the Administrative Agent (for the benefit of the Lenders) cash, letters of credit, surety bonds or equivalent assurances of the availability of funds with which to pay for the

restoration or rebuilding of the Mortgaged Property. Such letters of credit, surety bonds or equivalent assurances shall in all respects be in form, substance, execution and sufficiency acceptable to the Administrative Agent. Mortgagor shall promptly proceed with restoration of the Mortgaged Property resulting from any Casualty.

5. Maintenance of Improvements.

(a) Except for the construction, rehabilitation and renovation of the Improvements contemplated by or permitted by the Loan Agreement, none of the Improvements shall be structurally or otherwise materially altered, removed or demolished, and none of the fixtures or any portion of the Collateral on, in or about the Premises shall be severed, removed, sold, mortgaged or otherwise encumbered, without the prior written consent of the Administrative Agent in each case; except, however, that Mortgagor shall have the right, without such consent, to remove and dispose of, free from the lien of this Mortgage, such Collateral as from time to time may become worn out or obsolete, *provided that* simultaneously with or prior to such removal, such Collateral shall be replaced with other new Collateral of reasonably equivalent kind and quality, and by such removal, Mortgagor shall be deemed to have subjected the replacement Collateral to the lien of this Mortgage. Except for the construction, rehabilitation and renovation of the Improvements contemplated by or permitted by the Loan Agreement, any Improvements or any Collateral which is demolished or destroyed in whole or in part shall be replaced promptly by similar Improvements and Collateral of comparable quality, condition and value as those demolished or destroyed, thereupon becoming part of the Mortgaged Property free from any other lien, security interest or encumbrance on or reservation of title to such property. Mortgagor shall not permit, commit or suffer any waste, impairment or deterioration of the Mortgaged Property or any part thereof and shall keep and maintain (or cause to be kept and maintained) the same in good repair and condition, reasonable wear and tear excepted. Mortgagor shall make (or cause to be made) all necessary and proper repairs and replacements so that the building and improvements to the Project and the Mortgaged Property will, at all times, be in good condition, fit and proper for the respective purposes for which they were erected or installed.

(b) Mortgagor hereby grants to the Administrative Agent and its agents the right in their reasonable discretion upon reasonable advance notice to Mortgagor, but the Administrative Agent and its agents shall have no obligation, to enter upon the Premises for the purpose of inspecting and appraising the Mortgaged Property and conducting tests and surveys thereof. If Mortgagor shall fail fully to comply with any of the requirements of this Paragraph 5, without prejudice to any other right or remedy that may be available to the Administrative Agent and/or Lenders hereunder or under any of the Loan Documents in such event, the Administrative Agent (for the benefit of the Lenders) shall have the right to recover, as damages for such failure, an amount equivalent to the cost required to restore the Mortgaged Property to the condition hereby required.

(c) Mortgagor hereby covenants and agrees to comply with, and to cause all occupants of all or any portion of the Mortgaged Property to comply with, all applicable zoning, building, use and environmental restrictions and all laws, rules, statutes, ordinances, regulations, orders and requirements, including, without limitation, environmental matters and notices of violation of all governmental authorities having jurisdiction over the Mortgaged Property or the

maintenance, use and operation thereof, and all applicable restrictions, agreements and requirements, whether or not of record (collectively, "Laws"). Mortgagor will deliver to the Administrative Agent within five (5) business days after receipt thereof any additional permits or renewals issued and approved or disapproved with respect to the Mortgaged Property. Mortgagor hereby agrees to indemnify, defend and hold harmless the Administrative Agent and Lenders, and each of their officers, directors, shareholders, employees, agents and partners and their respective heirs, successors and assigns (as applicable, individually and collectively, the "Indemnified Parties") from and against any and all claims, demands, losses, reasonable costs, damages, liabilities or expenses incurred or suffered by the Indemnified Parties, other than arising from the gross negligence or willful misconduct of any Indemnified Party, arising from any failure of the Mortgaged Property to comply with Laws, or from any failure of Mortgagor to obtain, maintain or renew, or to have obtained, maintained or renewed, any permit or approval required with respect to the Mortgaged Property.

6. Hazardous Materials and Wetlands.

(a) Without limiting the generality of any provision herein or in any of the Loan Documents, except as set forth in certain environmental reports and documents listed in Exhibit C attached hereto (collectively, the "Existing Conditions"), Mortgagor hereby represents and warrants to the Administrative Agent, for the benefit of the Lenders, that neither Mortgagor nor, to the best knowledge and belief of Mortgagor, any previous owner or user of the Mortgaged Property has used, generated, stored or disposed of any Regulated Material (as defined below) in, on, under, or above the Mortgaged Property in violation of Environmental Law (as defined below); that, to the best knowledge and belief of Mortgagor, the Mortgaged Property is not currently in violation of any Environmental Law; that the Mortgaged Property does not contain one or more facilities which are subject to reporting under Section 312 of the federal Emergency Planning and Community Right-to-Know Act of 1986 and the federal regulations promulgated thereunder; and that, to the best knowledge and belief of the Mortgagor, the Mortgaged Property does not contain any underground storage tanks. "Regulated Material" means flammable explosives, radioactive materials, solid waste, hazardous substances, hazardous waste, hazardous materials, asbestos containing materials, petroleum or any fraction thereof, pollutants, irritants, contaminants, toxic substances, or any other materials respectively defined as such in, or regulated by, any applicable Environmental Law, excepting materials, substances and petroleum stored, used and/or disposed of by Mortgagor, its agents, contractors, subcontractors and Tenants for construction and normal maintenance activities on the Mortgaged Property, for motor vehicles, and for normal household purposes. "Environmental Law" means any federal, state or local law, regulation or ordinance, as each may be validly interpreted and applied by the appropriate governmental entity, governing any Regulated Material for the protection of human health, safety or the environment, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 and the Emergency Planning and Community Right-to-Know Act of 1986, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act and the Oil Pollution Act of 1990, in each case as amended and as effective at the date of this Mortgage. Mortgagor shall use reasonable efforts to cause all tenants and any other persons present on or occupying the Mortgaged Property ("Tenants"), employees, agents, contractors and

subcontractors of Mortgagor and Tenants, to keep and maintain the Mortgaged Property, including, without limitation, the soil and ground water thereof, in compliance with, and not cause or knowingly permit the Mortgaged Property, including the soil and ground water thereof, to be in violation of, any federal, state or local laws, ordinances or regulations relating to industrial hygiene or to the environmental conditions thereon (including but not limited to any Environmental Law). Neither Mortgagor nor Tenants nor any employees, agents, contractors and subcontractors of Mortgagor or Tenants shall (i) use, generate, manufacture, store or dispose of in violation of Environmental Law on, under or about the Mortgaged Property or transport to or from the Mortgaged Property any Regulated Material, except as such may be required to be used, stored, or transported in connection with the permitted uses of the Mortgaged Property and then only to the extent permitted by law after obtaining all necessary permits and licenses therefor; or (ii) perform, cause to be performed or permit any fill activities or other acts which would in any way destroy, eliminate, alter, obstruct, interfere with, or otherwise affect any Wetlands, as defined in 33 C.F.R. Section 328.3 and in any comparable state and local law, statute, ordinance, rule or regulation ("Wetlands"), in violation of any federal, state or local laws, statutes, ordinances, rules or regulations pertaining to Wetlands ("Wetlands Law").

(b) Mortgagor shall advise the Administrative Agent in writing immediately upon Mortgagor obtaining knowledge of: (i) any notices (whether such notices are received from the Environmental Protection Agency or any other federal, state or local governmental agency or regional office thereof) which are received by Mortgagor regarding violation or potential violation of any Environmental Law or any Wetlands Law with respect to the Mortgaged Property; (ii) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened pursuant to any Environmental Law or Wetlands Law; (iii) all claims made or threatened in writing by any third party against Mortgagor or the Mortgaged Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Environmental Law or Wetlands Law (the matters set forth in clauses (i), (ii) and (iii) above are hereinafter referred to as "Environmental or Wetlands Claims"); and (iv) discovery by Mortgagor of any occurrence or condition on any Land adjoining or in the vicinity of the Mortgaged Property that could cause the Mortgaged Property or any part thereof to be classified as in violation of any Environmental Law or Wetlands Law or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Mortgaged Property under any Environmental Law or Wetlands Law.

(c) The Administrative Agent shall have the right, but not the obligation, to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Environmental or Wetlands Claims, and to have its reasonable attorneys' and consultants' fees in connection therewith paid by Mortgagor upon demand.

(d) Mortgagor shall be solely responsible for, and hereby agrees to indemnify, defend and hold harmless the Indemnified Parties from and against any loss, damage, cost or expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence (whether prior to or during the term of the Loan) of Regulated Material on, under or about the Mortgaged Property (whether by Mortgagor or a predecessor in title or any Tenants, employees, agents, contractors

or subcontractors of Mortgagor or any predecessor in title or any third persons at any time occupying or present on the Mortgaged Property), other than arising from the gross negligence or willful misconduct of the Administrative Agent and/or the Lenders, including, without limitation: (i) all foreseeable damages, (ii) the cost of any required or necessary repair, cleanup or detoxification of the Mortgaged Property required by applicable Environmental Law, including the soil and ground water thereof, and the preparation and implementation of any closure, remedial or other required plans; (iii) damage to any Wetlands or natural resources; and (iv) all reasonable costs and expenses incurred by the Administrative Agent and/or the Lenders in connection with clauses (i) and (ii), including but not limited to reasonable attorneys' and consultants' fees; *provided, however*, that nothing contained in this paragraph shall be deemed to create or give any rights to any person other than the Administrative Agent and the Lenders, and their successors and assigns, it being intended that there shall be no third party beneficiary of such provisions, or preclude Mortgagor from seeking indemnification from, or otherwise proceeding against, any third party including, without limitation, any tenant or previous owner or user of the Mortgaged Property. Notwithstanding the foregoing, Mortgagor shall not be liable hereunder with respect to (a) the gross negligence or willful misconduct of any Indemnified Party; or (b) any Regulated Material first introduced to the Mortgaged Property after the Administrative Agent, on behalf of the Lender and/or any Lender, shall have taken possession of the Mortgaged Property or acquired title to the Mortgaged Property pursuant to foreclosure or deed in lieu of foreclosure.

(e) Mortgagor shall pay to the Administrative Agent within ten (10) days of written demand any costs or expenses incurred by the Administrative Agent and/or the Lenders for which Mortgagor is responsible or for which Mortgagor has indemnified the Administrative Agent and/or the Lenders (as applicable), and any amount that is not so paid shall bear interest at the default rate of interest set forth in the Note (the "Default Rate").

(f) Mortgagor shall take any and all remedial action in response to the presence of any Regulated Material or Wetlands on, under, or about the Mortgaged Property, required to be taken by Mortgagor pursuant to any settlement agreement, consent decree or other governmental proceeding.

(g) Upon the Administrative Agent's written request and for reasonable cause, Mortgagor shall retain, at Mortgagor's sole cost and expense, a licensed geologist, industrial hygienist or environmental consultant (referred to hereinafter as the "Consultant") acceptable to the Administrative Agent to conduct a baseline investigation of the Mortgaged Property for the presence of Regulated Material or Wetlands ("Environmental Audit"). The Environmental Audit shall be performed in a manner reasonably calculated to discover the presence of Regulated Materials or Wetlands; *provided, however*, such investigation shall be of a scope and intensity no greater than a baseline investigation conducted in accordance with the general standards of persons providing such services taking into consideration the known uses of the Mortgaged Property and property in the vicinity of the Mortgaged Property and any factors unique to the Mortgaged Property. The Consultant shall concurrently deliver the results of its investigation in writing directly to Mortgagor and the Administrative Agent. Such results shall be kept confidential by both Mortgagor and the Administrative Agent unless legally compelled or required to disclose such results or disclosure is reasonably required in order to pursue rights or remedies provided herein or at law.

(h) Mortgagor covenants to reasonably cooperate with the Consultant and to allow entry and reasonable access to all portions of the Mortgaged Property for the purpose of the Consultant's investigation. Mortgagor covenants to comply, at its sole cost and expense, with all recommendations contained in the Environmental Audit reasonably required to bring the Mortgaged Property into compliance with all Environmental Laws and Wetlands Laws, including any recommendation for additional testing and studies to detect the quantity and types of Regulated Material or Wetlands present, if the Administrative Agent requires the implementation of the same.

7. Mortgage Tax. If, notwithstanding the Agency's interest in the Mortgaged Property, at any time any governmental authority, whether federal, state or municipal, or any agency or subdivision of any of them, shall require Internal Revenue or other documentary stamps on the Note, this Mortgage or any of the other Loan Documents, or upon the passage of any law of the State of New York deducting from the value of land for the purposes of real estate taxation the amount of any lien thereon, or changing in any way the laws for the taxation of mortgages or debts secured by mortgages for federal, state or local purposes, or the manner of the collection of any such taxes so as to impose, in any such event, a tax (other than an income tax) upon or otherwise to substantially and adversely affect the value of this Mortgage, then all indebtedness secured hereby shall become due and payable at the election of the Administrative Agent thirty (30) days after the mailing of notice of such election to Mortgagor; *provided, however,* this Mortgage, the Note and the other Loan Documents shall be and remain in effect if Mortgagor lawfully may pay, and does in fact pay, when payable and before the same becomes a lien against the Mortgaged Property, for such stamps and taxes, including interest and penalties thereon, to or for the Administrative Agent. Mortgagor further agrees to deliver to the Administrative Agent, at any time, upon demand, such evidence as may be required by any government agency having jurisdiction in order to determine whether the obligation secured hereby is subject to or exempt from any such tax.

8. Indemnification for Costs. Mortgagor hereby agrees to indemnify, defend and hold harmless the Administrative Agent, the Lenders and the Indemnified Parties from and against all costs, liabilities and expenses, including but not limited to reasonable attorneys' fees and expenses, except, by reason of the gross negligence or willful misconduct of any Indemnified Party to the fullest extent not then prohibited by applicable law, and costs of any Environmental Audit, title search, continuation of abstract and preparation of survey, incurred by reason of any action, suit, proceeding, hearing, motion or application before any court or administrative body, including an action to foreclose or to collect any indebtedness or obligation secured hereby, or incurred in connection with any extra-judicial collection procedure, in and to which the Administrative Agent and/or the Lenders may be or become a party by reason hereof, including, without limitation, any Taking, bankruptcy, probate and administration proceedings, as well as any other proceeding wherein proof of claims required to be filed by law or in which it becomes necessary to defend or uphold the terms of and the lien created by this Mortgage.

9. Taking.

(a) Except as hereinafter provided, and subject to paragraph (d) of this Paragraph, if all or any part of the Mortgaged Property shall be damaged or taken as a result of a Taking, either temporarily or permanently, Mortgagor shall assign, transfer and set over unto the

Administrative Agent (for the benefit of the Lenders), the Taking Proceeds or any claim for damages for any of the Mortgaged Property taken or damaged under the power of eminent domain, and agrees that if the whole or any part of the Mortgaged Property is taken by eminent domain proceedings, then all sums awarded to Mortgagor as damages for the Taking shall be applied as set forth in this paragraph. In the event (i) the Administrative Agent determines, in its reasonable discretion, that any such portion of the Mortgaged Property can be remediated or rebuilt within a reasonable period of time, and (ii) Mortgagor commences, or causes to be commenced, construction of any such remediation or rebuilding within a reasonable period of time after such Taking, the Administrative Agent shall make the Taking Proceeds available to Mortgagor to rebuild the Mortgaged Property; *provided, however*, that (A) the Administrative Agent shall have no obligation to make any such Taking Proceeds available to Mortgagor for rebuilding during the last six (6) months of the term of the Loan unless Mortgagor exercises any extension rights it may have under the Note at the time of any such request for use of Taking Proceeds. Any and all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and expenses to the fullest extent not then prohibited by applicable law, incurred by the Administrative Agent and/or the Lenders by reason of any condemnation, threatened condemnation or proceedings thereunder shall be secured hereby and Mortgagor shall reimburse the Administrative Agent and the Lenders, as applicable, therefor immediately, or the Administrative Agent shall have the right, at its option, to deduct such costs and expenses from any Taking Proceeds paid to the Administrative Agent (for the benefit of the Lenders) hereunder. If the Mortgaged Property is wholly condemned, the Administrative Agent shall receive from Mortgagor and/or from the Taking Proceeds payment of the entire amount of the indebtedness secured by this Mortgage.

(b) Subject to paragraph (a) and paragraph (d) of this Paragraph, Mortgagor will immediately notify the Administrative Agent of the actual or threatened commencement of any Taking proceedings affecting all or any part of the Mortgaged Property, including any easement therein or appurtenance thereof, including severance and consequential damage and change in grade of streets, and will deliver to the Administrative Agent copies of any and all papers served in connection with any such proceedings. Mortgagor further covenants and agrees to make, execute and deliver to the Administrative Agent, from time to time upon request, free, clear and discharged of any encumbrances of any kind whatsoever, any and all further assignments or other instruments deemed necessary by the Administrative Agent for the purpose of validly and sufficiently assigning the Taking Proceeds and all other awards and compensation heretofore and hereafter to be made to Mortgagor, including the assignment of any award from the United States Government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for payment thereof, for any Taking, either permanent or temporary, under any such proceedings. In the event of a Taking, the Administrative Agent shall not be limited to the rate of interest paid on the award by the condemning authority but shall be entitled to receive out of the Taking Proceeds interest on the entire unpaid principal sum under the Note and the other Loan Documents at the applicable rate(s) provided therein. Mortgagor hereby assigns to the Administrative Agent (for the benefit of the Lenders), so much of the balance of the Taking Proceeds payable by the condemning authority as is required to pay such interest.

(c) Subject to paragraph (a) and paragraph (d) of this Paragraph, Mortgagor hereby irrevocably authorizes and appoints the Administrative Agent its attorney-in-fact, coupled

with an interest, to collect and receive any such Taking Proceeds from the authorities making the same, to appear in any proceeding therefor, to give receipts and acquittances therefor, and to apply the same to payment on account of the indebtedness secured hereby whether then matured or not. Mortgagor shall execute and deliver to the Administrative Agent on demand such assignments and other instruments as the Administrative Agent may require for such purposes.

10. Estoppel Certificate. Within ten (10) business days after request by the Administrative Agent, but not more frequently than three times during a calendar year, Mortgagor shall furnish to the Administrative Agent a written statement, duly acknowledged, of the aggregate amount of indebtedness secured by this Mortgage, confirming (to the extent true) that no right of offset exists under the Loan Documents or otherwise, and stating either that no defenses exist against the indebtedness secured hereby, or, if such defenses are alleged to exist, the nature thereof, and any other information which Lender may reasonably request.

11. Title Warranty: Title Evidence. Mortgagor hereby confirms the warranties and representations as to title to the Mortgaged Property made in the granting clause of this Mortgage, and agrees to pay the costs of title insurance or other title evidence satisfactory to the Administrative Agent showing title to the Mortgaged Property to be as herein warranted. In the event of any subsequent change in title to the Mortgaged Property, other than a change expressly permitted by the Loan Documents, Mortgagor agrees to pay the cost of (a) an extension or endorsement to such title evidence showing such change in title, and (b) changing any and all insurance and other records in connection with the Loan made necessary by such change in title.

12. Reliance. Except during the pendency of any lien contested pursuant to the Loan Agreement and *provided that* Mortgagor shall have posted security as required by the Loan Agreement, the Administrative Agent, in advancing any payment relating to taxes, assessments and other governmental or municipal charges, fines, impositions or liens asserted against the Mortgaged Property, shall have the right to do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy or validity thereof. The Administrative Agent shall have the right to make any such payment whenever the Administrative Agent, in its sole discretion, shall deem such payment to be necessary or desirable to protect the security intended to be created by this Mortgage. In connection with any such advance, the Administrative Agent, at its option, shall have the right to and is hereby authorized to obtain, at Mortgagor's sole cost and expense, a date down or continuation endorsement to the loan policy of title insurance insuring this Mortgage prepared by a title insurance company of Lender's choice.

13. Default. Each of the following events shall be deemed to be an "Event of Default" hereunder:

(a) Mortgagor shall fail to make payment of the indebtedness evidenced by the Note prior to the expiration of any grace period provided in the Note; or

(b) Mortgagor shall fail to make payment of any sum of money due and payable under this Mortgage or any of the other Loan Documents (other than the Note, including, without limitation, payment of any and all other Obligations) within five (5) days after the date such payment is due; or

(c) Mortgagor shall file a voluntary petition in bankruptcy or under any bankruptcy act or similar law, state or federal, whether now or hereafter existing, or make an assignment for the benefit of creditors or file an answer admitting insolvency or inability to pay its debts generally as they become due, or shall fail to obtain a vacation or stay of any such proceedings which are involuntary within sixty (60) days after the institution of such proceedings; or

(d) Any plan of liquidation or reorganization is filed by or on behalf of Mortgagor in any bankruptcy, insolvency or other judicial proceeding, or a trustee or a receiver shall be appointed for the Mortgaged Property in any involuntary proceeding and such trustee or receiver shall not be discharged or such jurisdiction relinquished, vacated or stayed on appeal within sixty (60) days after the appointment thereof; or

(e) Failure of Mortgagor to commence, diligently pursue and/or complete actions as and when provided in Paragraph 2, (if any sum of money due thereunder is not paid within ten (10) days after the date such payment is due) or Paragraph 6 of this Mortgage; or

(f) Any sale or transfer of the Mortgaged Property in violation of Paragraph 18 of this Mortgage; or

(g) The occurrence of an involuntary transfer under subparagraph 28(d) of this Mortgage; or

(h) Any violation of the representations and warranties, or the filing of formal charges or commencement of proceedings as contemplated by Paragraph 37 of this Mortgage; or

(i) Default shall be made in the due observance or performance of any of the covenants, agreements or conditions required to be kept, performed or observed by Mortgagor under this Mortgage not enumerated elsewhere in this Section 13, and such default is not cured within thirty (30) days after written notice thereof has been delivered to Mortgagor by the Administrative Agent; *provided, however* if such default cannot reasonably be cured within the thirty (30)-day period, and Mortgagor promptly commences such cure within the thirty (30)-day period, then within such additional period during which Mortgagor diligently pursues and prosecutes such cure to completion and so long as the value of the Mortgaged Property is not impaired; or

(j) The occurrence of an Event of Default under any other Loan Document.

(k) Default shall be made in the due observance or performance of any of the covenants, agreements or conditions required to be kept, performed or observed by Mortgagor under any Permitted Encumbrance beyond the expiration of any applicable notice and grace period contained therein;

then and upon any such Event of Default, the entire amount of the indebtedness hereby secured, shall, at the option of the Administrative Agent, become immediately due and payable, without execution or other process and without further notice or demand, all of which are hereby expressly waived. Upon and after any such Event of Default, the indebtedness hereby secured shall, at the option of the Administrative Agent, bear interest at the Default Rate, payable on

demand. Acceleration of maturity, once claimed hereunder by the Administrative Agent, may, at the option of the Administrative Agent, be rescinded by written acknowledgment to that effect by the Administrative Agent, but the tender and acceptance of partial payments alone shall not in any way affect or rescind such acceleration of maturity, nor extend or affect the grace period, if any.

14. Additional Rights upon Default. Without limiting the generality of the foregoing, the Administrative Agent shall have the following additional rights during the continuance of any Event of Default, to the extent permitted by applicable law:

(a) the immediate right to collect, as the same become due, any and all unearned insurance premiums or refunds of insurance premiums, due or to become due, and all proceeds and other benefits to be received under insurance policies of every nature affecting or covering the Mortgaged Property, any and all refunds of taxes, assessments and other charges heretofore or hereafter paid on or with respect to the Mortgaged Property, together with all rents and profits of the Mortgaged Property, all of which have been hereby assigned to the Administrative Agent. In addition, the Administrative Agent shall have the right, but shall not be obligated, without notice or demand, to enter immediately upon and take possession of the Mortgaged Property, together with all documents, books, records, papers and accounts of Mortgagor relating to the Mortgaged Property or any portion thereof without further consent or assignment by Mortgagor; to cause to be conducted environmental investigations and analyses; to operate, manage, lease and control the Mortgaged Property and conduct the business thereof, if any, either personally or by its agents; to terminate any management agreements, contracts, agents or managers responsible for the management of the Mortgaged Property; and to use such measures, legal or equitable, as the Administrative Agent may deem proper or necessary to enforce the payment or security of the rents, issues and profits of the Mortgaged Property.

(b) Mortgagor hereby grants full power and authority to the Administrative Agent as follows: to exercise each and every one of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagor; to make all alterations, additions, improvements, renovations, replacements and repairs as the Administrative Agent may deem proper; to demolish any part or all of the Improvements which, in the judgment of the Administrative Agent, may be in unsafe condition and dangerous to life or property; to remodel any or all of the Improvements so as to make the same available in whole or in part for business, commercial, or retail uses contemplated by the Loan Agreement and as permitted under the terms of the Agency Leases, multiple dwelling or other student housing purposes; to lease the Mortgaged Property, or any part thereof, to Mortgagor or any other person or persons, on such terms and for such periods of time as the Administrative Agent may deem proper, and the provisions of any lease made by the Administrative Agent pursuant hereto shall be valid and binding upon Mortgagor, notwithstanding the fact that the Administrative Agent's right of possession may (for the benefit of the Lenders) terminate or this Mortgage may be satisfied of record prior to the expiration of the term of such lease; and to collect and receive all of the rents, issues, profits and all other amounts past due or to become due to Mortgagor and to apply the same in such order of priority as the Administrative Agent may determine to all necessary charges and expenses in connection with the Mortgaged Property, or for interest, principal, whether matured or not, taxes, water charges and assessments, insurance premiums and any advances made by the Administrative Agent for improvements, alterations or repairs for the

account of Mortgagor or on account of the indebtedness hereby secured. Neither the taking of possession nor the collection of rents by the Administrative Agent (for the benefit of the Lenders) as described above shall be construed to be an affirmation of any lease of the Mortgaged Property or any part thereof, and the Administrative Agent or any other purchaser at any foreclosure sale shall have the right to exercise the right to terminate any such lease as though such taking of possession and collection of rents had not occurred, subject, however, to the terms of any subordination, nondisturbance and attornment agreement which may be in effect from time to time with respect to any part of the Mortgaged Property.

(c) Without limiting the foregoing, Mortgagor hereby irrevocably appoints the Administrative Agent its attorney-in-fact, coupled with an interest, upon an Event of Default and only during the continuation thereof, to institute summary proceedings against any lessee of the Mortgaged Property who fails to comply with the provisions of his or its lease. If Mortgagor is occupying all or any part of the Mortgaged Property upon an Event of Default, Mortgagor agrees to either (i) immediately surrender possession of the Mortgaged Property to the Administrative Agent (for the benefit of the Lenders) and vacate the Mortgaged Property so occupied by Mortgagor, or (ii) pay a reasonable rental, determined by the Administrative Agent, for the use thereof, monthly in advance, to the Administrative Agent (for the benefit of the Lenders), and, in default of so doing, may be dispossessed by summary proceedings or otherwise.

(d) To the extent permitted by law, the Administrative Agent is hereby authorized and empowered to sell or cause the Mortgaged Property to be sold at public or private auction, and to convey same by execution and delivery to the purchaser at such sale a good and sufficient deed of conveyance, to retain out of the proceeds of such sale the amounts due under the terms of this Mortgage and the other Loan Documents, the costs and charges of such sale and attorneys' fees and expenses, all to the fullest extent not prohibited by applicable law, and amounts due to any other person asserting a lien or otherwise claiming an interest in the Mortgaged Property and to deliver the surplus moneys, if any, to Mortgagor.

(e) To the extent permitted by law, the Administrative Agent shall be entitled to the appointment of a receiver of the Mortgaged Property as a matter of right and without notice, which is hereby expressly waived, with power to collect the rents, issues and profits of the Mortgaged Property, due and to become due without regard to the value of the Mortgaged Property and regardless of whether the Administrative Agent and/or the Lenders has an adequate remedy at law. Mortgagor, for itself and its successors and assigns, hereby waives any and all defenses to the application for a receiver as set forth above and hereby specifically consents to such appointment without notice, but nothing herein contained is to be construed to deprive the Administrative Agent and/or the Lenders of any other right, remedy or privilege it may now have, or may hereafter obtain, to have a receiver appointed. From such rents, issues and profits collected by the receiver or by the Administrative Agent (for the benefit of the Lenders), prior to a foreclosure sale, there shall be deducted the cost of collection thereof, including, without limitation, real estate commissions, if any, for new leases, if any, receiver's fees, reasonable attorneys' fees and expenses to the fullest extent not prohibited by applicable law, and any court costs; the remainder shall be applied against the indebtedness hereby secured.

(f) The Administrative Agent shall have the right to bring foreclosure proceedings hereunder and whether or not any order or decree shall have been entered therein

and to the fullest extent not prohibited by applicable law, a reasonable sum shall be allowed for the Administrative Agent's and the Lender's reasonable attorneys' fees and expenses in such proceeding. There shall be included in any judgment or decree foreclosing this Mortgage and be paid out of any rents, issues and profits or out of the proceeds of any sale made in pursuance of any such judgment or decree: (i) all costs and expenses of such suit or suits, advertising, sale and conveyance, including reasonable attorneys' fees and expenses to the fullest extent not prohibited by applicable law, costs of documentary evidence and costs of any abstract, examination of title and title insurance; (ii) all moneys advanced by the Administrative Agent and/or the Lenders, if any, for any purpose authorized in this Mortgage with interest as herein provided; (iii) all accrued interest remaining unpaid on the indebtedness hereby secured; and (iv) the principal balance of the indebtedness hereby secured. The surplus proceeds, if any, shall be paid to Mortgagor or as the court may direct.

(g) Upon the occurrence and continuance of any default in payment of any amount due and owing under the Note, this Mortgage or any of the other Loan Documents, the Administrative Agent, may in its sole and reasonable discretion, require Mortgagor to establish and maintain a "lock box" account at the Administrative Agent (for the benefit of the Lenders) subject to the control of the Administrative Agent (for the benefit of the Lenders) and, Mortgagor, at its expense, will notify or cause to be notified all tenants to pay directly any sum or sums then due or to become due pursuant to its leases with such tenants to such lock box account at the Administrative Agent (for the benefit of the Lenders).

15. Waiver. Mortgagor shall not, and anyone claiming through or under Mortgagor shall not, set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the final and absolute sale of the Mortgaged Property, or the final and absolute placing into possession thereof, immediately after such sale, of the purchaser or purchasers thereof. Mortgagor, for itself and all who may claim through or under it, waive, if and to the fullest extent not prohibited by applicable law, all benefits and protections under such appraisal, valuation, stay, extension and redemption laws.

16. Marshalling of Assets. Mortgagor hereby waives for itself and, to the fullest extent not prohibited by applicable law, for any subsequent lienor, any right to apply for an order, decree, judgment, or ruling requiring or providing for a marshalling of assets which would require the Administrative Agent and/or the Lenders to proceed against certain of the Mortgaged Property before proceeding against any of the other Mortgaged Property. The Administrative Agent shall have the right to proceed, in its sole discretion, against the Mortgaged Property in such order and in such portions as the Administrative Agent may determine, without regard to the adequacy of value or other liens on any such Mortgaged Property. No such action shall in any way be considered as a waiver of any of the rights, benefits, liens or security interests created hereby or by any of the Loan Documents.

17. Subrogation. If the indebtedness hereby secured or any part thereof, including any amounts advanced by the Administrative Agent and/or the Lenders, is used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any prior lien or encumbrance upon the Mortgaged Property or any part thereof, then the Administrative Agent and/or the Lenders (as applicable) shall be subrogated to such other liens or encumbrances and to any additional

security held by the holder thereof and shall have the benefit of the priority of all of the same, whether or not any such lien, encumbrance or additional security is canceled of record upon such payment or advancement or otherwise, and in addition to the security afforded by this Mortgage and the other Loan Documents.

18. Sale or Transfer. (a) Except for transfers permitted by the Loan Agreement, and the other Loan Documents, if any, Mortgagor, without the prior written consent of the Administrative Agent, shall not effect, suffer or permit any Prohibited Transfer (as defined herein). Any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or any agreement to do any of the foregoing) of any of the following properties or interests shall constitute a "Prohibited Transfer":

(i) The Premises or any part thereof or interest therein, excepting only sales or other dispositions of Collateral (herein called "Obsolete Collateral") no longer useful in connection with the operation of the Premises, *provided that* prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by Collateral of at least equal value and utility which is subject to the lien hereof with the same priority as with respect to the Obsolete Collateral;

(ii) Any shares of capital stock of a corporate Mortgagor, a corporation which is a general partner or managing member/manager in a partnership or limited liability company Mortgagor, or a corporation which is the owner of substantially all of the capital stock of any corporation described in this subparagraph (other than the shares of capital stock of a corporate trustee or a corporation whose stock is publicly traded on a national securities exchange or on the National Association of Securities Dealers' Automated Quotation System);

(iii) All or any part of the managing member or manager interest, as the case may be, in a limited liability company Mortgagor or a limited liability company which is a general partner of a partnership Mortgagor;

(iv) All or any part of the general partner or joint venture interest, as the case may be, of a partnership Mortgagor or a partnership which is a manager of a limited liability company Mortgagor or the conversion of a partnership Mortgagor to a corporation or limited liability company; or

(v) If there shall be any change in control (by way of transfers of stock, partnership or member interests or otherwise) in any partner, member, manager or shareholder, as applicable, which directly or indirectly controls the day-to-day operations and management of Mortgagor or Guarantor and/or owns a controlling interest in Mortgagor;

in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly (including the nominee agreement), voluntarily or involuntarily, by operation of law or otherwise; *provided, however,* that the foregoing provisions of this Paragraph 18 shall not apply (i) to liens securing the Indebtedness, (ii) to the lien of current taxes and assessments not in default, (iii) to any

transfers of the Premises, or part thereof, or interest therein, or any beneficial interests, or shares of stock, membership, partnership or joint venture interests, as the case may be, by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate or personal representatives, or (iv) to leases permitted by the terms of the Loan Documents, if any, or (v) lien claims contested by Mortgagor and bonded over or indemnified in accordance with the Loan Agreement.

(b) In determining whether or not to make the Loan, the Administrative Agent and the Lenders have evaluated the background and experience of Mortgagor and its partners/members/officers in owning and operating property such as the Premises, found it acceptable and relied and continues to rely upon same as the means of maintaining the value of the Premises which is the Lender's security for the Note. Mortgagor and its partners/members/officers are well experienced in borrowing money and owning and operating property such as the Premises, were ably represented by a licensed attorney at law in the negotiation and documentation of the Loan and bargained at arm's length and without duress of any kind for all of the terms and conditions of the Loan, including this provision. Mortgagor recognizes that the Lenders are entitled to keep their respective loan portfolio at current interest rates by either making new loans at such rates or collecting assumption fees and/or increasing the interest rate on a loan, the security for which is purchased by a party other than the original Mortgagor. Mortgagor further recognizes that any secondary junior financing placed upon the Premises (a) may divert funds which would otherwise be used to pay the Note; (b) could result in acceleration and foreclosure by any such junior encumbrancer which would force the Administrative Agent and/or the Lenders to take measures and incur expenses to protect its security; (c) would detract from the value of the Premises should the Administrative Agent, for the benefit of the Lenders, come into possession thereof with the intention of selling same; and (d) would impair the Administrative Agent, for the benefit of the Lenders, and/or any Lender's right to accept a deed in lieu of foreclosure, as a foreclosure by the Administrative Agent, on behalf of the Lenders, would be necessary to clear the title to the Premises. In accordance with the foregoing and for the purposes of (i) protecting the Administrative Agent's and/or any Lender's security, both of repayment and of value of the Premises; (ii) giving the Lenders the full benefit of their bargain and contract with Mortgagor; (iii) allowing the Lenders to raise the interest rate and collect assumption fees; and (iv) keeping the Premises free of subordinate financing liens, Mortgagor agree that if this Paragraph 18 is deemed a restraint on alienation, that it is a reasonable one.

19. Cost of Collection or Performance. If any action or proceeding is commenced by or against the Administrative Agent and/or the Lenders, including, without limitation, condemnation proceedings, proceedings involving the foreclosure of this Mortgage or of any other liens or encumbrances, the enforcement or interpretation of contracts, leases or other documents relating to the Mortgaged Property, or any other proceeding of any nature, legal or otherwise, affecting the Mortgaged Property or any part thereof, or the title thereto, or the validity or priority of the lien of this Mortgage, the Administrative Agent and/or the Lenders (as applicable) shall have the right to appear, defend, prosecute, retain counsel, and take such action as the Administrative Agent shall determine. In addition, upon an Event of Default hereunder, the Administrative Agent is authorized, but not obligated, to discharge Mortgagor's obligations hereunder. Mortgagor shall pay to the Administrative Agent, promptly upon demand, all costs, including, without limitation, "late charges" payable under the Note, out-of-pocket expenses and

reasonable attorneys' fees and expenses, to the fullest extent not prohibited by applicable law, and the costs of any environmental examination and analysis, title examination, supplemental examination of title or title insurance, that may be incurred by the Administrative Agent and/or the Lenders in connection with any proceedings affecting the Mortgaged Property, or any part thereof, to cause the enforcement of the covenants or agreements of Mortgagor contained herein or in any of the other Loan Documents, or with or without the institution of an action or proceeding, or that may otherwise be incurred by the Administrative Agent and/or the Lenders in the performance of any other action by the Administrative Agent and/or the Lenders (as applicable) authorized by this Mortgage. All such costs, expenses and attorneys' fees and expenses, and any other moneys advanced by the Administrative Agent and/or the Lenders to protect the Mortgaged Property shall, to the fullest extent not prohibited by applicable law, bear interest from the date of payment thereof at the Default Rate until repaid by Mortgagor, and shall be repaid by Mortgagor to the Administrative Agent (for the benefit of the Lenders) immediately upon demand. Mortgagor hereby agrees that if a default is made in the payment of the indebtedness secured hereby when due, even if the indebtedness secured hereby shall not have been declared due and payable upon any Event of Default, the Administrative Agent (for the benefit of the Lenders), shall be entitled to receive interest thereon at the Default Rate, to be computed from the due date through actual receipt and collection of the amount then in default. The preceding sentence shall not be construed as an agreement or privilege to extend the time for performance of any obligation under this Mortgage or any of the other Loan Documents, or as a waiver of any other right or remedy accruing to the Administrative Agent by reason of any such default.

20. Partial Release. The Administrative Agent, without notice, and without regard to any consideration paid therefor, and notwithstanding the existence at the time of any inferior liens thereon, shall have the right to release (a) any part of the security for the indebtedness secured hereby, including, without limitation, the interest under this Mortgage in and to any of the Mortgaged Property, or (b) any person liable for any indebtedness secured hereby, without affecting the priority of any part of the security and the obligations of any person not expressly released, and shall have the right to agree with any party remaining liable for such indebtedness or having any interest therein to extend the time for payment of any part or all of the indebtedness secured hereby. Such agreement shall not in any way release or impair the lien hereof, but shall extend the lien hereof as against all parties having any interest in such security.

21. Non-Waiver. If the Administrative Agent (a) releases, as aforesaid, any part of such security or any person liable for any indebtedness secured hereby; (b) grants an extension of time for any payments of the indebtedness secured hereby; (c) takes other or additional security for the payment thereof; (d) accepts partial payments; or (e) otherwise exercises or waives or fails to exercise any right granted herein or in any of the other Loan Documents, no such act or omission shall constitute a waiver of any default, or extend or affect the grace period, if any, release Mortgagor, subsequent owners of the Mortgaged Property or any part thereof, or makers or guarantors of the Note, this Mortgage, or any of the other Loan Documents, or preclude the Administrative Agent and/or the Lenders from exercising any right, power or privilege herein granted or intended to be granted for any Event of Default.

22. Agency Leases. So long as any portion of the indebtedness secured by this Agreement shall remain unpaid, unless the Administrative Agent, on behalf of itself and the

Lenders, shall otherwise consent, the fee title to the Mortgaged Property and the leasehold and subleasehold estates therein created pursuant to the provisions of the Agency Leases shall not merge but shall always be kept separate and distinct, notwithstanding the union of such estates in the Agency, the Mortgagor or any other person by purchase, operation of law or otherwise. Mortgagor shall (a) diligently perform and observe all of the terms, covenants and conditions of the Agency Leases, and (b) promptly notify the Administrative Agent of the giving of any notice under the Agency Leases to Mortgagor of any default by Mortgagor, and deliver to the Administrative Agent a true copy of each such notice. Mortgagor shall not, without the prior written consent of the Administrative Agent, terminate or cancel the Agency Leases or modify, change, supplement, alter or amend the Economic Incentive Agreement, in any respect, either orally or in writing, provided, however, that Administrative Agent's consent to any such modification, change, supplement, alteration or amendment shall not be unreasonably withheld or delayed. If Mortgagor shall default in the performance or observance of any term, covenant or condition of the Agency Leases on the part of the Mortgagor, to be performed or observed beyond any applicable grace and/or cure period, then, without limiting the generality of the other provisions of this Agreement, and without waiving or releasing Mortgagor from any of its obligations hereunder, the Administrative Agent shall have the right, but shall be under no obligation, to pay any sums and to perform any act or take any action as may be appropriate to cause all of the terms, covenants and conditions of the Agency Leases on the part of the Mortgagor to be performed or observed or to be promptly performed or observed on behalf of Mortgagor, to the end that the rights of Mortgagor in, to and under the Agency Leases shall be kept unimpaired and free from default, provided same is done within any applicable cure period under the Agency Leases.

23. Additional Remedies. The Administrative Agent, on behalf of the Lenders, shall have all other remedies provided by applicable law, including, without limitation, the right to pursue a judicial sale of the Property or any portion thereof by deed, assignment or otherwise.

24. The Mortgagor agrees and acknowledges that the acceptance by the Administrative Agent (for the benefit of Lenders) of any payments from either the Mortgagor or any guarantor after the occurrence of any Event of Default, the exercise by the Administrative Agent of any remedy set forth herein or the commencement, discontinuance or abandonment of foreclosure proceedings against the Mortgaged Property shall not waive the Administrative Agent's subsequent or concurrent right to foreclose or operate as a bar or estoppel to the exercise of any other rights or remedies of the Administrative Agent and/or the Lenders. The Mortgagor agrees and acknowledges that the Administrative Agent, by making payments or incurring costs described herein, shall be subrogated to any right of the Mortgagor to seek reimbursement from any third parties, including, without limitation, any predecessor in interest to the Mortgagor's title or other party who may be responsible under any law, regulation or ordinance relating to the presence or cleanup of Hazardous Materials.

25. Further Assurances. Upon request of the Administrative Agent, Mortgagor shall execute, acknowledge and deliver to the Administrative Agent, in form satisfactory to the Administrative Agent, financing statements covering as collateral any personal property owned by Mortgagor, which, in the sole opinion of the Administrative Agent, is essential to the operation of any of the Mortgaged Property, and any supplemental mortgage, security agreement, financing statement, assignment of leases, rents, income and profits from the

Mortgaged Property, affidavit, continuation statement or certification as the Administrative Agent may reasonably request in order to protect, preserve, maintain, continue and extend the lien and security interest hereunder or the priority hereof. Mortgagor hereby irrevocably appoints the Administrative Agent its attorney-in-fact, coupled with an interest, and authorizes, directs and empowers such attorney, at its option, to execute, acknowledge and deliver on behalf of Mortgagor, its successors and assigns, any such documents if Mortgagor shall fail so to do within five (5) days after request by the Administrative Agent. Mortgagor shall pay to the Administrative Agent on demand all actual costs and expenses incurred by the Administrative Agent in connection with the preparation, execution, recording and filing of any such documents.

26. Application of Proceeds. All payments made by Mortgagor under the Note, this Mortgage or any of the other Loan Documents shall be applied by the Administrative Agent to the following items and in such order as the Administrative Agent may determine in its sole discretion: (a) advances by the Administrative Agent and/or the Lenders for payment of taxes, assessments, insurance premiums and other costs and expenses, as set forth in the Note, this Mortgage or any of the other Loan Documents; (b) any amounts which may be overdue under the Note, this Mortgage or any of the other Loan Documents; (c) interest on the indebtedness secured hereby; and (d) outstanding principal under the Note.

27. Subordination Right. At the option of the Administrative Agent, this Mortgage shall become subject and subordinate, but not with respect to the priority of entitlement to Proceeds of a Casualty or any Taking Proceeds, to any and all leases of all or any part of the Mortgaged Property, upon the execution by the Administrative Agent and recording of a unilateral declaration to that effect at any time hereafter, in the Office of the County Clerk of the County in which the Mortgaged Property is located.

28. UCC Security Agreement. This Mortgage is hereby deemed to be as well a Security Agreement and creates a security interest in and to the Collateral. Without derogating any of the provisions of this instrument, Mortgagor to the extent permitted by law hereby:

(a) grants to the Administrative Agent, for the benefit of the Lenders, a security interest in and to all Collateral, including without limitation the items referred to above and the tax and insurance escrow payments and deposits made by Mortgagor pursuant to Paragraph 2 hereof, together with all additions, accessions and substitutions and all similar property hereafter acquired and used or obtained for use on or in connection with the Mortgaged Property. The proceeds of the Collateral are intended to be secured hereby; however, such intent shall never constitute an expressed or implied consent on the part of the Administrative Agent and/or the Lenders to the sale of any or all Collateral;

(b) agrees that the security interest hereby granted shall secure the payment of the indebtedness specifically described herein together with payment of any future debt or advancement owing by Mortgagor to the Administrative Agent and/or the Lenders with respect to the Mortgaged Property;

(c) except as otherwise provided herein, agrees not to remove from the Mortgaged Property, and except for interests granted to the Agency pursuant to the Agency Leases, sell, convey, mortgage or grant a security interest in, or otherwise dispose of or

encumber, any of the Collateral or any of Mortgagor's right, title or interest therein, without first obtaining the Administrative Agent's written consent; the Administrative Agent shall have the right, at its sole option, to require Mortgagor to apply the proceeds from the disposition of the Collateral in reduction of the indebtedness secured hereby;

(d) agrees that if Mortgagor's rights in the Collateral are voluntarily or involuntarily transferred, whether by sale, creation of a security interest, attachment, levy, garnishment or other judicial process, without the prior written consent of the Administrative Agent, such transfer shall constitute an Event of Default hereunder;

(e) agrees that, upon or after the occurrence of any Event of Default, the Administrative Agent shall have all rights and remedies of a "Secured Party" under the UCC as adopted in the State of Illinois in addition to all other rights and remedies contemplated hereunder, including, without limitation, the right to take possession of the Collateral, and for this purpose the Administrative Agent shall have the right to enter upon any premises on which any or all of the Collateral is situated without being deemed guilty of trespass and without liability for damages thereby occasioned, and to take possession of and operate the Collateral or remove it therefrom. The Administrative Agent shall have the further right, as the Administrative Agent may determine, to repair, refurbish or otherwise prepare the Collateral for sale, lease or other use or disposition, and to sell at public or private sale or otherwise dispose of, lease or utilize the Collateral and any part thereof in any manner authorized or permitted by law and to apply the proceeds thereof toward payment of any costs and expenses incurred by the Administrative Agent and/or the Lenders including, to the fullest extent not prohibited by applicable law, reasonable attorneys' fees and expenses, and toward payment of the indebtedness secured hereby, in such order and manner as the Administrative Agent may determine. To the fullest extent not prohibited by applicable law, Mortgagor expressly waives any notice of sale or other disposition of the Collateral and any other rights or remedies of a debtor or formalities prescribed by law relative to a sale or disposition of the Collateral or any other right or remedy existing after an Event of Default. To the extent any notice is required and cannot be waived, Mortgagor agrees that if such notice is deposited for mailing, postage prepaid, certified or registered mail, to the owner of record of the Mortgaged Property, directed to the owner at the last address actually furnished to the Administrative Agent at least five (5) days before the time of sale or disposition, such notice shall be deemed reasonable and shall fully satisfy any requirements for giving of such notice; and

(f) authorizes Administrative Agent in the jurisdiction where this Agreement will be given effect financing statements covering the Collateral and the proceeds of Collateral. At the request of the Administrative Agent, Mortgagor will join the Administrative Agent in executing one or more such financing statements pursuant to this Mortgage. To the extent permitted by law, a carbon, photographic or other reproduction of this instrument or any financing statement executed in accordance herewith shall be sufficient as a financing statement.

29. Management. The Administrative Agent shall have the right to give or withhold its prior consent to any contract or other arrangement for the management of all or any part of the Mortgaged Property; *provided, however,* that such consent shall not be unreasonably withheld, conditioned or delayed. The Administrative Agent shall have the right, exercisable at its option upon an Event of Default or an event which, with the passage of time, the giving of

notice, or both, would constitute an Event of Default, to terminate the rights of any party engaged to manage the Mortgaged Property and any and all other agreements or contracts relating to the operation or management of the Mortgaged Property, if, in the Administrative Agent's sole discretion, the management and/or operation of the Mortgaged Property is unsatisfactory.

30. Notices. Any notice, demand, request or other communication which any party hereto may be required or may desire to give hereunder shall be in writing and shall be deemed to have been properly given (i) if hand delivered, or if sent by telecopy, effective upon receipt, or (ii) if delivered by overnight courier service, effective on the day following delivery to such courier service or (iii) if mailed by United States registered or certified mail, postage prepaid, return receipt requested, effective two (2) business days after deposit in the United States mails addressed as follows:

If to Mortgagor:

BVSHSSF SYRACUSE, LLC
c/o Blue Vista Capital Management, LLC
353 North Clark Street, Suite 730
Chicago, Illinois 60654
Attention: Ronald W. Koretz
Telecopy: (312) 828-0139

With a copy to:

Faegre Baker Daniels LLP
110 Berry Street, Suite 2400
Fort Wayne, Indiana 46802
Attention: Patrick A. Scheiderer
Telecopy: (260) 460-1700

If to Administrative Agent and/or to Lenders:

Citizens Bank, National Association
1215 Superior Avenue, 6th Floor
Mail Code OHS-675
Cleveland, Ohio 44114
Attention: Judi Paskert
Telephone: (216) 277-0341
Telecopy: (216) 277-7106

and

Citizens Bank, National Association
71 South Wacker Drive
Chicago, Illinois 60606
Attention: Matthew R. Adams
Telecopy: (312) 777-3691

With a copy to:

Ginsberg Jacobs LLC
300 South Wacker Drive, Suite 2750
Chicago, Illinois 60606
Attention: Steven F. Ginsberg, Esq.

or at such other address or to such other addressee as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice.

31. Loan Documents. The term "Loan Documents" as used herein collectively refers to the "Loan Documents" as defined in the Loan Agreement.

32. Financial and Other Reporting. Mortgagor shall provide and shall cause Guarantor to provide the financial information required in the Loan Agreement and the Guaranty.

33. Operating Accounts. Mortgagor shall maintain Operating Accounts and deposit accounts as required by the Loan Agreement.

34. Intentionally Omitted.

35. Waiver of Right of Redemption. Mortgagor hereby waives any and all redemption rights upon any sale of the Mortgaged Property at any foreclosure pursuant to this Mortgage.

36. Advances. (a) This Mortgage shall secure the indebtedness of Mortgagor to Lender that is evidenced, permitted or secured by the Loan Documents, including future advances made by Lender to Mortgagor. All of such indebtedness, including future advances, shall be a lien from the time that this Mortgage is recorded in the Office of the County Clerk of the County in which the Mortgaged Property is located.

(b) The total amount of the indebtedness to which the Mortgaged Property may be subjected for payment may not exceed the principal sum of three (3) times the original aggregate principal amount of the Note, plus, without limitation as to amount, (a) interest and charges under the Note and other Loan Documents at the rates therein provided, or if no interest is provided, at the judgment rate, (b) all costs, expenses, and reasonable attorneys' fees incurred by the Administrative Agent and/or the Lenders in connection with the collection of any of the foregoing or in the protection or enforcement of the Administrative Agent's and/or the Lender's rights or remedies hereunder or under any instrument or document given in connection with any of the loan Documents, (c) all expenditures by the Administrative Agent and/or the Lenders for

the maintenance, preservation or realization of any security, and (d) the payment and performance of all of the covenants contained in this Mortgage (the "Maximum Amount").

(c) In addition to the loan advances referred to in subparagraph (a) above, the Administrative Agent shall have the right, but not the obligation, to make protective advances with respect to the Mortgaged Property for the payment of taxes, assessments, insurance premiums, repairs, maintenance and other costs incurred in the protection of the Mortgaged Property, and such protective advances, together with interest thereon at the Default Rate from the date of each such advance until it is repaid in full, shall be secured by this Mortgage with priority running from the time of the recording of this Mortgage with the Office of the County Clerk of the County in which the Mortgaged Property is located.

37. Anti-Forfeiture. Mortgagor hereby further expressly represents and warrants to The Administrative Agent and the Lenders that, to the best of Mortgagor's knowledge, there has not been committed by Mortgagor or any other person involved with the Mortgaged Property or Mortgagor any act or omission affording the federal government or any state or local government the right and/or remedy of forfeiture as against the Mortgaged Property or any part thereof or any monies paid in performance of its obligations under the Note or under any of the other Loan Documents, and Mortgagor hereby covenants and agrees not to commit, permit or suffer to exist any act or omission affording such right and/or remedy of forfeiture. In furtherance thereof, Mortgagor hereby agrees to indemnify, defend and hold harmless the Administrative Agent and the Lenders (and their respective employees and agents) from and against any loss, damage or other injury, including without limitation, reasonable attorneys' fees and expenses, to the fullest extent not prohibited by applicable law, and all other costs and expenses incurred by the Administrative Agent and/or the Lenders (as applicable) in preserving its lien, security interest and other rights and interests in the Mortgaged Property and any additional collateral under any of the Loan Documents in any proceeding or other governmental action asserting forfeiture thereof, by reason of, or in any manner resulting from, the breach of the covenants and agreements or the warranties and representations set forth in the preceding sentence. Without limiting the generality of the foregoing, the filing of formal charges or the commencement of proceedings against Mortgagor, the Administrative Agent, and/or the Lender, any guarantor, any additional collateral under any of the Loan Documents or all or any part of the Mortgaged Property under any federal or state law in respect of which forfeiture of the Mortgaged Property or any part thereof or of any monies paid in performance of Mortgagor's obligations under the Loan Documents is a potential result shall, unless vacated or dismissed at least ten (10) days prior to forfeiture but no later than twenty (20) days after filing, at the election of Lender in its absolute discretion, constitute an Event of Default hereunder without notice or opportunity to cure.

38. Miscellaneous.

(a) **THIS MORTGAGE WAS NEGOTIATED IN THE STATE OF ILLINOIS AND THE PROCEEDS OF THE NOTE DELIVERED PURSUANT HERETO WERE DISBURSED FROM THE STATE OF ILLINOIS, WHICH STATE THE ADMINISTRATIVE AGENT AND MORTGAGOR AGREE HAS A SUBSTANTIAL RELATIONSHIP TO ADMINISTRATIVE AGENT, LENDERS AND MORTGAGOR AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL**

RESPECTS, INCLUDING MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS MORTGAGE AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, AND ENFORCEMENT OF THE LIENS CREATED PURSUANT TO THE LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE IN WHICH THE MORTGAGED PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF ILLINOIS SHALL GOVERN THE VALIDITY AND THE ENFORCEABILITY OF ALL LOAN DOCUMENTS AND THE DEBT. TO THE FULLEST EXTENT PERMITTED BY LAW, MORTGAGOR HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS MORTGAGE AND THE NOTE, AND THIS MORTGAGE AND THE NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, AND SOLELY WITH RESPECT TO THE AGENCY, THIS MORTGAGE IS DEEMED TO HAVE BEEN NEGOTIATED IN THE STATE OF NEW YORK AND ANY AND ALL CLAIMS OR CAUSES OF ACTION ARISING OUT OF ITS CONSTRUCTION, NEGOTIATION, ENFORCEMENT OR OTHERWISE, AS SUCH CLAIMS OR CAUSES OF ACTION RELATE TO THE AGENCY, SHALL BE GOVERNED AND CONSTRUED UNDER AND BY THE LAWS OF THE STATE OF NEW YORK.

(b) If any provision of this is inconsistent with any applicable provision of the laws of the State of New York (as amended) ("New York Law"), the provisions of New York Law shall take precedence over the provisions of this Mortgage, but New York Law shall not invalidate or render unenforceable any other provision of this Mortgage that can be fairly construed in a manner consistent with New York Law. Without in any way limiting any of the Administrative Agent's and/or the Lenders' rights, remedies, powers and authorities provided in this Mortgage or otherwise, and in addition to all of such rights, remedies, powers and authorities, the Administrative Agent and the Lenders shall also have all rights, remedies, powers and authorities permitted to the holder of a mortgage under New York Law, as the same may be amended from time to time. If any provision of this Mortgage shall grant to the Administrative Agent and the Lenders any rights, remedies, powers or authorities upon default of Mortgagor which are more limited than what would be vested in the Administrative Agent and the Lenders under New York Law in the absence of said provision, the Administrative Agent and the Lenders shall each have such rights, remedies, powers and authorities that would be otherwise vested in it under New York Law. Without limitation, all expenses (including reasonable attorneys' fees and costs) incurred by the Administrative Agent and/or the Lenders to the extent reimbursable under any provision of New York Law, whether incurred before or after any foreclosure, shall be added to the indebtedness secured by this Mortgage and included in the amount due and or judgment of foreclosure.

39. UCC Financing Statement/Fixture Filing. This Mortgage is intended to be a UCC Financing Statement/Fixture Filing within the purview of Section 9-502 (c) of the Uniform Commercial Code as adopted by the State of New York with respect to the Collateral and the goods described herein, which goods are and may become fixtures relating to the Premises. The addresses of Mortgagor as Debtor and the Administrative Agent, for the benefit of the Lenders, as Secured Party are set forth herein. This Mortgage is to be filed for record with the Office of the County Clerk of the county or counties where the Mortgaged Property is located.

(a) Mortgagor and Lender agree that this Mortgage shall constitute a Security Agreement within the meaning of the New York Uniform Commercial Code (hereafter referred to as the "UCC") with respect to (i) all sums at any time on deposit for the benefit of Lender or held by the Lender (whether deposited by or on behalf of Mortgagor or anyone else) pursuant to any of the provisions of the Note, this Mortgage or the other Loan Documents and (ii) with respect to any personal property included in the granting clauses of this Mortgage, which personal property may not be deemed to be affixed to the Property or may not constitute a "fixture" (within the meaning of Section 9-313 of the UCC) (which property is hereinafter referred to as "Personal Property"), and that a security interest in and to the Collateral is hereby granted to the Lender, and the Collateral and all of Mortgagor's right, title and interest therein are hereby assigned to Lender, all to secure payment of the Debt. All of the provisions contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Property.

40. WAIVER OF JURY TRIAL, MORTGAGOR ONLY, AND NOT THE AGENCY, HEREBY, AND THE ADMINISTRATIVE AGENT BY ITS ACCEPTANCE HEREOF, EACH WAIVE THE RIGHT OF A JURY TRIAL IN EACH AND EVERY ACTION ON THIS MORTGAGE OR ANY OF THE OTHER LOAN DOCUMENTS, IT BEING ACKNOWLEDGED AND AGREED THAT ANY ISSUES OF FACT IN ANY SUCH ACTION ARE MORE APPROPRIATELY DETERMINED BY THE COURTS; FURTHER, MORTGAGOR ONLY, AND NOT THE AGENCY, HEREBY CONSENTS AND SUBJECTS ITSELF TO THE JURISDICTION OF COURTS OF THE STATE OF ILLINOIS AND, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TO THE VENUE OF SUCH COURTS IN THE COUNTY IN WHICH THE MORTGAGED PROPERTY IS LOCATED.

41. New York Specific Provisions.

(a) Section 291-f. In connection with the Assignment, Lender shall have all the rights against lessees of the Real Property as set forth in Section 291(f) of the Real Property Law of New York.

(b) Provisions Construed. The provisions hereof shall be construed as affording to Lenders rights additional to and not exclusive of the rights conferred under the provisions of Sections 254, 271 and 272 of the Real Property Law of the State of New York; provided, however, in the event of any inconsistency between the provisions hereof and the provisions of said Sections 254, 271 and 272, the provisions hereof shall govern.

(c) Residential Dwelling Units. This Agreement covers real property principally improved or to be improved by one or more structures containing in the aggregate more than six residential dwelling units, each having their own separate cooking facilities.

(d) Trust Fund Provisions.

- (i) Mortgagor shall receive all advances and hold the right to receive all advances hereunder, as a trust fund in accordance with the provisions of the Section 13 of the Lien Law of the State of New York to be applied first for the purpose of paying the cost of improvement before using any part of such advance for any other purpose.
- (ii) Mortgagor shall indemnify and hold Administrative Agent and each of the Lenders harmless from and against any and all losses, liabilities, proceedings, costs and expenses (including without limitation attorneys' fees and disbursements) suffered or incurred by Administrative Agent and/or any Lender arising out of or relating to any violation or alleged violation by the Mortgagor of the foregoing provisions of this Section or of any applicable law relating thereto, including without limitation, any violation of New York Lien Law Article 3-A.

(e) Insurance Covenants. The provisions of subsection 4 of Section 254 of the New York Real Property Law covering insurance of buildings against loss by fire shall not apply to this Mortgage or to the Loan Agreement. In the event of any conflict, inconsistency, or ambiguity between the provisions of this Mortgage (and the Loan Agreement) and the provisions of subsection 4 of Section 254 of the New York Real Property Law covering the insurance of buildings against loss by fire, the provisions of this Mortgage and the Loan Agreement shall control.

(f) Mortgage Taxes. Subject to the terms of the Agency Leases, the Mortgagor shall pay any and all taxes, charges, filing, registration and recording fees, excises and levies imposed upon the Lender by reason of its ownership of the Note or this Mortgage or any mortgage supplemental hereto, any security instrument with respect to the Project or any part thereof or any instrument of further assurance, other than income, franchise and doing business taxes, and shall pay all stamp and other taxes, if any, required to be paid on or in respect of the Note. If the Mortgagor fails to make any such payment upon demand then, in addition to all other rights and/or remedies available to the Lender upon the occurrence of an Event of Default, Lender shall have the right, but shall not be obligated, to pay the amount due, and the Mortgagor shall, on demand, reimburse the Lender for said amount, which until so reimbursed to the Lender, shall be deemed to be part of the Indebtedness and shall be secured by the lien of this Mortgage.

42. Intentionally Omitted.

43. Rate Management. The following terms have the following meanings:

(a) "Rate Management Agreement" means any Rate Management Transactions and any other agreement, device or arrangement providing for payments which are related to fluctuations of interest rates, exchange rates or forward rates, including, but not limited

to, dollar-denominated or cross-currency interest rate exchange agreements, forward currency exchange agreements, interest rate cap or collar protection agreements, forward rate currency or interest rate options, puts and warrants, including without limitation any ISDA Master Agreement between Mortgagor and a Lender (or any of affiliates of any Lender, including without limitation Citizens Bank, National Association), and any schedules, confirmations and documents and other confirming evidence between the parties confirming transactions thereunder, all whether now existing or hereafter arising, and in each case as amended, modified or supplemented from time to time.

(b) “Rate Management Obligations” means any and all obligations of Mortgagor to Lender (or any affiliates of any Lender, including without limitation Citizens Bank, National Association), whether absolute, contingent or otherwise and howsoever and whensoever (whether now or hereafter) created, arising, evidence or acquired (including all renewals, extension and modifications thereof and substitutions therefor), under or in connection with (i) any and all Rate Management Agreements, and (ii) any and all cancellations, buybacks, reversals, terminations or assignments of any Rate Management Agreement.

(c) “Rate Management Transaction” means any transaction (including an agreement with respect thereto) now existing or hereafter entered into between Mortgagor and Lender (or any affiliates of any Lender, including without limitation Citizens Bank, National Association) which is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, forward transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether linked to one or more interest rates, foreign currencies, commodity prices, equity prices or other financial measures, or any other transaction which is governed by any ISDA Master Agreement between Mortgagor and Lender (or any affiliates of any Lender, including without limitation Citizens Bank, National Association).

44. Right to Assign. Subject to Section 13.11 of the Loan Agreement, the Administrative Agent shall have the right at no cost to Mortgagor, to assign, transfer, sell, negotiate, pledge or otherwise hypothecate the Note and any of its rights and security hereunder, including this Mortgage, and any other Loan Documents without the consent of or notice to Mortgagor. Mortgagor hereby agrees that all of the rights and remedies of the Administrative Agent and/or the Lenders in connection with the interest so assigned shall be enforceable against Mortgagor by such assignee with the same force and effect and to the same extent as the same would have been enforceable by the Administrative Agent but for such assignment. Subject to Section 13.11 of the Loan Agreement, Mortgagor agrees that the Lender shall have the right to sell participations in the Loan without the consent of the Mortgagor.

45. Oral Agreements. **ORAL AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE, REGARDLESS OF THE LEGAL THEORY UPON WHICH IT IS BASED THAT IS IN ANY WAY RELATED TO THE CREDIT AGREEMENT. TO**

PROTECT YOU (BORROWER(S)) AND US (CREDITOR) FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS WE REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS WRITING, WHICH IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN US, EXCEPT AS WE MAY LATER AGREE IN WRITING TO MODIFY IT.

46. Exculpation. Mortgagor's liability hereunder is limited as provided in Section 21 of the Note.

47. Intentionally Omitted.

48. Mortgagor's Obligations to Comply with the Agency Leases. Mortgagor shall: (i) pay the all other sums of money due and payable at any time and from time to time under the Company Lease and the Sub-Lease, as and when such sums become due and payable, but in any event before the expiration of any grace period provided in the Company Lease and the Sub-Lease for the payment of any such sum; and (ii) at all times fully perform, observe and comply with all other terms, covenants and conditions of the Company Lease and Sub-Lease to be performed, observed or complied with by Mortgagor as lessor under the Company Lease and lessee under the Sub-Lease. If the Company Lease and/or the Sub-Lease do not provide for a grace period for the payment of a sum of money, Mortgagor shall make the payment on or before the date on which the payment becomes due and payable. Mortgagor shall deliver evidence of the payment to Administrative Agent within ten (10) days after receipt of a written request from Administrative Agent for evidence of the payment.

49. Agency Executing at the Direction of Mortgagor. The Mortgagor directs the Agency to execute and deliver this Mortgage to the Administrative Agent, and further agrees to indemnify the Agency (and its members, officers, directors, agents, servants and employees) for all fees and costs incurred in connection with the execution, delivery, recording, performing and enforcing of this Mortgage, including but not limited to reasonable attorney's fees.

50. Hold Harmless Provisions. The Mortgagor acknowledges that the terms of the Sub-Lease, as amended and restated from time to time, are in full force and effect, including but not limited to the "Hold Harmless Provisions" contained in Section 8.2 thereof and incorporates same in this instrument and makes same applicable hereto as if fully set forth herein.

51. No Recourse; Special Obligation.

(1) The obligations and agreements of the Agency contained herein and in any other instrument or document executed in connection herewith, and any instrument or document supplemental hereto, shall be deemed the obligations and agreements of the Agency and not of any member, officer, agent or employee of the Agency in his individual capacity; and the members, officers, agents and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State New York or of the City of Syracuse, and neither the State of New York nor the City of Syracuse shall be liable hereon or thereon. Further, such obligations and agreements shall not constitute or give

rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, payable solely from the revenues of the Agency derived, and to be derived from, the lease, sale, or other disposition of the Project Facility, other than revenues derived from or constituting Unassigned Rights (as those terms are defined in the Sub-Lease). No order or decree of specific performance with respect to any of the obligations of the Agency hereunder or thereunder shall be sought or enforced against the Agency unless:

(a) The party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and thirty (30) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or if compliance therewith would reasonably be expected to take longer than thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period; and

(b) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses; and

(c) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents or employees shall be subject to potential liability, the party seeking such order or decree shall (1) agree to indemnify and hold harmless the Agency and its members, officers, agents and employees against any liability incurred as a result of its compliance with such demand; and (2) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents and employees against all liability expected to be incurred as a result of compliance with such request.

(d) Any failure to provide notice, indemnity, or security to the Agency pursuant to this Section shall not alter the full force and effect of any Event of Default under the Agency Lease.

(e) For purposes of this Section, the Mortgagor shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

(2) Notwithstanding anything else herein to the contrary, the Administrative Agent acknowledges and agrees that the Agency has agreed to participate herein solely to subject its interests, if any, in the Mortgaged Property to this Mortgage and that any recourse or remedies the Mortgagee may have as against the Agency hereunder shall be sought solely against the Agency's interest in the Mortgaged Property and not against any other assets of the Agency.

52. Miscellaneous Provision. The Mortgagor and the Administrative Agent hereto, by accepting this Mortgage, acknowledge that the Agency is executing this Mortgage solely to subject its interest in the Mortgaged Property, if any, to this Mortgage. Notwithstanding anything herein to the contrary, the Administrative Agent acknowledges and agrees that their sole recourse against the Agency for any default hereunder shall be with respect to the Agency's interest in the Mortgaged Property.

53. Subordination. This Mortgage and the liens and security interests created hereby are junior and subordinate to that certain Building Loan Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated on or about the date hereof executed by Mortgagor and the Agency in favor of Administrative Agent for the benefit of the Lenders.

[SIGNATURE PAGE FOLLOWS]

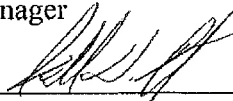
IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be duly executed and delivered as of the date first above written.

MORTGAGOR:

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: **BVSHSSF REIT, LLC,**
a Delaware limited liability company
Its Sole Member

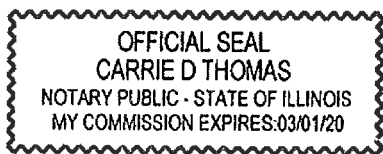
By: **Blue Vista Student Housing Select
Strategies Manager, LLC,**
a Delaware limited liability company,
its Manager

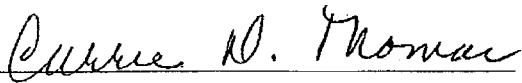
By: 
Name: **Ronald W. Koretz**
Its: **Senior Vice President and Secretary**

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

BEFORE ME, a Notary Public in and for said County and State, personally appeared Ronald W. Koretz the Senior Vice President and Secretary of Blue Vista Student Housing Select Strategies Manager, LLC, a Delaware limited liability company, in its capacity as the manager of BVSHSSF REIT, LLC, a Delaware limited liability company, in its capacity as the sole member of BVSHSSF SYRACUSE, LLC, a Delaware limited liability company, who acknowledged that such person did sign the foregoing instrument and that the same is the free act and deed of such person personally, and of said corporation and such limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 8th day of May, 2017.




Notary Public


3-1-20

(Seal)
Term expires: 03/01/20

IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be duly executed and delivered as of the date first above written.


MORTGAGOR:

**THE CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY,**
a public benefit corporation under the laws of the
State of New York

By: 
Name: William M. Ryan
Its: Chairman

STATE OF NEW YORK)
) SS.
COUNTY OF ONONDAGA)

On the 15th day of May in the year 2017 before me, the undersigned, a Notary Public in and for said State, personally appeared William M. Ryan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 2018

(Seal)

Term expires: 2-12-18

EXHIBIT A
LEGAL DESCRIPTION

NEW LOT No. 100, RESUBIVISION OF PART OF LOT Nos. 18, 19, 21, LOT Nos. 22,
23, 24, 25, 26, 27 & 28 AND ADDITIONAL LANDS PART OF BLOCK No. 240, CITY OF
SYRACUSE

SE
All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block No. 240 in said City, being New Lot No. 100 of Resubivision of Part of Lot Nos. 18, 19, 21, Lot Nos. 22, 23, 24, 25, 26, 27 & 28 and additional lands according to a map by Ianuzi & Romans Land Surveying, P.C. dated August 11, 2016, last revised December 12, 2016 filed in the Onondaga County Clerk's Office on February 28, 2017, as Map No. 12334, bounded and described as follows:

Beginning at the intersection of the northerly boundary of East Genesee Street with the westerly boundary of South Crouse Avenue (Chestnut Street, formerly), said point being the southeasterly corner of said Block No. 240; running thence N 83°37'20" W along said northerly boundary of East Genesee Street, a distance of 155.32 feet to the easterly boundary of lands conveyed to Caserta, LLC by deed recorded in the Onondaga County Clerk's Office in Book 4912 of Deeds at page 523; thence N 00°29'40" E along said easterly boundary of lands conveyed to Caserta, LLC, a distance of 84.87 feet to the northeasterly corner thereof; thence N 89°30' 50" W along the northerly boundary of said lands conveyed to Caserta, LLC, a distance of 100.51 feet to the easterly boundary of Irving Avenue; thence N 00°29'40" E along said easterly boundary of Irving Avenue, a distance of 240.42 feet to a southerly boundary of lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 69; thence S 89°30'50" E along said southerly boundary of lands conveyed to 900 East Fayette Group, LLC, a distance of 123.01 feet to a southeasterly

corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC, a distance of 65.00 feet to a southwesterly corner of other lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 78; thence S 89°30'50" E along the southerly boundary of said other lands conveyed to 900 East Fayette Group, LLC and along a southerly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 42.0 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 100.0 feet to the southerly boundary of East Fayette Street; thence S 89°30'50" E along said southerly boundary of East Fayette Street, a distance of 90.0 feet to the aforementioned westerly boundary of South Crouse Avenue (Chestnut Street, formerly); thence S 00°29'40" W along said westerly boundary of South Crouse Avenue (Chestnut Street, formerly), a distance of 506.23 feet to the point of beginning.

Section: 48

Block: 5

Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

Common Address: 919 East Genesee Street, Syracuse, New York

EXHIBIT B

PERMITTED EXCEPTIONS

1. County/Town Taxes for the Year(s) 2017 not yet due and payable.
2. City/School Taxes for the 2016/2017 fiscal year not yet due and payable.
3. Bill of Sale from BVSHSSF Syracuse, LLC to City of Syracuse Industrial Development Agency dated as of May 1, 2017.
4. Company Lease Agreement between BVSHSSF Syracuse, LLC and City of Syracuse Industrial Development Agency dated as of May 1, 2017.
5. Sub-Lease Agreement between BVSHSSF Syracuse, LLC and City of Syracuse Industrial Development Agency dated as of May 1, 2017.
6. Deed Covenant Against Grantor dated December 21, 1983 by and between Syracuse Urban Renewal Agency, a public benefit corporate of the State of New York to Richard D. Gerle, an individual, recorded in the Onondaga County Clerk's Office on December 29, 1983 in Liber 3061 of Deeds, at page 276.
7. Warranty Deed from 938 Fayette Street Parking, LLC to BVSHSSF Syracuse, LLC, dated December 1, 2016 and recorded in the Onondaga County Clerk's Office on December 6, 2016 in Liber of Deeds 5403, at page 534.
8. Memorandum of Parking Space Lease by and between BVSHSSF Syracuse, LLC and 938 Fayette Street Parking, LLC, dated December 1, 2016 and recorded in the Onondaga County Clerk's Office on December 6, 2016 in Liber of Deeds 5403, at page 540.
9. Access Easement granted to City of Syracuse by instrument dated February 28, 2017, and recorded in the Onondaga County Clerk's Office on February 28, 2017, in Liber 5414 of Deeds, at page 505.
10. Stormwater Control Facility Maintenance Agreement between the City of Syracuse and BVSHSSF Syracuse, LLC by instrument dated February 28, 2017, and recorded in the Onondaga County Clerk's Office on February 28, 2017, in Liber 5414 of Deeds, at 513.
11. Liens of the Senior Building Loan Documents (as defined in the Loan Agreement).

EXHIBIT C

ENVIRONMENTAL REPORTS

1. Phase I Environmental Site Assessment dated May 25, 2016, by CHA as CHA Project No. 31631.
2. Memorandum re: Subsurface Investigation dated July 28, 2016 from CHA to Andrew Vendal.

AFFIDAVIT

Affidavit Pursuant to Section 255 of
the Tax Law of the State of New York

STATE OF NEW YORK)
 ss.:
COUNTY OF ONONDAGA)

I, Ronald W. Koretz, duly sworn, deposes and says:

1. I am the counsel of BVSHSSF SYRACUSE, LLC (the "Borrower").
2. Borrower is the mortgagor named in a certain Project Loan Mortgage, Security Agreement, and Fixture Filing ("Mortgage"), dated as of May 19, 2017 in the aggregate principal sum of \$2,863,917, made by Borrower to CITIZENS BANK, NATIONAL ASSOCIATION, in its capacity as administrative agent for itself and certain other lenders ("Bank"), and intended to be recorded in the Onondaga County Clerk's Office ("Clerk's Office"). All mortgage recording taxes required to be paid upon recording of the Mortgage have been paid or will be paid with respect to the Mortgage.
3. The maximum principal indebtedness which under any contingency may be secured by the Mortgage is \$2,863,917.
4. Being offered for recording in the Clerk's Office contemporaneously with the Mortgage is a certain Assignment of Rents and Leases, dated as of May 19, 2017 ("Assignment"), given by Borrower, as Assignor, to Bank, as Assignee, which Assignment does not create or secure any new or further indebtedness, other than the indebtedness secured by, or which under any contingency may be secured by, the Mortgage referred to in paragraph "2" hereof.

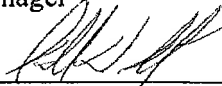
WHEREFORE, I respectfully request that the Assignment be accepted for recording without the payment of any mortgage recording tax.

BORROWER

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company
Its Sole Member

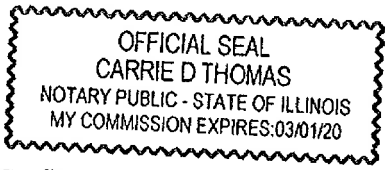
By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

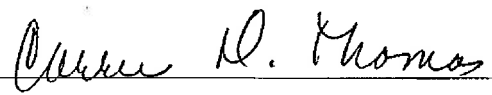
By: 
Name: Ronald W. Koretz
Its: Senior Vice President and Secretary

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

BEFORE ME, a Notary Public in and for said County and State, personally appeared Ronald W. Koretz the Senior Vice President and Secretary of Blue Vista Student Housing Select Strategies Manager, LLC, a Delaware limited liability company, in its capacity as the manager of BVSHSSF REIT, LLC, a Delaware limited liability company, in its capacity as the sole member of BVSHSSF SYRACUSE, LLC, a Delaware limited liability company, who acknowledged that such person did sign the foregoing instrument and that the same is the free act and deed of such person personally, and of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 8th day of May, 2017.




Notary Public

(Seal)
Term expires: 03/01/20

3-1-20
ILLINOIS

16

17
DE 002070 re

ONONDAGA COUNTY	
BASIC TAX	\$ _____
TOT. INS. FUND TAX	\$ _____
NET ADDITIONAL TAX	\$ _____
TOTAL MTG. TAX PAID	\$ _____

This space reserved for Recorder's use only.

ASSIGNMENT OF LEASES AND RENTS

by

BVSHSSF SYRACUSE, LLC
a Delaware limited liability company
and

THE CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY,
A public benefit corporation under the laws of the State of New York

to and for the benefit of

CITIZENS BANK, NATIONAL ASSOCIATION,
a national banking association, in its capacity as administrative agent
for itself and certain other lenders, together with its successors and assigns

Property Address:	919 East Genesee Street
City and State:	Syracuse, New York
County:	Onondaga
Section:	48
Block:	5
Lot:	05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

AFTER RECORDING RETURN TO:
Ginsberg Jacobs LLC
300 South Wacker Drive, Suite 2750
Chicago, Illinois 60606
Attn: Barrett J. Schulz, Esq.

Project Loan

mtg 18296 p 2 19

11:01 05/26/17 1722217 41/92/50 10:11
63E-994281-MM ME-18226P-559

This ASSIGNMENT OF LEASES AND RENTS (this "Assignment"), is made as of May 19, 2017, by BVSHSSF SYRACUSE, LLC, a Delaware limited liability company, having a mailing address at c/o Blue Vista Capital Management, LLC, 353 North Clark Street, Suite 730, Chicago, Illinois 60654 ("Assignor") and THE CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York (the "Agency"), duly organized and existing under the laws of the State of New York, with an office at 201 East Washington Street, 7th Floor, Syracuse, New York 13202 in favor of CITIZENS BANK, NATIONAL ASSOCIATION, a national banking association (in its capacity as administrative agent and together with its successors and assigns, "Administrative Agent"), having an address at 71 South Wacker Drive, IH2915, Chicago, Illinois 60606, as administrative agent for those certain lending financial institutions made a party to the Loan Agreement (as defined below) from time to time (such lending financial institutions, together with their respective successors and assigns, the "Lenders").

WITNESSETH:

FOR VALUE RECEIVED, Assignor and Agency do hereby SELL, ASSIGN, TRANSFER, SET OVER and DELIVER unto the Administrative Agent, for the benefit of the Lenders, all leases and tenancies of all or any portion of the premises situated in the City of Syracuse, County of Onondaga, State of New York, and more particularly described in Exhibit A attached hereto and made a part hereof, together with the buildings and improvements thereon, excepting therefrom the Agency Leases (as defined in the Mortgage) (collectively, the "Premises");

TOGETHER with Assignor's and Agency's right, title and interest in, to and under: (a) all present and future leases of the Mortgaged Property (as defined in the Mortgage) or any portion thereof, all licenses and agreements relating to the management, leasing, occupancy or operation of the Property, whether such leases, licenses and agreements are now existing or entered into after the date hereof, excepting therefrom the Agency Leases (as defined in the Mortgage) (collectively, the "Leases"); and (b) the rents, issues, revenues, receipts, deposits and profits of the Property, including, without limitation, all amounts payable and all rights and benefits accruing to Assignor under the Leases ("Rents"). The term "Leases" shall also include all subleases and other agreements for the use or occupancy of the Property, all guarantees of and security for the tenant's performance thereunder, the right to exercise any landlord's liens and other remedies to which the landlord is entitled, and all amendments, extensions, renewals or modifications thereto, but specifically excepting therefrom the Agency Leases (as defined in the Mortgage). This is a present and absolute assignment, not an assignment for security purposes only, and the Administrative Agent's right to the Leases and Rents is not contingent upon and may be exercised without, possession of the Premises.

The Administrative Agent confers upon Assignor a revocable license ("License"), pursuant to Section 5 hereof, to collect, demand, sue for, attach, levy, recover and retain all Rents as they become due and payable (including the limited right to collect Rents more than one (1) month in advance as herein provided in Section 1 and Section 3 below and to otherwise enjoy the benefits of the Leases and Rents in Assignor's capacity as landlord), until the occurrence of an

Event of Default (as hereinafter defined). Upon an Event of Default, and only upon an Event of Default, the License shall be automatically revoked and the Administrative Agent may collect and apply the Rents pursuant to the terms hereof without notice and without taking possession of the Property. All Rents thereafter collected by Assignor shall be held by Assignor as trustee under a constructive trust for the benefit of the Administrative Agent, for the benefit of the Lenders. Assignor hereby irrevocably authorizes and directs the tenants under the Leases to rely upon and comply with any notice or demand by the Administrative Agent for the payment to the Administrative Agent of any rentals or other sums which may at any time become due under such Leases, or for the performance of any of the tenants' undertakings under such Leases, and the tenants shall have no duty to inquire as to whether any Event of Default has actually occurred or is then existing. Assignor hereby relieves the tenants from any liability to Assignor by reason of relying upon and complying with any such notice or demand by the Administrative Agent. Administrative Agent may apply, in its sole discretion, any Rents so collected by the Administrative Agent against any Obligation, whether existing on the date hereof or hereafter arising. Collection of any rents, royalties, issues, proceeds and profits accruing from the Land by the Administrative Agent shall not cure or waive any Event of Default or notice of an Event of Default or invalidate any acts done pursuant to such notice.;

TO HAVE AND TO HOLD the same unto the Administrative Agent, for the benefit of the Lenders, forever, or for such shorter period as hereinafter may be indicated.

FOR THE PURPOSE OF SECURING the payment of the indebtedness in the original principal amount of Two Million Eight Hundred Sixty-Three Thousand Nine Hundred Seventeen and 00/100 Dollars (\$2,863,917.00) as evidenced by those certain Project Loan Notes, dated on or about the date hereof, executed and delivered by Assignor in favor of the Administrative Agent, for the benefit of the Lenders, as the same may be amended, extended, supplemented, modified and/or renewed, and all replacements and substitutions therefor (alternatively and collectively, the "Note"), as well as the payment, observance, performance and discharge of all other obligations, covenants, conditions, and warranties outstanding at any time, from time to time and contained in the Project Loan Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated on or about the date hereof covering the Premises and securing the Note, executed and delivered by Assignor in favor of the Administrative Agent, for the benefit of the Lenders, recorded concurrently herewith, and any amendments, modifications, extensions, supplements and/or consolidations thereof (the "Mortgage"), the Loan Agreement (as defined in the Mortgage) and all of the other Loan Documents (as defined in the Mortgage). Capitalized terms used in this Assignment and not otherwise defined herein shall have the meaning given such term in the Loan Agreement.

Notwithstanding any other provisions hereof, if a court of competent jurisdiction construes this Assignment to be a collateral assignment that secures the indebtedness secured hereby rather than an absolute and unconditional assignment, then such assignment will constitute an assignment of rents and thereby create a security interest in the Leases and all rents or other monies payable thereunder or with respect thereto that will be perfected upon the recording of this Assignment.

TO PROTECT THE SECURITY OF THIS ASSIGNMENT, IT IS COVENANTED AND AGREED AS FOLLOWS:

1. Assignor's Warranties. Assignor represents and warrants that (a) Assignor is the owner of a fee and sub-leasehold estate in the Premises, and has good title to the Leases and Rents and, with the exception of the rights of the Agency pursuant to (i) the certain Agency Lease Agreement between Assignor and the Agency dated as of May 1, 2017 (the "Sub-Lease"), and (ii) the certain Company Lease Agreement between Assignor and the Agency dated as of May 1, 2017 (the "Company Lease" and together with the Sub-Lease, collectively, the "Agency Leases"), good right to assign the same, and that no other person or entity has any right, title or interest therein, other than the rights of Agency as described above; (b) to the extent required as of the date of this Assignment, Assignor has performed in all material aspects all of the terms, covenants, conditions and warranties of the Leases on Assignor's part to be kept, observed and performed; (c) to the best of Assignor's knowledge, the Leases are valid and unmodified except as indicated herein and in full force and effect; (d) Assignor has not previously sold, assigned, transferred, mortgaged or pledged the Leases or the Rents, whether now due or hereafter to become due; (e) none of the Rents due for any period subsequent to the month in which this Assignment is made have been collected by Assignor (other than Rents for up to twenty percent (20%) of the residential Leases collected more than one (1) month but no more than twelve (12) months in advance), and payment of the Rents has not otherwise been anticipated, waived, released, discounted, setoff, or otherwise discharged or compromised by Assignor, nor does Assignor have knowledge thereof; (f) Assignor has not received any funds or deposits from any lessee, other than security deposits pursuant to the terms of the applicable Leases, for which credit has not already been made on account of accrued Rents; and (g) to the knowledge of Assignor, neither Assignor nor any of the lessee(s) under the Leases is in default of any of the terms thereof beyond any applicable cure or grace period.

2. Covenants of Assignor. Assignor covenants and agrees as follows: (a) to observe, perform and discharge promptly all obligations, terms, covenants, conditions and warranties of the Loan Documents, and of the Leases, on the part of Assignor to be observed, performed and discharged; (b) to the extent required by applicable law, notify and direct in writing each and every present or future lessee or occupant of the Premises or any part thereof that any security or other deposit heretofore delivered to Assignor has been retained by Assignor or assigned and delivered to the Administrative Agent, for the benefit of the Lenders, as the case may be; (c) to enforce or secure in the name of the Administrative Agent, for the benefit of the Lenders, the performance in all material respects of each and every obligation, term, covenant, condition and agreement in the Leases to be performed by any lessee; (d) to appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases or the obligations, duties or liabilities of Assignor and any lessee thereunder, and, upon request by the Administrative Agent, will do so in the name and on behalf of the Administrative Agent but at the expense of Assignor, and to pay all costs and expenses of the Administrative Agent and/or the Lenders, including reasonable attorney's fees to the fullest extent not prohibited by applicable law, in any action or proceeding in which the Administrative Agent and/or the Lenders may appear.

3. Negative Covenants of Assignor. Assignor further covenants and agrees as follows: (a) not to receive or collect any Rents from any lessee of the Premises or any part thereof more than one (1) month in advance of the due date thereof (whether in cash or by promissory note) (other than Rents for up to twenty percent (20%) of the residential Leases collected more than one (1) month but no more than twelve (12) months in advance); (b) not to

waive, excuse, condone, discount, set-off, compromise, or in any manner release or discharge any lessee under any Lease, of and from any material obligations, covenants, conditions and agreements by the lessee to be kept, observed and performed, including the obligation to pay the Rents thereunder, in the manner and at the place and time specified therein without the prior written consent of the Administrative Agent; (c) not to cancel, terminate or consent to any surrender of any of the Leases, nor materially (in the Administrative Agent's reasonable determination) modify or alter the terms thereof to the detriment of the Administrative Agent without the prior written consent of the Administrative Agent, not to be unreasonably withheld, conditioned or delayed; (d) not to consent, without the prior written consent of the Administrative Agent, not to be unreasonably withheld, conditioned or delayed, to any subletting of the Premises or any part thereof, or to any assignment of any of the Leases by any lessee thereunder, unless the lessee has the right under the terms of the Lease (i) to assign or sublet to specified assignees or sublessees, in which event Assignor shall provide the Administrative Agent written notice of any such assignment or subletting, or (ii) to generally assign or sublet to unspecified assignees or sublessees with the prior consent of Assignor, as landlord, not to be unreasonably withheld, in which event the consent of the Administrative Agent required under this clause (d) shall not be unreasonably withheld; and (e) not to enter into any renewal or extension of any of the Leases, other than renewals or extensions of Approved Leases to residential tenants or upon exercise of an express option therefor contained in such Lease, without the prior written consent of the Administrative Agent, not to be unreasonably withheld, conditioned or delayed, nor enter into any new Lease unless the same shall be an Approved Lease (as defined in the Loan Agreement). Any of the above acts done without the prior written consent of the Administrative Agent shall be null and void at the option of the Administrative Agent.

4. Cross-Default. In the event any representation or warranty herein of Assignor shall be found to be untrue when made in any material respect, or Assignor shall default in the observance or performance of any obligation, term, covenant, condition or warranty herein which shall not be cured within a period of thirty (30) days from Assignor's receipt of written notice from the Administrative Agent, then, in each such instance, the same shall be a default under this Assignment and under each of the other Loan Documents. In the event Assignor shall default in the observance or performance of any obligation, term, covenant, condition or warranty in any of the other Loan Documents beyond any applicable grace or cure period, then, in each such instance, the same shall be deemed to be a default hereunder. Upon any default hereunder or under any of the other Loan Documents beyond all applicable notice and/or cure periods, the Administrative Agent shall be entitled to declare all sums evidenced and/or secured thereby and hereby immediately due and payable, and to exercise any and all of the rights and remedies provided under this Assignment, any of the other Loan Documents, or by law or at equity.

5. License to Receive Rents. (a) Assignor has and hereby does authorize the Administrative Agent or its representatives to collect the Rents and hereby directs each tenant of the Premises and lessee under the Leases to pay all Rents to Assignor or its representatives; *provided, however*, so long as there shall exist no Event of Default (as defined in the Mortgage) by Assignor herein or in any of the other Loan Documents or any uncured default hereunder, Assignor shall have the right, but limited as provided in this Assignment and in any of the other Loan Documents: (i) to collect upon, but not prior to one (1) month in advance of, the due date

thereof (other than Rents for up to 20% of the residential Leases collected more than one (1) month but no more than twelve (12) months in advance), all of the Rents, and Assignor shall receive and apply the Rents, subject to any obligation to escrow same with the Administrative Agent, to the payment of taxes and assessments upon the Premises before penalty or interest is due thereon, to the cost of such insurance, maintenance and repairs as may be required by the terms of the Mortgage, to pay other operating expenses of the Premises, to satisfy all of Assignor's obligations under the Leases, and pay interest and principal and other charges becoming due, as and when due and payable, under the Loan Documents and otherwise as required by the Loan Documents before using such Rents for any other purpose permitted under the Loan Agreement; and (ii) to otherwise deal with, and enjoy the rights of the lessor under, the Leases.

(b) Upon receipt by Assignor of any written notice from the Administrative Agent, stating that a default, following any applicable notice and expiration of any applicable cure period, or any "Event of Default", by Assignor exists in the payments due under, or in the performance of any of the terms, covenants or conditions of, the Loan Documents, the license referred to in Subparagraph 5(a) above shall thereupon be revoked by the Administrative Agent, and Assignor hereby authorizes and directs any lessee under any of the Leases and any successor to all or any part of the interests of any such lessee to pay to the Administrative Agent the Rents due and to become due under the Leases. A demand on any lessee made by the Administrative Agent for such payment of Rents shall be sufficient warrant to the lessee to make future payments of Rents to the Administrative Agent without the necessity for further consent by Assignor. Assignor agrees that (i) each lessee under any of the Leases shall have the right to rely upon any such request by the Administrative Agent, (ii) each lessee shall pay Rents to the Administrative Agent without any obligation or right to inquire as to whether such default actually exists and notwithstanding any notice from or claim of Assignor to the contrary, and (iii) Assignor shall have no right to claim against any lessee for any such Rents so paid by the lessee to the Administrative Agent. Nothing contained herein shall be construed as constituting the Administrative Agent and/or the Lenders as a "mortgagee in possession" in the absence of the Administrative Agent and/or the Lenders taking actual possession of the Premises pursuant to the provisions of the Mortgage. As between the Administrative Agent, for the benefit of the Lenders, Assignor and any person claiming through or under Assignor, this Assignment is intended to be absolute, unconditional and presently effective, and the provisions of this Subparagraph 5(b) regarding written demand for the Rents by the Administrative Agent to the lessees are intended solely for the benefit of such lessees and shall never inure to the benefit of Assignor or any person claiming through or under Assignor, other than a tenant who has not received such written demand.

6. Rights Upon Transfer. (a) Subject to the restrictions on the sale and conveyance of the Premises set forth in the Loan Documents, upon the sale or conveyance by Assignor, or its successors and assigns, of title to the Premises, all right, title, interest and powers granted to Assignor shall, unless amended or revoked as provided in the Loan Documents, automatically pass to and may be exercised by each such subsequent owner. At any time after any Event of Default under this Assignment or under any of the Loan Documents, the Administrative Agent, at its option, shall have the right, power and authority to exercise and enforce any or all of the following rights and remedies: (i) to terminate the license granted above to Assignor to collect the Rents, and thereafter, without taking or being deemed to have taken possession, in the

Administrative Agent's own name, for the benefit of the Lenders, to demand, collect, receive, sue for, attach and levy the Rents, to give proper receipts, releases and acquittances therefor, and after deducting all reasonable costs and reasonable out-of-pocket expenses of operation and collection, as determined by the Administrative Agent, including reasonable attorneys' fees to the fullest extent not prohibited by applicable law, to apply the net proceeds thereof, together with any funds of Assignor deposited with the Administrative Agent, upon any indebtedness secured hereby and in such order as the Administrative Agent may determine; (ii) to declare all sums secured hereby immediately due and payable and, at its option, exercise any and all of the rights and remedies contained in any of the Loan Documents; and (iii) without regard to the adequacy of the security, to the fullest extent not prohibited by applicable law, through any person or agent, then or thereafter (1) to enter upon, take possession of, manage and operate the Premises and the other Mortgaged Property (as defined in the Mortgage) or any part thereof; (2) make, modify or enforce any of the Leases, other than the Agency Leases, which may only be modified in accordance with its terms; (3) remove and evict any lessee, other than the Agency pursuant to the terms of the Mortgage; (4) increase or decrease Rents, other than Rents payable under the Agency Leases, which may only be modified in accordance with its terms; (5) decorate, clean and repair the Premises; and (6) otherwise do any act or incur any costs or expenses as the Administrative Agent shall deem reasonably necessary to protect the security hereof, as fully and to the same extent as Assignor could do if in possession, and in such event to apply the Rents so collected to the operation and management of the Premises, but in such order as the Administrative Agent shall deem proper, and including the payment of management, brokerage and attorneys' fees to the fullest extent not prohibited by applicable law, payment of the indebtedness under the Loan Documents, and maintenance, without interest, of a reserve for replacement.

(b) The acceptance by the Administrative Agent, for the benefit of the Lenders, of this Assignment, and the exercise of any or all of the rights, powers, privileges and authority herein created, shall not, prior to entry upon and taking of possession of the Premises by the Administrative Agent, be deemed or construed to constitute the Administrative Agent and/or the Lenders as a mortgagee in possession, or thereafter or at any time or in any event obligate the Administrative Agent and/or the Lenders: (i) to appear in or defend any action or proceeding relating to any of the Leases or the Premises; (ii) to take any action hereunder; (iii) to expend any money or incur any expenses or perform or discharge any obligation, duty or liability under any of the Leases; or (iv) to assume any obligation or responsibility for any security or other deposits delivered to Assignor by any of the lessee(s) thereunder and not assigned and delivered to the Administrative Agent. Neither the Administrative Agent nor any Lender shall be liable in any way for any injury or damage to person or property sustained by any person or entity in or about the Premises unless arising from the gross negligence or willful misconduct of the Administrative Agent and/or such Lender.

(c) Collection and application of the Rents by Assignor, or its agent, as set forth above, and/or the entry upon and taking possession of the Premises, shall not cure or waive any default, or waive, modify or affect any notice of default, under the Loan Documents or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by the Administrative Agent, once exercised, shall continue for so long as the Administrative Agent shall elect during the pendency of the default. If the Administrative Agent shall thereafter elect

to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent default.

7. Collection Authority. Upon a default, following any applicable notice and expiration of any applicable grace period, or any Event of Default, by Assignor hereunder or under any of the other Loan Documents, Assignor hereby constitutes and irrevocably appoints the Administrative Agent the true and lawful attorney-in-fact, coupled with an interest, of Assignor, and authorizes the Administrative Agent, for the benefit of the Lenders, in the name, place and stead of Assignor, in the exercise of the powers provided and set forth in Subparagraph 5(b) and the remedies provided for in clause (i) of Subparagraph 6(a) above, but subject to and not in limitation of the provisions of Subparagraph 5(b) hereof or the absolute assignment of the Rents made hereby, to demand, sue for, attach, levy, recover and receive any premium or penalty payable upon the exercise, by any lessee under any of the Leases, of a privilege of cancellation provided in any of the Leases, and to give proper receipts, releases and acquittances therefor, and, after deducting expenses of collection, to apply the net proceeds as a credit upon any portion, as selected by the Administrative Agent, of the indebtedness evidenced or secured by the Loan Documents. Assignor hereby authorizes and directs any such lessee to deliver such payment to the Administrative Agent in accordance with the foregoing, and hereby ratifies and confirms all actions whatsoever that its attorney, the Administrative Agent, shall do or cause to be done by virtue of the powers granted hereby. The foregoing appointment shall be continuing, and such rights, powers and privileges shall be exclusive in the Administrative Agent, its successors and assigns, so long as any part of the indebtedness secured hereby shall remain unpaid.

8. Subordination Authority. Assignor hereby constitutes and irrevocably appoints the Administrative Agent, its successors and assigns, the true and lawful attorney-in-fact, coupled with an interest, of Assignor and in the name, place and stead of Assignor, at any time and from time to time, to subject and subordinate any of the Leases to the Mortgage, or to request or require such subordination of the lessee as the case may be, to the extent Assignor would have the right, power or authority so to do. This appointment is to be continuing, and these rights, powers and privileges shall be exclusive in the Administrative Agent, for the benefit of the Lenders, so long as the indebtedness secured hereby remains unpaid. Assignor hereby warrants that Assignor has not, at any time prior to the date hereof, exercised any such right, and covenants not to exercise any such right, to so subordinate any of the Leases to any other mortgage or lien except only those which exist under this Assignment or any of the other Loan Documents.

9. Indemnification. Assignor hereby indemnifies the Administrative Agent and the Lenders and agrees to defend and hold the Administrative Agent and the Lenders harmless from and against any and all liability, loss, damage or expense which the Administrative Agent and/or the Lenders may incur under or by reason of this Assignment, or for any action taken by the Administrative Agent and/or the Lenders as contemplated herein, (other than the negligence or willful misconduct of the Administrative Agent and/or the Lenders) or by reason or in defense of any and all claims and demands whatsoever which may be asserted against the Administrative Agent and/or the Lenders arising out of any of the Leases, including, without limitation, any claim by any lessee of credit for rental paid to and received by Assignor but not delivered to the Administrative Agent for any period under any of the Leases more than one (1) month in

advance of the due date thereof. Should the Administrative Agent and/or the Lenders incur any such liability, loss, damage or expense, the amount thereof (including reasonable attorneys' fees to the fullest extent not prohibited by applicable law), with interest thereon at the Default Rate (as defined in the Note), shall be payable by Assignor within twenty (20) days of written demand by the Administrative Agent and/or the Lenders, and shall be secured hereby and by the other Loan Documents.

10. Lease Copies and Further Assurances. Until the indebtedness secured by the Loan Documents is paid in full, Assignor will deliver to the Administrative Agent photocopies certified by Assignor as true, correct and complete, of executed originals of (a) any and all existing Leases, and (b) all other and future Leases upon all or any part of the Premises. Upon request of the Administrative Agent, Assignor will specifically transfer and assign to the Administrative Agent, for the benefit of the Lenders, such other and future Leases upon the same terms and conditions as herein contained. Assignor hereby covenants and agrees to make, execute and deliver to the Administrative Agent, upon demand and at any time or times, any and all further assignments and other instruments as the Administrative Agent may reasonably determine for carrying out the purposes and intent of this Assignment.

11. Non-Waiver. The failure of the Administrative Agent to avail itself of any of the terms, covenants and conditions of this Assignment for any period of time or at any time or times, shall not be construed or deemed to be a waiver of any such right, an amendment to any of the Loan Documents, or an estoppel against the Administrative Agent and/or the Lenders in any respect, and nothing herein contained nor anything done or omitted to be done by the Administrative Agent pursuant hereto shall be deemed a waiver by the Administrative Agent and/or the Lenders of any of its/their respective rights and remedies under the Loan Documents or under the laws of the State of Illinois. The right of the Administrative Agent to collect the indebtedness and to enforce any other security therefor may be exercised by the Administrative Agent, either prior to, simultaneously with, or subsequent to any action taken hereunder.

12. Non-Merger. So long as any of the indebtedness evidenced or secured by the Loan Documents shall remain unpaid, unless the Administrative Agent shall otherwise consent in writing, the fee title and the leasehold estate(s) on the Premises shall not merge, but shall always be kept separate and distinct, notwithstanding the union of both such estates in Assignor, any lessee or a third party by purchase or otherwise.

13. Defeasance. Upon payment in full of the unpaid balance of the principal, interest, advances and other charges evidenced or secured by the Loan Documents, this Assignment shall become void and of no effect, and all the Leases shall be immediately and automatically revested, reconveyed and released to Assignor. Upon demand from Assignor in such event, the Administrative Agent, on behalf of the Lenders, shall mark this Assignment as void and paid in full, satisfied and discharged and return this Assignment to Assignor; *provided, however*, that an affidavit, certificate, letter or statement of the Administrative Agent showing any part of the indebtedness remaining unpaid shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment, and any person or entity may and is hereby authorized to rely thereon. Administrative Agent, on behalf of the Lenders, agrees to take such other and further actions upon payment in full as may be required to discharge this Assignment of record in the County and State in which the Premises is located.

14. Notices. Any notice required hereunder shall be in writing, and shall be given in accordance with the requirements of, and to the addresses, as set forth in Paragraph 28 of the Mortgage.

15. Binding Effect. The terms, covenants, conditions and warranties contained herein and the powers granted hereby shall run with the land, shall inure to the benefit of and bind all parties hereto and their respective heirs, executors, administrators, successors and assigns, and all lessees, subtenants, assigns, and all subsequent owners of the Premises, subject however to the terms of Paragraph 6 above, and all subsequent holders of the Loan Documents.

16. Miscellaneous. The captions and headings in this Assignment are inserted only as a matter of convenience and for reference, and they in no way define, limit or describe the scope of this Assignment or the intent of any provision thereof. Whenever the context so requires, the masculine gender shall include the feminine and/or neuter and the singular number shall include the plural and conversely in each case.

17. WAIVER OF JURY TRIAL. ASSIGNOR ONLY, AND NOT THE AGENCY, HEREBY AND THE ADMINISTRATIVE AGENT, FOR ITSELF AND ON BEHALF OF THE LENDERS, BY ITS ACCEPTANCE HEREOF, EACH WAIVE THE RIGHT OF A JURY TRIAL IN EACH AND EVERY ACTION ON THIS ASSIGNMENT OR ANY OF THE OTHER LOAN DOCUMENTS, IT BEING ACKNOWLEDGED AND AGREED THAT ANY ISSUES OF FACT IN ANY SUCH ACTION ARE MORE APPROPRIATELY DETERMINED BY THE COURTS.

18. JURISDICTION. ASSIGNOR ONLY, AND NOT THE AGENCY, HEREBY CONSENTS AND SUBJECTS ITSELF TO THE JURISDICTION OF COURTS OF THE STATE OF ILLINOIS AND, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TO THE VENUE OF SUCH COURTS IN COOK COUNTY, STATE OF ILLINOIS.

19. THIS ASSIGNMENT WAS NEGOTIATED IN THE STATE OF ILLINOIS AND THE PROCEEDS OF THE NOTE DELIVERED PURSUANT HERETO WERE DISBURSED FROM THE STATE OF ILLINOIS, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS ASSIGNMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, AND ENFORCEMENT OF THE LIENS CREATED PURSUANT TO THE LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE IN WHICH THE PREMISES IS LOCATED, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF ILLINOIS SHALL GOVERN THE VALIDITY AND THE ENFORCEABILITY OF

ALL LOAN DOCUMENTS AND THE DEBT. TO THE FULLEST EXTENT PERMITTED BY LAW, ASSIGNOR HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS ASSIGNMENT AND THE NOTE, AND THIS ASSIGNMENT AND THE NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, AND SOLELY WITH RESPECT TO THE AGENCY, THIS ASSIGNMENT IS DEEMED TO HAVE BEEN NEGOTIATED IN THE STATE OF NEW YORK AND ANY AND ALL CLAIMS OR CAUSES OF ACTION ARISING OUT OF ITS CONSTRUCTION, NEGOTIATION, ENFORCEMENT OR OTHERWISE, AS SUCH CLAIMS OR CAUSES OF ACTION RELATE TO THE AGENCY, SHALL BE GOVERNED AND CONSTRUED UNDER AND BY THE LAWS OF THE STATE OF NEW YORK.

20. Exculpation. Assignor's liability hereunder is limited as provided in Section 21 of the Note.

21. Intentionally Omitted.

22. Assignor's Obligations to Comply with the Agency Leases. Assignor shall: (i) pay the all other sums of money due and payable at any time and from time to time under the Company Lease and the Sub-Lease, as and when such sums become due and payable, but in any event before the expiration of any grace period provided in the Company Lease and the Sub-Lease for the payment of any such sum; and (ii) at all times fully perform, observe and comply with all other terms, covenants and conditions of the Company Lease and Sub-Lease to be performed, observed or complied with by Assignor as lessor under the Company Lease and lessee under the Sub-Lease. If the Company Lease and/or the Sub-Lease do not provide for a grace period for the payment of a sum of money, Assignor shall make the payment on or before the date on which the payment becomes due and payable. Company shall deliver evidence of the payment to Administrative Agent within ten (10) days after receipt of a written request from Administrative Agent for evidence of the payment.

23. Agency Executing at the Direction of Assignor. The Assignor directs the Agency to execute and deliver this Assignment to the Administrative Agent, and further agrees to indemnify the Agency (and its members, officers, directors, agents, servants and employees) for all fees and costs incurred in connection with the execution, delivery, recording, performing and enforcing of this Assignment, including but not limited to reasonable attorney's fees.

24. Hold Harmless Provisions. The Assignor acknowledges that the terms of the Agency Lease, as amended and restated from time to time, are in full force and effect, including but not limited to the "Hold Harmless Provisions" contained in Section 8.2 thereof and incorporates same in this instrument and makes same applicable hereto as if fully set forth herein.

25. No Recourse; Special Obligation.

(1) The obligations and agreements of the Agency contained herein and in any other instrument or document executed in connection herewith, and any instrument or document supplemental hereto, shall be deemed the obligations and agreements of the Agency and not of any member, officer, agent or employee of the Agency in his individual capacity; and the members, officers, agents and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State New York or of the City of Syracuse, and neither the State of New York nor the City of Syracuse shall be liable hereon or thereon. Further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, payable solely from the revenues of the Agency derived, and to be derived from, the lease, sale, or other disposition of the Project Facility, other than revenues derived from or constituting Unassigned Rights (as those terms are defined in the Agency Leases). No order or decree of specific performance with respect to any of the obligations of the Agency hereunder or thereunder shall be sought or enforced against the Agency unless:

(a) The party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and thirty (30) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or if compliance therewith would reasonably be expected to take longer than thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period; and

(b) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses; and

(c) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents or employees shall be subject to potential liability, the party seeking such order or decree shall (1) agree to indemnify and hold harmless the Agency and its members, officers, agents and employees against any liability incurred as a result of its compliance with such demand; and (2) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents and employees against all liability expected to be incurred as a result of compliance with such request.

(d) Any failure to provide notice, indemnity, or security to the Agency pursuant to this Section shall not alter the full force and effect of any Event of Default under the Agency Lease.

(e) For purposes of this Section, the Assignor shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

(2) Notwithstanding anything else herein to the contrary, the Administrative Agent acknowledges and agrees that the Agency has agreed to participate herein solely to subject its

interests, if any, in the Premises to this Assignment and that any recourse or remedies the Administrative Agent may have as against the Agency hereunder shall be sought solely against the Agency's interest in the Premises and not against any other assets of the Agency.

26. Miscellaneous Provision. The Assignor and the Administrative Agent hereto, by accepting this Assignment, acknowledge that the Agency is executing this Assignment solely to subject its interest in the Premises, if any, to this Assignment. Notwithstanding anything herein to the contrary, the Administrative Agent acknowledges and agrees that their sole recourse against the Agency for any default hereunder shall be with respect to the Agency's interest in the Premises.

27. Subordination. This Assignment is junior and subordinate to the Assignment of Leases and Rents dated on or about the date hereof executed by Assignor in favor of Administrative Agent for the benefit of the Lenders.

[signature page follows]

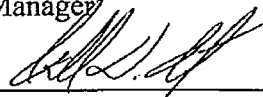
IN WITNESS WHEREOF, this Assignment of Leases and Rents has been duly executed by Assignor as of the date first above written.

ASSIGNOR:

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: BVSHSSF REIT, LLC,
a Delaware limited liability company
Its Sole Member

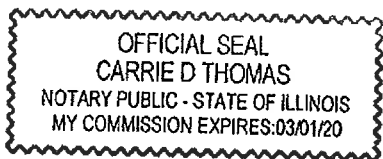
By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager


By: 
Name: Ronald W. Koretz
Its: Senior Vice President and Secretary

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

BEFORE ME, a Notary Public in and for said County and State, personally appeared Ronald W. Koretz the Senior Vice President and Secretary of Blue Vista Student Housing Select Strategies Manager, LLC, a Delaware limited liability company, in its capacity as the manager of BVSHSSF REIT, LLC, a Delaware limited liability company, in its capacity as the sole member of BVSHSSF SYRACUSE, LLC, a Delaware limited liability company, who acknowledged that such person did sign the foregoing instrument and that the same is the free act and deed of such person personally, and of said corporation and such limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 8th day of May, 2017.




Notary Public


(Seal)
Term expires: 03/01/20

3-1-20

IN WITNESS WHEREOF, Agency has caused this Assignment to be duly executed and delivered as of the date first above written.

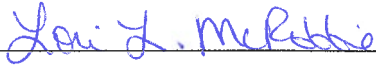
AGENCY:

**THE CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY,**
a public benefit corporation under the laws of the
State of New York

By: 
Name: William M. Ryan
Its: Chairman

STATE OF NEW YORK)
) SS.
COUNTY OF ONONDAGA)

On the 15th day of May in the year 2017 before me, the undersigned, a Notary Public in and for said State, personally appeared William M. Ryan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument



Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

(Seal)

Term expires: 2-12-18

EXHIBIT A

LEGAL DESCRIPTION

NEW LOT No. 100, RESUBIVISION OF PART OF LOT Nos. 18, 19, 21, LOT Nos. 22, 23, 24, 25, 26, 27 & 28 AND ADDITIONAL LANDS PART OF BLOCK No. 240, CITY OF SYRACUSE

JE
All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block No. 240 in said City, being New Lot No. 100 of Resubivision of Part of Lot Nos. 18, 19, 21, Lot Nos. 22, 23, 24, 25, 26, 27 & 28 and additional lands according to a map by Ianuzi & Romans Land Surveying, P.C. dated August 11, 2016, last revised December 12, 2016 filed in the Onondaga County Clerk's Office on February 28, 2017, as Map No. 12334, bounded and described as follows:

Beginning at the intersection of the northerly boundary of East Genesee Street with the westerly boundary of South Crouse Avenue (Chestnut Street, formerly), said point being the southeasterly corner of said Block No. 240; running thence N 83°37'20" W along said northerly boundary of East Genesee Street, a distance of 155.32 feet to the easterly boundary of lands conveyed to Caserta, LLC by deed recorded in the Onondaga County Clerk's Office in Book 4912 of Deeds at page 523; thence N 00°29'40" E along said easterly boundary of lands conveyed to Caserta, LLC, a distance of 84.87 feet to the northeasterly corner thereof; thence N 89°30' 50" W along the northerly boundary of said lands conveyed to Caserta, LLC, a distance of 100.51 feet to the easterly boundary of Irving Avenue; thence N 00°29'40" E along said easterly boundary of Irving Avenue, a distance of 240.42 feet to a southerly boundary of lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 69; thence S 89°30'50" E along said southerly boundary

of lands conveyed to 900 East Fayette Group, LLC, a distance of 123.01 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC, a distance of 65.00 feet to a southwesterly corner of other lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 78; thence S 89°30'50" E along the southerly boundary of said other lands conveyed to 900 East Fayette Group, LLC and along a southerly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 42.0 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 100.0 feet to the southerly boundary of East Fayette Street; thence S 89°30'50" E along said southerly boundary of East Fayette Street, a distance of 90.0 feet to the aforementioned westerly boundary of South Crouse Avenue (Chestnut Street, formerly); thence S 00°29'40" W along said westerly boundary of South Crouse Avenue (Chestnut Street, formerly), a distance of 506.23 feet to the point of beginning.

Section: 48

Block: 5

Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

Common Address: 919 East Genesee Street, Syracuse, New York

AFFIDAVIT RE: MORTGAGE TAX EXEMPTION

STATE OF NEW YORK)
) SS.
COUNTY OF ONONDAGA)

WILLIAM M. RYAN, being duly sworn, deposes and says:

He is Chairman of the City of Syracuse Industrial Development Agency (the "Agency").

The Agency is an industrial development agency duly established under Title I of Article 18-A of the General Municipal Law of the State of New York (the "State"), as amended, and Chapter 641 of the Laws of 1979 of the State (collectively, the "Act"), and it is a corporate governmental agency constituting a public benefit corporation of the State.

On or about January 24, 2017 the Agency adopted a resolution at the request of BVSHSSF Syracuse, LLC (the "Applicant" and/or "Company") agreeing to undertake a project (the "Project") consisting of: (A)(i) the acquisition of a leasehold interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street), in the City of Syracuse, New York (the "Land"); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet containing new four and five story buildings to be used as mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces, all located on the Land (collectively, the "Facility"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "Equipment" and together with the Land and the Facility, the "Project Facility"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the "Financial Assistance"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company and the Agency are mortgaging their respective interests in the improved real property described on Exhibit "A" to: Citizens Bank, National Association (the "Mortgage"), pursuant to a certain Building Loan Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated May 19, 2017 in the amount of \$47,371,216.00 (the "Building Loan Mortgage"), a Project Loan Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated May 19, 2017 in the amount of \$2,863,917.00 (the "Project Loan Mortgage" and together with the Building Loan Mortgage, the "Mortgages"), an Assignment of Leases and Rents dated May 19, 2017 ("Assignment of Leases and Rents") and a

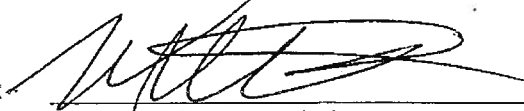
Project Loan Assignment of Leases and Rents dated May 19, 2017 (the "*Project Loan Assignment of Leases and Rents*") and together with the Assignment of Leases and Rents, the "*Assignments of Leases and Rents*"). The Mortgages are pledged to secure notes given by the Company to the Mortgagee.

Pursuant to Article 18-A of the New York General Municipal Law, as amended from time to time (the "*Act*"), the Agency is regarded as performing a governmental function and is generally not required to pay taxes or assessments upon any property acquired by it or under its jurisdiction, control or supervision or upon its activities.

Deponent submits that no mortgage tax, should be imposed upon the Mortgages and the Assignments of Rents, insomuch as the Mortgages and the Assignments of Rents are being executed and delivered under the State authority creating the Agency, insomuch as the use by the Agency of its powers to secure the payment of principal and interest on the loan is deemed by Article 18-A public purpose essential to the public interest, and insomuch as both the New York State Department of Taxation and Finance and Counsel to the New York State Department of Taxation and Finance have expressed their opinion that the recording of similar documents by similar agencies organized under Article 18-A of the New York General Municipal Law are operations of said agencies entitled to exemption from the mortgage recording tax.

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CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY

By: 
William M. Ryan, Chairman

Subscribed and sworn to before me
this 15th day of May, 2017.

Lori L. McRobbie
Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 2018

Lori
McRobbie
New York

ONON 2/12/18
Co.

EXHIBIT A

LEGAL DESCRIPTION

NEW LOT No. 100, RESUBIVISION OF PART OF LOT Nos. 18, 19, 21, LOT Nos. 22, 23, 24, 25, 26, 27 & 28 AND ADDITIONAL LANDS PART OF BLOCK No. 240, CITY OF SYRACUSE

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block No. 240 in said City, being New Lot No. 100 of Resubivision of Part of Lot Nos. 18, 19, 21, Lot Nos. 22, 23, 24, 25, 26, 27 & 28 and additional lands according to a map by Ianuzi & Romans Land Surveying, P.C. dated August 11, 2016, last revised December 12, 2016 filed in the Onondaga County Clerk's Office on February 28, 2017, as Map No. 12334, bounded and described as follows:

Beginning at the intersection of the northerly boundary of East Genesee Street with the westerly boundary of South Crouse Avenue (Chestnut Street, formerly), said point being the southeasterly corner of said Block No. 240; running thence N 83°37'20" W along said northerly boundary of East Genesee Street, a distance of 155.32 feet to the easterly boundary of lands conveyed to Caserta, LLC by deed recorded in the Onondaga County Clerk's Office in Book 4912 of Deeds at page 523; thence N 00°29'40" E along said easterly boundary of lands conveyed to Caserta, LLC, a distance of 84.87 feet to the northeasterly corner thereof; thence N 89°30' 50" W along the northerly boundary of said lands conveyed to Caserta, LLC, a distance of 100.51 feet to the easterly boundary of Irving Avenue; thence N 00°29'40" E along said easterly boundary of Irving Avenue, a distance of 240.42 feet to a southerly boundary of lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 69; thence S 89°30'50" E along said southerly boundary

of lands conveyed to 900 East Fayette Group, LLC, a distance of 123.01 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC, a distance of 65.00 feet to a southwesterly corner of other lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 78; thence S 89°30'50" E along the southerly boundary of said other lands conveyed to 900 East Fayette Group, LLC and along a southerly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 42.0 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 100.0 feet to the southerly boundary of East Fayette Street; thence S 89°30'50" E along said southerly boundary of East Fayette Street, a distance of 90.0 feet to the aforementioned westerly boundary of South Crouse Avenue (Chestnut Street, formerly); thence S 00°29'40" W along said westerly boundary of South Crouse Avenue (Chestnut Street, formerly), a distance of 506.23 feet to the point of beginning.

Section: 48

Block: 5

Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

Common Address: 919 East Genesee Street, Syracuse, New York

17

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. E-MAIL CONTACT AT FILER (optional)

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

Steven F. Ginsberg, Esq.
Ginsberg Jacobs, LLC
300 S. Wacker Drive, Suite 2750
Chicago, IL 60606

OK VMM

4 pgs

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME
BVSHSSF SYRACUSE, LLC

OR

1b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

1c. MAILING ADDRESS
353 N. Clark Street, Suite 730

CITY Chicago	STATE IL	POSTAL CODE 60654	COUNTRY USA
------------------------	--------------------	-----------------------------	-----------------------

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

2c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME
Citizens Bank, National Association

OR

3b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

3c. MAILING ADDRESS
71 S. Wacker Drive, Suite IH2915

CITY Chicago	STATE IL	POSTAL CODE 60606	COUNTRY USA
------------------------	--------------------	-----------------------------	-----------------------

4. COLLATERAL: This financing statement covers the following collateral:

See Exhibit A and Exhibit B attached hereto.

debtor same as owner.

5. Check only if applicable and check only one box: Collateral is held in a Trust (see UCC1Ad, item 17 and Instructions) being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box:
 Public-Finance Transaction Manufactured-Home Transaction A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box:
 Agricultural Lien Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): Lessee/Lessor Consignee/Consignor Seller/Buyer Bailee/Bailor Licensee/Licenser

8. OPTIONAL FILER REFERENCE DATA:

BV SYRACUSE - Fixture

Exhibit A
to
UCC Financing Statement

Debtor: BVSHSSF Syracuse, LLC, a Delaware limited liability company

Secured Party: Citizens Bank, National Association, a national banking association

Collateral

THE LAND located in Syracuse, New York, which is legally described on Exhibit B attached hereto and made a part hereof (the "Land"), including all improvements thereon and all rights appurtenant thereto, together with;

(i) all right, title and interest of Debtor, including any after-acquired title or reversion, in and to the ways, easements, reciprocal easement agreements, streets, alleys, passages, water, water courses, riparian rights, oil, gas and other mineral rights, gaps, gores, rights, hereditaments, liberties and privileges thereof, if any, and in any way appertaining to the Land;

(ii) all rents, royalties, issues, proceeds and profits accruing and to accrue from the Land as more particularly described in that certain Assignment of Leases and Rents of even date herewith (the "Assignment") from Debtor to Secured Party;

(iii) all buildings and improvements of every kind and description now or hereafter erected or placed on the Land including, without limitation, all materials intended for construction, reconstruction, alteration and repair of such improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the Mortgaged Property (as hereinafter defined) immediately upon the delivery thereof to the Land, and all fixtures and articles of personal property now or hereafter owned by Debtor and attached to or contained in and used in connection with the Land, including, without limitation, all furniture, apparatus, machinery, equipment, motors, elevators, fittings, radiators, furnaces, stoves, microwave ovens, awnings, shades, screens, blinds, office equipment, trash and garbage removal equipment, carpeting and other furnishings, and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating, incinerating, air-conditioning, conveyor, security, sprinkler and other equipment, and all fixtures and appurtenances thereof; and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to such improvements in any manner; it being intended that all the above-described property owned by Debtor and placed by Debtor on the Land shall, so far as permitted by law, be deemed to be fixtures and a part of the realty, and security for the indebtedness of Debtor to Secured Party hereinafter described; all of the property described in this paragraph is hereinafter sometimes collectively called the "Improvements";

(iv) any and all warranty claims, maintenance contracts and other contract rights, instruments, documents, chattel papers and general intangibles with respect to or arising from the

Land, the Improvements and the balance of the Mortgaged Property, and all cash and non-cash proceeds and products thereof;

(v) any and all accounts, including but not limited to the Interest Reserve Funds Account (as defined in the Loan Agreement between Debtor and Secured Party), with respect to the Premises (including rights to payment for goods sold or leased or to be sold or leased or for services rendered or to be rendered), escrows, documents, instruments, chattel paper, claims, deposits and general intangibles, as the foregoing terms are defined in the Uniform Commercial Code in effect in the State of North Carolina, as amended from time to time; and

(vi) all awards, damages and other compensation heretofore or hereafter to be made to the present and all subsequent owners of the Mortgaged Property for any taking by eminent domain, either permanent or temporary, of all or any part of the Mortgaged Property or any easement or other appurtenance thereof, including severance and consequential damage and change in grade of streets, and any and all refunds of impositions or other charges relating to the Mortgaged Property or the indebtedness.

The property described above is hereafter called the "Premises" to the extent that such property is realty, and the "Collateral" to the extent that such property is personalty. The Land, the Premises and the Collateral are hereafter collectively called the "Mortgaged Property."

Capitalized terms not otherwise defined herein shall have the meaning set forth in that certain Building Loan Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated on or about the date of filing of this UCC Financing Statement and made by Debtor to and in favor of Secured Party.

EXHIBIT B
TO
UCC FINANCING STATEMENT

DEBTOR: BVSHSSF SYRACUSE, LLC, A DELAWARE LIMITED LIABILITY COMPANY

SECURED PARTY: CITIZENS BANK, NATIONAL ASSOCIATION, A NATIONAL BANKING ASSOCIATION

LEGAL DESCRIPTION OF LAND

NEW LOT No. 100, RESUBIVISION OF PART OF LOT Nos. 18, 19, 21, LOT Nos. 22, 23, 24, 25, 26, 27 & 28 AND ADDITIONAL LANDS PART OF BLOCK No. 240, CITY OF SYRACUSE

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block No. 240 in said City, being New Lot No. 100 of Resubivision of Part of Lot Nos. 18, 19, 21, Lot Nos. 22, 23, 24, 25, 26, 27 & 28 and additional lands according to a map by Ianuzi & Romans Land Surveying, P.C. dated August 11, 2016, last revised December 12, 2016 filed in the Onondaga County Clerk's Office on February 28, 2017, as Map No. 12334, bounded and described as follows:

Beginning at the intersection of the northerly boundary of East Genesee Street with the westerly boundary of South Crouse Avenue (Chestnut Street, formerly), said point being the southeasterly corner of said Block No. 240; running thence N 83°37'20" W along said northerly boundary of East Genesee Street, a distance of 155.32 feet to the easterly boundary of lands conveyed to Caserta, LLC by deed recorded in the Onondaga County Clerk's Office in Book 4912 of Deeds at page 523; thence N 00°29'40" E along said easterly boundary of lands conveyed to Caserta, LLC, a distance of 84.87 feet to the northeasterly corner thereof; thence N 89°30' 50" W along the northerly boundary of said lands conveyed to Caserta, LLC, a distance of 100.51 feet to the easterly boundary of Irving Avenue; thence N 00°29'40" E along said easterly boundary of Irving Avenue, a distance of 240.42 feet to a southerly boundary of lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 69; thence S 89°30'50" E along said southerly boundary of lands conveyed to 900 East Fayette Group,

LLC, a distance of 123.01 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC, a distance of 65.00 feet to a southwesterly corner of other lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 78; thence S 89°30'50" E along the southerly boundary of said other lands conveyed to 900 East Fayette Group, LLC and along a southerly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 42.0 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 100.0 feet to the southerly boundary of East Fayette Street; thence S 89°30'50" E along said southerly boundary of East Fayette Street, a distance of 90.0 feet to the aforementioned westerly boundary of South Crouse Avenue (Chestnut Street, formerly); thence S 00°29'40" W along said westerly boundary of South Crouse Avenue (Chestnut Street, formerly), a distance of 506.23 feet to the point of beginning.

Section: 48

Block: 5

Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

Common Address: 919 East Genesee Street, Syracuse, New York

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)
B. E-MAIL CONTACT AT FILER (optional)
C. SEND ACKNOWLEDGMENT TO: (Name and Address)
Steven F. Ginsberg, Esq. Ginsberg Jacobs, LLC 300 S. Wacker Drive, Suite 2750 Chicago, IL 60606

Delaware Department of State
U.C.C. Filing Section
Filed: 03:34 PM 05/19/2017
U.C.C. Initial Filing No: 2017 3315188

Service Request No: 20173764791

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME BVSHSSF SYRACUSE, LLC				
OR	1b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
1c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
353 N. Clark Street, Suite 730	Chicago	IL	60654	USA

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OR	2b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
2c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME Citizens Bank, National Association				
OR	3b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
3c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
71 S. Wacker Drive, Suite IH2915	Chicago	IL	60606	USA

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See Exhibit A and Exhibit B attached hereto.

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6a. Check only if applicable and check only one box:
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6b. Check only if applicable and check only one box:
 Agricultural Lien Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): Lessee/Lessor Consignee/Consignor Seller/Buyer Bailor/Bailor Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:

BV SYRACUSE - DE SOS

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to
UCC Financing Statement

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Secured Party: Citizens Bank, National Association, a national banking association

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(ii) all rents, royalties, issues, proceeds and profits accruing and to accrue from the Land as more particularly described in that certain Assignment of Leases and Rents of even date herewith (the "Assignment") from Debtor to Secured Party;

(iii) all buildings and improvements of every kind and description now or hereafter erected or placed on the Land including, without limitation, all materials intended for construction, reconstruction, alteration and repair of such improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the Mortgaged Property (as hereinafter defined) immediately upon the delivery thereof to the Land, and all fixtures and articles of personal property now or hereafter owned by Debtor and attached to or contained in and used in connection with the Land, including, without limitation, all furniture, apparatus, machinery, equipment, motors, elevators, fittings, radiators, furnaces, stoves, microwave ovens, awnings, shades, screens, blinds, office equipment, trash and garbage removal equipment, carpeting and other furnishings, and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating, incinerating, air-conditioning, conveyor, security, sprinkler and other equipment, and all fixtures and appurtenances thereof; and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to such improvements in any manner; it being intended that all the above-described property owned by Debtor and placed by Debtor on the Land shall, so far as permitted by law, be deemed to be fixtures and a part of the realty, and security for the indebtedness of Debtor to Secured Party hereinafter described; all of the property described in this paragraph is hereinafter sometimes collectively called the "Improvements";

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Land, the Improvements and the balance of the Mortgaged Property, and all cash and non-cash proceeds and products thereof;

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Capitalized terms not otherwise defined herein shall have the meaning set forth in that certain Building Loan Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated on or about the date of filing of this UCC Financing Statement and made by Debtor to and in favor of Secured Party.

EXHIBIT B
TO
UCC FINANCING STATEMENT

DEBTOR: BVSHSSF SYRACUSE, LLC, A DELAWARE LIMITED LIABILITY
 COMPANY

SECURED PARTY: CITIZENS BANK, NATIONAL ASSOCIATION, A NATIONAL BANKING
 ASSOCIATION

LEGAL DESCRIPTION OF LAND

NEW LOT No. 100, RESUBIVISION OF PART OF LOT Nos. 18, 19, 21, LOT Nos. 22, 23, 24,
25, 26, 27 & 28 AND ADDITIONAL LANDS PART OF BLOCK No. 240, CITY OF SYRACUSE

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of
New York, being part of Block No. 240 in said City, being New Lot No. 100 of Resubivision of Part of Lot
Nos. 18, 19, 21, Lot Nos. 22, 23, 24, 25, 26, 27 & 28 and additional lands according to a map by Ianuzi &
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Beginning at the intersection of the northerly boundary of East Genesee Street with the westerly
boundary of South Crouse Avenue (Chestnut Street, formerly), said point being the southeasterly corner of
said Block No. 240; running thence N 83°37'20" W along said northerly boundary of East Genesee Street,
a distance of 155.32 feet to the easterly boundary of lands conveyed to Caserta, LLC by deed recorded in
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easterly boundary of lands conveyed to Caserta, LLC, a distance of 84.87 feet to the northeasterly corner
thereof; thence N 89°30' 50" W along the northerly boundary of said lands conveyed to Caserta, LLC, a
distance of 100.51 feet to the easterly boundary of Irving Avenue; thence N 00°29'40" E along said easterly
boundary of Irving Avenue, a distance of 240.42 feet to a southerly boundary of lands conveyed to 900 East
Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at
page 69; thence S 89°30'50" E along said southerly boundary of lands conveyed to 900 East Fayette Group,

LLC, a distance of 123.01 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC, a distance of 65.00 feet to a southwesterly corner of other lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 78; thence S 89°30'50" E along the southerly boundary of said other lands conveyed to 900 East Fayette Group, LLC and along a southerly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 42.0 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 100.0 feet to the southerly boundary of East Fayette Street; thence S 89°30'50" E along said southerly boundary of East Fayette Street, a distance of 90.0 feet to the aforementioned westerly boundary of South Crouse Avenue (Chestnut Street, formerly); thence S 00°29'40" W along said westerly boundary of South Crouse Avenue (Chestnut Street, formerly), a distance of 506.23 feet to the point of beginning.

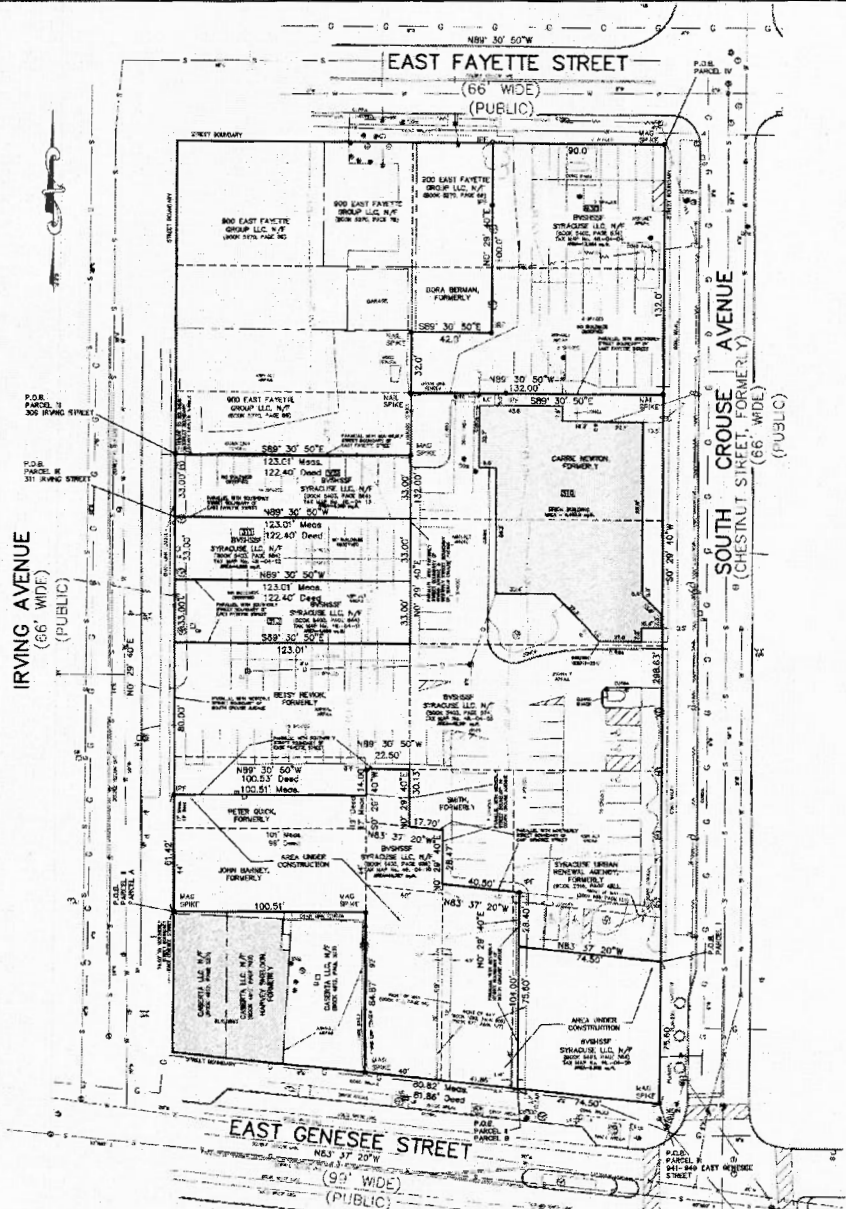
Section: 48

Block: 5

Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

Common Address: 919 East Genesee Street, Syracuse, New York

18



SCHEDULE A DESCRIPTION
TITLE No. 1717-39014 Rev. 5

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block No. 240 in said City, being New Lot No. 100 of Reorganization of Part of Lot Nos. 18, 19, 21, 22, Lot Nos. 23, 24, 25, 26, 27 & 28 and additional lands according to a map by Ianuzi & Romans Land Surveying, P.C. dated August 11, 2016, last revised December 12, 2019 filed in the Onondaga County Clerk's Office February 28, 2017 on Map No. 12334, bounded and described as follows:

Beginning at the intersection of the northerly boundary of East Genesee Street with the westerly boundary of South Crouse Avenue (Chestnut Street, formerly), said point being the southeastern corner of said Block No. 240 running thence N 69° 07' 20" W along said northerly boundary of East Genesee Street, a distance of 153.32 feet to the easterly boundary of lands conveyed to Caserta, LLC by deed recorded in the Onondaga County Clerk's Office in Book 4812 of Deeds at page 528, thence N 00° 00' 40" E along said easterly boundary of lands conveyed to Caserta, LLC, a distance of 84.97 feet to the northerly corner thereof, thence N 00° 50' 50" W along the northerly boundary of said lands conveyed to Caserta, LLC, a distance of 100.91 feet to the westerly boundary of Irving Avenue, thence N 00° 29' 40" E along said easterly boundary of Irving Avenue a distance of 240.42 feet to a westerly boundary of lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5070 of Deeds at page 89, thence S 89° 50' 50" E along said southerly boundary of lands conveyed to 900 East Fayette Group, LLC, a distance of 123.01 feet to a southeastern corner thereof, thence N 00° 29' 40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC, a distance of 86.06 feet to a southwestern corner of other lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5070 of Deeds at page 78, thence S 89° 50' 50" E along the southerly boundary of said other lands conveyed to 900 East Fayette Group, LLC and along a southerly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5070 of Deeds at page 88, a distance of 42.0 feet to a southwestern corner thereof, thence N 00° 29' 40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5070 of Deeds at page 89, a distance of 160.0 feet to the southerly boundary of East Fayette Street, thence S 89° 50' 50" E along said southerly boundary of East Fayette Street, a distance of 61.0 feet to the aforementioned westerly boundary of South Crouse Avenue (Chestnut Street, formerly), thence S 00° 19' 40" W along said westerly boundary of South Crouse Avenue (Chestnut Street, formerly), a distance of 508.22 feet to the point of beginning.

SCHEDULE B EXCEPTIONS

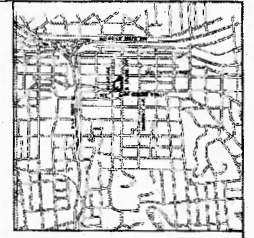
The following Exceptions affect Parcels 1-17
12 Access Easement granted to City of Syracuse by instrument dated February 20, 2017, and recorded in the Onondaga County Clerk's Office on February 28, 2017, in Liber 6416 of Deeds, at page 503, - Blanket Easement

TITLE REPORT:

Map No. 12334
By Ianuzi & Romans Land Surveying, P.C.
Title No. 1717-39014 Rev. 5
Effective July March 7, 2017

MAP REFERENCE:

Map No. 12334
By Ianuzi & Romans Land Surveying, P.C.
Date Filed February 28, 2017



LOCATION PLAN
Scale: 1" = 2000'

NOTES:

- Total area 83,232.55sq. ft. or 2,140± acres
- Total number of lots: 7
- Present Zone BA Local Business District.
- Location of underground utilities shown by field measurements where practicable, otherwise taken from various utility sources and are approximate only.
- The premises shown herein to within Zone "A" (areas determined to be outside the 0.5% annual chance floodplain) according to Federal Emergency Management Agency National Flood Insurance Program Flood Insurance Rate Map community Panel No. 36082AZ01A, effective date, November 4, 2016.
- Lot Map No. 48-04-04, 05, 06, 07, 08, 09, 10, 11, 12 & 13
- Total number parking spaces: 154 (includes 5 handicap)
- No Wetland Determination Markers were observed in the process of us conducting our field work.
- All surveyed properties are contiguous.

LEGEND:

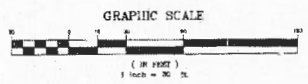
- Indicates light stone
- Indicates utility pole, anchor & overhead lines
- Indicates iron pipe and/or monument found
- Indicates building
- Indicates sign
- Indicates storm culvert
- Indicates gas, milk, gas valves & gas line marker
- Indicates water main, water valve & hydrant
- Indicates storm sewer, catch basin & manhole
- Indicates sanitary sewer, sewer vent & manhole
- Indicates underground telephone line, marlins & box
- Indicates underground electric line & manhole
- Indicates underground television cable & box
- Indicates 8" diameter monitoring well (typical)
- Indicates street, address
- Indicates boundary line
- Indicates adjacent parcel line
- Indicates old/original parcel line
- Indicates assessment line
- Indicates centerline road

We, BY SERVICES SYRACUSE, LLC, a Delaware limited liability company, Onondaga County, New York, Association, a national fraternal association, as others herein named for the benefit of the user and certain other holders, are the executors and assignees, in their capacity as such, of the following:

Page Name: 366414.L12
Color: Title Insurance Company.

This is to certify that this map report and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, as indicated herein 1.2, 3.4, 4.0, 6.0, 6.1, 7.0, 7.0(1), 7.0(2), 8.0, 9.0, 10.0, 11.0, 14.0, 14.1, 15.0, 19.0 and Table A thereof. The field work was completed on April 3, 2017.

Date of Field or Map: May 15, 2017
Signed: [Signature]
Title: [Title]
Firm: Ianuzi & Romans, L.L.C.
N.Y.S. Licensed Land Surveyor Registration No. 65826



ALTA/NSPS LAND TITLE SURVEY No. 919 EAST GENESEE STREET PART OF LOTS 18, 19, 21, 22, 23, 24, 25, 26, 27, 28 & ADDITIONAL LAND NEW LOT 100 PART OF BLOCK No. 240 CITY OF SYRACUSE ONONDAGA COUNTY, NEW YORK		
IANUZI & ROMANS LAND SURVEYING, P.C. 100 WEST BERRY SUITE 100 SYRACUSE, NY 13212 PHONE: 315-467-7500 FAX: 315-467-9259 www.ianuziandromans.com	DATE: APRIL 3, 2017 SCALE: 1" = 30' FILE NO: 2786.086/3683.001 SHEET NO. 1 OF 1603	

19

**GENERAL CERTIFICATE OF THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**

This certificate is made in connection with the execution by the City of Syracuse Industrial Development Agency (the “**Agency**”) of the Project Agreement, the Company Lease, the Agency Lease, the Mortgage and any other document now or hereafter executed by the Agency (collectively, the “**Agency Documents**”) with respect to a project (the “**Project**”) undertaken at the request of BVSHSSF Syracuse, LLC (the “**Company**”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street), in the City of Syracuse, New York (the “**Land**”); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet containing new four and five story buildings to be used as mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces , all located on the Land (collectively, the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

Capitalized terms used herein which are not otherwise defined herein and which are defined in the Agency Lease Agreement dated as of May 1, 2017 (the “**Agency Lease**”), between the Agency and the Company, and shall have the meanings ascribed to such terms in the Agency Lease except that, for purposes of this certificate: (A) all definitions with respect to any document shall be deemed to refer to such document only as it exists as of the date of this certificate and not as of any future date; and (B) all definitions with respect to any Person shall be deemed to refer to such Person only as it exists as of the date of this certificate and not as of any future date or to any successor or assign.

I, the undersigned Chairman of the Agency, Do Hereby Certify:

1. I am an officer of the Agency and am duly authorized to execute and deliver this certificate in the name of the Agency.

2. The Agency is an industrial development agency duly established under Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "*State*"), as amended (the "*Enabling Act*") and Chapter 641 of the Laws of 1979 of the State (said Chapter with the Enabling Act, the "*Act*") (a certified copy of Chapter 641 of the Laws of 1979 of the State is attached hereto as **Exhibit "A"**), and it is a corporate governmental agency constituting a public benefit corporation of the State.

3. The Act empowers the Agency, among other things, to acquire, construct reconstruct, lease, improve, maintain, equip, sell and dispose of land and any building or other improvement, and all real and personal property, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, recreation or industrial facilities, including industrial pollution control facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the City of Syracuse and the State and to improve their standard of living. The Act further authorizes the Agency to lease any and all of its facilities on such terms and conditions as it deems advisable, to acquire, construct, lease, improve, and equip one or more projects as defined in the Act, to mortgage any or all of its facilities and to pledge the revenues and receipts from the sale or transfer of its facilities.

4. The Agency has full legal power and authority to own its property, conduct its business and execute, deliver, and perform its obligations under the Agency Documents and has taken all actions and obtained all approvals required in connection therewith by the Act and any other applicable laws and regulations, and no legislation has been enacted affecting the powers or authority of the Agency to execute and deliver the Agency Documents, affecting the financing of the Project, or affecting the validity thereof or of the Agency Documents, or contesting the existence and powers of the Agency or the appointment of the members and officers of the Agency to their respective offices.

5. Pursuant to the Act, the governing body of the City of Syracuse, New York, for whose benefit the Agency was established, duly filed or caused to be filed within six (6) months after the effective date of Chapter 641 of the Laws of 1979 of the State in the office of the Secretary of State of the State the Certificate of Establishment of the Agency pursuant to Section 926 of the New York General Municipal Law. The Certificate of Establishment of the Agency described in the preceding sentence also named the members and officers of the Agency as appointed by the Mayor of the City of Syracuse. Attached hereto as **Exhibit "B"** are certified copies of said Certificates of Establishment and copies of the Certificates of Appointment relating to all of the current members of the Agency, who are:

William M. Ryan	Chairman
M. Catherine Richardson	Vice Chairman
Steven Thompson	Secretary
Donald Schoenwald	Treasurer
Kenneth Kinsey	Member

6. Attached hereto as **Exhibit “C”** is a true, correct and complete copy of the by-laws of the Agency, together with all amendments thereto or modifications thereof; and said by-laws as so amended and modified are in full force and effect in accordance with their terms as of the date of this certificate.

7. That a resolution determining that the acquisition, construction and equipping of the Project constitutes a Project and describing the financial assistance in connection therewith and authorizing a public hearing (the “**Public Hearing Resolution**”) was adopted by the Agency on November 15, 2016 and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the Public Hearing Resolution is attached hereto at **Exhibit “D.”**

8. Attached hereto as **Exhibit “E”** is proof of publication of a notice of the public hearing with respect to the Project (the “**Public Hearing Notice**”), required pursuant to Section 859-a of the Act and held on December 20, 2016, and proof of mailing of notice thereof pursuant to Section 859-a of the Act to the chief executive officers of the affected tax jurisdictions (as defined in Section 854(16) of the Act) on December 1, 2016.

9. That a resolution classifying the Project as an Unlisted Action pursuant to SEQRA, declaring the Agency lead agency for purposes of an uncoordinated review thereunder and determining that the Project will not have a significant effect on the environment (the “**SEQRA Resolution**”) was adopted by the Agency on December 20, 2016 and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the SEQRA Resolution is attached hereto at **Exhibit “F.”**

10. That a resolution authorizing the undertaking, the acquisition, construction, equipping and completion of a commercial facility, appointing the Company as agent of the Agency for the purpose of the acquisition, construction, equipping and completion of the Project, and authorizing the execution and delivery of an agreement between the Agency and the Company (the “**Inducement Resolution**”) was adopted by the Agency on January 24, 2017 and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the Inducement Resolution is attached hereto at **Exhibit “G.”**

11. That a resolution authorizing the execution and delivery of certain documents by the Agency in connection with the Project was adopted by the Agency on January 24, 2017 (the “**Final Approving Resolution**”) and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the Final Approving Resolution is attached hereto at **Exhibit “H”**.

12. The execution, delivery and performance of all Agency Documents, certificates and documents required to be executed, delivered and performed by the Agency in order to carry out, give effect to and consummate the transactions contemplated by the Agency Documents have been duly authorized by all necessary action of the Agency, and the Agency Documents have been duly authorized, executed and delivered. The Agency Documents are in full force and effect on and as of the date hereof, and no authority or proceeding for the execution, delivery or performance of the Agency Documents has been materially amended, repealed, revoked or rescinded; and no event or

circumstance has occurred or exists which constitutes, or with the giving of notice or the passage of time would constitute, a default on the part of the Agency under the Agency Documents.

13. The execution, delivery, and performance of the Agency Documents, the consummation of the transactions therein contemplated and compliance with the provisions of each do not and will not: (a) violate the Act or the by-laws of the Agency; (b) require consent (which has not heretofore been received) under or result in a breach or default of any credit agreement, purchase agreement, indenture, deed of trust, commitment, guaranty, lease, or other agreement or instrument to which the Agency is a party or by which the Agency may be bound or affected; or (c) conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction, or decree of any government, governmental instrumentality, or court, domestic or foreign, having jurisdiction over the Agency or any of its Property.

14. The Agency has not received written notice that any event of default has occurred and is continuing, or that any event has occurred which with the lapse of time or the giving of notice or both would constitute an event of default by any party to the Agency Documents.

15. There is no action, suit, proceeding or investigation at law or in equity, before or by any court, public board or body of the United States of America or the State of New York, pending or, to the best of my knowledge, threatened against or affecting the Agency (or to my knowledge any basis therefor): (a) wherein an unfavorable decision or finding would adversely affect (i) the Inducement Resolution, the Final Approving Resolution, the Company Lease, the Agency Lease or the other Agency Documents; or (ii) the existence or organization of the Agency; or (iii) restrain or enjoin the financing, acquisition or construction of the Project or the performance by the Agency of the Agency Documents; or (b) in any manner questioning the proceedings or authority of the financing of the Project, or affecting the validity thereof or of the Agency Documents, or contesting the existence and powers of the Agency or the appointment of the directors and officers of the Agency to their respective offices.

16. May 19, 2017 has been duly designated as the date for the Closing.

17. The Agency has complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the Closing Date.

18. In accordance with the Act, the Agency has determined:

(a) to assist the Company's acquisition, construction, equipping and completion of the Project Facility;

(b) to grant the Financial Assistance to the Company;

(c) to designate the Company as the Agency's agent for the acquisition, construction, equipping and completion of the Project Facility and to authorize the Company to appoint additional agents; and

(d) to pledge its interest in the Company Lease and the Agency Lease (except the Agency's Unassigned Rights) to the Mortgagee and grant the Mortgagee a security interest in the Agency's leasehold interest in the Project Facility.

19. That I did officially cause all certificates necessary for the financing and included in the official transcript of closing, to be executed, as required, in the name of the Agency by the signing of each of such certificates with the signature of the (Vice) Chairman of the Agency.

20. That I did officially cause the following Agency Documents to be executed in the name of the Agency by the signing of each of such Agency Documents with the signature of the William M. Ryan, Chairman of the Agency:

(a) a Project Agreement between the Agency and the Company;

(b) a Company Lease from the Company to the Agency pursuant to which the Company agrees to lease the Land and the Facility to the Agency;

(b) an Agency Lease from the Agency to the Company pursuant to which the Agency agrees to sublease the Project Facility to the Company; and

(c) the Mortgage pursuant to which the Mortgagee has been granted a security interest in the Project Facility.

21. No member, officer or employee of the Agency having power to: (i) negotiate, prepare, authorize or approve any of the Agency Documents; (ii) audit bills or claims under any of the Agency Documents; or (iii) appoint an officer or employee who has any of the powers or duties set forth in (i) or (ii):

(a) directly or indirectly owns any stock of the Company;

(b) is a partner, director or employee of the Company;

(c) is related to the Company within the meaning of Section 800.3(a) of the New York General Municipal Law.

No member, officer, or employee of the Agency has publicly disclosed, in a writing included as part of the official minutes of the Agency, any Interest (as defined in Section 800.3 of the New York General Municipal Law), direct or indirect, in the Developer.

WITNESS, as of the 1st day of May, 2017.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

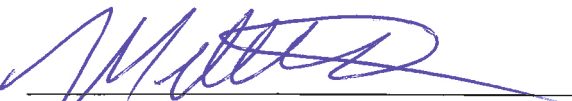
By: 
William M. Ryan, Chairman

EXHIBIT "A"

**CHAPTER 641 OF THE LAWS OF 1979
OF THE STATE OF NEW YORK**

LAWS OF NEW YORK, 1979

CHAPTER 641

AN ACT to amend the general municipal law, in relation to creating and establishing for the city of Syracuse industrial development agency and, providing for its functions and duties

Became a law July 11, 1979, with the approval of the Governor. Passed on Home Rule request pursuant to Article IX, section 2 (b) (2) of the Constitution, by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general municipal law is amended by adding a new section nine hundred twenty-six to read as follows:

§ 926. *City of Syracuse industrial development agency. (a) For the benefit of the city of Syracuse and the inhabitants thereof, an industrial development agency, to be known as the CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, is hereby established for the accomplishment of any or all of the purposes specified in title one of article eighteen-A of this chapter. It shall constitute a body corporate and politic, and be perpetual in duration. It shall consist of five members who shall be appointed by the mayor of the city of Syracuse and its chairman shall be designated by such mayor. It shall have the powers and duties now or hereafter conferred by title one of article eighteen-A of this chapter upon industrial development agencies. It shall organize in a manner prescribed by and be subject to the provisions of title one of article eighteen-A of this chapter. The agency, its members, officers and employees, and its operations and activities shall in all respects be governed by the provisions of title one of article eighteen-A of this chapter.*

(b) The city shall have the power to make, or contract to make grants or loans, including but not limited to grants or loans of money, to the agency in such amounts, upon such terms and conditions and for such period or periods of time as in the judgment of the city and the agency are necessary or appropriate for the accomplishment of any of the purposes of the agency.

§ 2. This act shall take effect immediately.

EXHIBIT "B"

**AGENCY'S CERTIFICATE OF ESTABLISHMENT
AND
CERTIFICATES OF APPOINTMENT OF CURRENT MEMBERS**

CERTIFICATE OF THE CITY OF SYRACUSE
INDUSTRIAL DEVELOPMENT AGENCY

Pursuant to Article 18-A of the General Municipal Law, Lee Alexander, Mayor of the City of Syracuse, certifies as follows:

1) The name of the industrial development agency herein is the City of Syracuse Industrial Development Agency.

2) Chapter 641 of the Laws of 1979, the special act of the New York State Legislature establishing the City of Syracuse Industrial Development Agency, was adopted by the New York State Legislature on June 16, 1979 and signed by the Governor on July 18, 1979.

3) The names of the Chairman and the Members, respectively, of the City of Syracuse Industrial Development Agency and their terms of office are as follows:

(a)	Frank L. Canino	Chairman
	David M. Garber	Member
	David S. Michel	Member
	Erwin G. Schultz	Member
	Irwin L. Davis	Member

(b) The term of office of the Chairman and of the Members of the City of Syracuse Industrial Development Agency is at the pleasure of the Mayor and continues until a successor is appointed and has qualified.

4) The facts establishing the need for the creation of a City of Syracuse Industrial Development Agency are as follows:

Expansion of its industrial-commercial base is essential to the City of Syracuse, especially in a time of mounting economic pressures. To achieve this goal of expansion, the City has designed a comprehensive economic development program, requiring an Industrial Development Agency.

The existing potential for economic development will be augmented by the financial incentives of an Industrial Development Agency. Various City agencies and departments, such as the Department of Community Development and the Office of Federal and State Aid Coordination will interface with the Syracuse Industrial Development Agency to strengthen the business and industrial climate of the community.

Access to the Department of Community Development will make available to the Syracuse Industrial Development Agency an array of staff assistance, technical expertise, and various other development services. The City's Office of Federal and State Aid Coordination will provide assistance to it in locating, analyzing, and obtaining various forms of federal and state assistance and participation.

STATE OF NEW YORK
DEPARTMENT OF STATE

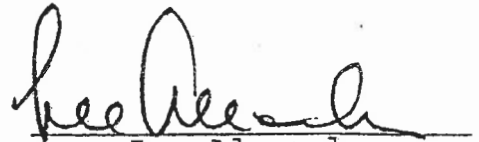
FILED JUL 20 1979

John J. Petermann

Secretary of State

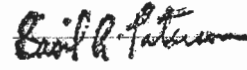
The Syracuse Industrial Development Agency, in combination with, and utilizing these and other resources, will greatly enhance the City's ability to compete for, and successfully attract, the commercial and industrial enterprises necessary for continued economic health and growth.

July 20, 1979


Lee Alexander
Mayor

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED JUL 20 1979


Secretary of State

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CITY OF SYRACUSE
DEPARTMENT OF LAW
OFFICE OF THE MAYOR

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DEPARTMENT OF STATE

Stephanie A. Miner, Mayor

**CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a Member and officer of the City of Syracuse Industrial Development Agency:

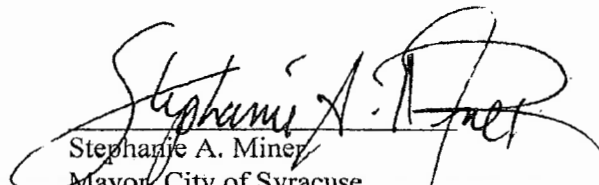
Mr. William Ryan - Member/Chairman

The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

Mr. Irwin Davis -Member/Chairman

No Member or Officer of the City of Syracuse Industrial development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of January 15, 2010.


Stephanie A. Miner
Mayor, City of Syracuse



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FEB 16 2010

OFFICE OF THE MAYOR

DEPARTMENT OF STATE

Stephanie A. Miner

CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

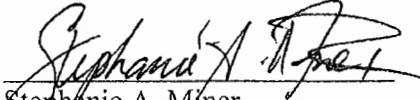
Pursuant to Article 18-A of the General Municipal Law of the State of New York,
Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of
the following person as a ~~Member~~ ^{AN OFFICER} of the City of Syracuse Industrial Development
Agency:

M. Catherine Richardson

- Member/Vice Chair

No Member or Officer of the City of Syracuse Industrial development Agency shall
receive any compensation for the discharge of their duties as Member or Officer of the
Agency, but shall be entitled to necessary expenses incurred in the discharge of their
duties as such Member or Officer.

The appointment herein set forth shall be effective as of February 12, 2010.


Stephanie A. Miner
Mayor, City of Syracuse



OFFICE OF THE MAYOR

Stephanie A. Miner, Mayor

CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a Member of the City of Syracuse Industrial Development Agency:

Mr. Donald Schoenwald

- Member

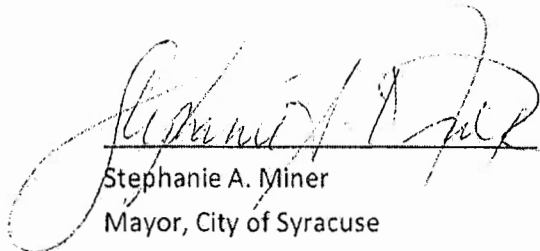
The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

Mr. Kenneth Mokrzycki

- Member

No Member or Officer of the City of Syracuse Industrial Development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of March 1, 2011.



Stephanie A. Miner
Mayor, City of Syracuse



OFFICE OF THE MAYOR

Stephanie A. Miner, Mayor

**CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a Member of the City of Syracuse Industrial Development Agency:

Mr. Steve Thompson

- Member/Secretary

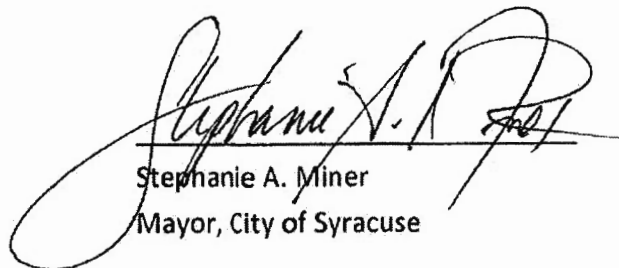
The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

Mr. John Gamage

- Member/Secretary

No Member or Officer of the City of Syracuse Industrial Development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of January 6, 2014.


Stephanie A. Miner
Mayor, City of Syracuse



OFFICE OF THE MAYOR

Stephanie A. Miner, Mayor

**CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a Member of the City of Syracuse Industrial Development Agency:

Mr. Kenneth Kinsey

- Member

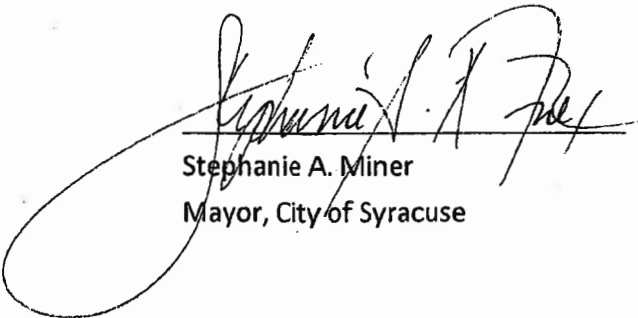
The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

Ms. Pamela Hunter

- Member

No Member or Officer of the City of Syracuse Industrial Development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of January 13, 2016.



Stephanie A. Miner

Mayor, City of Syracuse

EXHIBIT "C"

AGENCY'S BY-LAWS

**BY-LAWS OF
THE CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY
(as amended August 18, 2009)**

Article I

THE AGENCY

Section 1. Name

The name of the agency shall be "City of Syracuse Industrial Development Agency", and it shall be referred to in these by-laws as the Agency.

Section 2. Seal

The seal of the Agency shall be in such form as may be determined by the members of the Agency.

Section 3. Office

The principal office of the Agency shall be located in the City of Syracuse, New York, County of Onondaga, and State of New York. The Agency may have such other offices at such other places as the members of the Agency may, from time to time, designate by resolution.

Article II

MEMBERS

Section 1. Members

(a) There shall be five members of the Agency. All references in these by-laws to members shall be references to Members of the Agency. The persons designated in the certificates of appointment filed in the office of the Secretary of State as members of the Agency and their successors in office and such other persons as may, from time to time, be appointed as

Members of the Agency by the Mayor of the City of Syracuse, or by special act of the Legislature, shall constitute all the members.

(b) Members shall hold office at the pleasure of the Mayor and shall continue to hold office until his or her successor is appointed and has qualified. The Mayor may remove any Member at his discretion, with or without cause.

(c) Upon the resignation or removal of a Member, a successor shall be selected by the Mayor.

(d) Members may resign at any time by giving written notice to the Mayor and to the Chairman of the Agency. Unless otherwise specified in the notice the resignation shall take effect upon receipt of the notice by the Chairman or the Mayor. Acceptance of the resignation shall not be necessary to make it effective.

Section 2. Meeting of the Members

(a) The Annual Meeting of the members shall be held on such date or dates as shall be fixed, from time to time, by the Members of the Agency. The first Annual Meeting of Members shall be held on a date within twelve (12) months after the filing of the Certificate of the Agency with the Secretary of State as required by General Municipal Law §856 (l) (a). Each successive Annual Meeting of Members shall be held on a date not more than twelve (12) months following the preceding Annual Meeting of Members.

(b) Regular meetings of the Agency may be held at such time and place as, from time to time, may be determined by the Members.

(c) Upon the written request of the Mayor, the Chairman or two (2) Members of the Agency, the Chairman of the Agency shall call a special meeting of the Members. Special meetings may be held on such date or dates as may be fixed in the call for such special meetings.

The call for a special meeting may be personally delivered to each Member of the Agency or may be mailed to the business or home address of such Member. A waiver of notice may be signed by any Member failing to receive a proper notice.

Section 3. Procedure at Meetings of Members

(a) The Chairman shall preside over the meetings of the Agency. In the absence of the Chairman, the Vice-Chairman shall preside. In the absence of both the Chairman and Vice-Chairman, any Member directed by the Chairman may preside.

(b) At all meetings of Members, a majority of the Members of the Agency shall constitute a quorum for the purpose of transacting business. If less than a quorum is present for any meeting, the Members then present may adjourn the meeting to such other time or until a quorum is present. Except to the extent provided for by law, all actions shall be by a majority of the votes cast, provided that the majority of the votes cast shall be at least equal to a quorum.

(c) When determined by the Agency that a matter pending before it is confidential in nature, it may, upon motion, establish an executive session and exclude any non-member from such session.

(d) Order of business

At all meetings of the Agency, the following shall be the order of business:

- (1) Roll Call;
- (2) Proof of Notice of Meeting;
- (3) Reading and approval of the minutes of the previous meeting;
- (4) bills and communications;
- (5) Report of the Treasurer;
- (6) Reports of Committees;

- (7) Unfinished business;
- (8) New business;
- (9) Adjournment.

The order of business may be altered or suspended at any meeting by the Members of the Agency.

(e) All resolutions shall be in writing and shall be recorded in the journal of the proceedings of the Agency.

Article III

OFFICERS AND PERSONNEL

Section 1. Officers

The officers of the Agency shall be Chairman or Co-Chairman, Vice-Chairman, Secretary and Treasurer and such other offices as may be prescribed, from time to time, by the Agency. The Chairman or Co-Chairman and other officers shall be appointed by the Mayor of the City of Syracuse and may be removed with or without cause at his discretion. Each officer shall be a Member of the Agency during his or her term of office.

Section 2. Chairman or Co-Chairmen

The Chairman shall be chief executive officer of the Agency, and shall serve as an ex officio member of all duly constituted committees, shall supervise the general management and the affairs of the Agency, and shall carry out the orders and resolutions of the Agency. Except as otherwise authorized by resolution of the Agency, the Chairman shall execute (manually and by facsimile signature) all agreements, contracts, deeds, bonds, notes or other evidence of indebtedness and any other instruments of the Agency on behalf of the Agency. The Mayor may from time to time appoint two Co-Chairmen in place of the Chairman. During their term of office the Co-

Chairmen shall share equally the duties, rights, powers and responsibilities of the Chairman. The action of either Co-Chairman or execution (manually or by facsimile signature) by either Co-Chairman of any agreement, contract, deed, bond, note or other evidence of indebtedness or any other instrument of the Agency on behalf of the Agency shall have the same force and effect as such action or execution by the Chairman.

Section 3. Vice-Chairman

The Vice-Chairman shall have all the powers and functions of the Chairman or Co-Chairmen in the absence or disability of the Chairman or Co-Chairmen, as the case may be. The Vice-Chairman shall perform such other duties as the Members of the Agency shall prescribe or as delegated by the Chairman or Co-Chairmen.

Section 4. Secretary

The Secretary shall keep the minutes of the Agency, shall have the custody of the seal of the Agency and shall affix and attest the same to documents when duly authorized by the Agency, shall attest to the giving or serving of all notices of the Agency, shall have charge of such books and papers as the Members of the Agency may order, shall attest to such correspondence as may be assigned, and shall perform all the duties incidental to his office.

Section 5. Treasurer

The Treasurer shall have the care and custody of all the funds and securities of the Agency, shall deposit such funds in the name of the Agency, in such bank or trust company as the members of the Agency may elect, shall sign such instrument as may require the Treasurer's signature, but only with the approval of the Chairman or Co-Chairman, as the case may be, shall at all reasonable times exhibit the books and accounts of the Agency to the Mayor or any Member of

the Agency, and at the end of each fiscal year shall present an annual report setting forth in full the financial condition of the Agency.

Section 6. Additional Personnel

The Agency, with the consent of the Mayor, may appoint an Administrative or Executive Director to supervise the administration of the business and affairs of the Agency, subject to the direction of the Agency. The Agency may, from time to time, employ such other personnel as it deems necessary to execute its powers, duties and functions as prescribed by the New York State Industrial Development Agency Act (General Municipal Law, Article 18-A), as amended, and all other laws of the State of New York applicable thereto.

Section 7. Compensation of Chairman, Co-Chairmen, Members, Officers, and Other Personnel

The Chairman, Co-Chairmen, Members and Officers shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties. The compensation of other personnel, including the Administrative Director, shall be determined by the Members of the Agency.

Article IV

AMENDMENTS

Section 1. Amendments to By-Laws

These by-laws may be amended or revised, from time to time, by a two-third (2/3) vote of the Agency, but no such amendment or revision shall be adopted unless written notice of the proposed action shall have been given by mail to each Member and the Mayor at least ten (10) days prior to the date of the meeting at which it is proposed that such action be taken; provided, however,

that this provision and other provisions relating to the appointment, renewal and terms of office of Members and officers may be amended only with the prior written approval of the Mayor.

Article V

MISCELLANEOUS

Section 1. Sureties and Bonds

In case the Agency shall so require, any officer, employee or agent of the Agency shall execute to the Agency a bond in such sum and with such surety or sureties as the Agency may direct, conditioned upon the faithful performance of his or her duties to the Agency and including responsibility for negligence and for the accounting for all property, funds or securities of the Agency which may come into the hands of the officer, employee or agent.

Section 2. Indemnification

(a) Upon compliance by a Member or Officer of the Agency (including a former Member or Officer, the estate of a Member or Officer or a judicially appointed personal representative thereof) (referred to in this Section 2 collectively as "Member") with the provisions of subdivision (i) of this Section 2, the Agency shall provide for the defense of the Member in any civil action or proceeding, state or federal, arising out of any alleged act or omission which occurred or allegedly occurred while the Member was acting within the scope of the public employment or duties of such Member. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or at the behest of the Agency.

(b) Subject to the conditions set forth in paragraph (a) of this subdivision, the Member shall be entitled to be represented by private counsel of the Member's choice in any civil action or proceeding whenever the chief legal officer of the Agency or other counsel designated by the

Agency determines that a conflict of interest exists, or whenever a court, upon appropriate motion or otherwise by a special proceeding, determines that a conflict of interest exists and that the Member is entitled to be represented by counsel of the Member's choice, provided, however, that the chief legal officer or other counsel designated by the Agency may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such Members be represented by the same counsel. Reasonable attorneys' fees and litigation expenses shall be paid by the Agency to such private counsel from time to time during the pendency of the civil action or proceeding with the approval of a majority of the Members of the Agency eligible to vote thereon.

(c) Any dispute with respect to representation of multiple Members by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

(d) Where the Member delivers process and a written request for a defense to the Agency under subdivision (i) of this Section 2, the Agency shall take the necessary steps on behalf of the Member to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

(e) The Agency shall indemnify and save harmless its Members in the amount of any judgment obtained against such Members in a State or Federal court, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or claim arose occurred while the Member was acting within the scope of the Member's public employment or duties; provided further that in the case of a settlement, the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by a majority of the Members of the Agency eligible to vote thereon.

(f) Except as otherwise provided by law, the duty to indemnify and save harmless prescribed by this Section 2 shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the Member seeking indemnification.

(g) Nothing in this subdivision shall authorize the Agency to indemnify or save harmless any Member with respect to punitive or exemplary damages, fines or penalties; provided, however, that the Agency shall indemnify and save harmless its Members in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that the Member, acting within the scope of the Member's public employment or duties, has, without willfulness or intent on the Member's part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of the State or of the United States.

(h) Upon entry of a final judgment against the Member, or upon the settlement of the claim, the Member shall serve a copy of such judgment or settlement, personally or by certified or registered mail within thirty (30) days of the date of entry or settlement, upon the Chairman and the chief administrative officer of the Agency; and if not inconsistent with the provisions of this Section 2, the amount of such judgment or settlement shall be paid by the Agency.

(i) The duty to defend or indemnify and save harmless prescribed by this Section 2 shall be conditioned upon: (i) delivery by the Member to the Chairman of the Agency and the chief legal officer of the Agency or to its chief administrative officer of a written request to provide for such Member's defense together with the original or a copy of any summons, complaint, process, notice, demand or pleading within ten (10) days after the Member is served with such document, and (ii) the full cooperation of the Member in the defense of such action or

proceeding and in defense of any action or proceeding against the Agency based upon the same act or omission, and in the prosecution of any appeal.

(j) The benefits of this Section shall inure only to Members as defined in subdivision (a) of this Section 2 and shall not enlarge or diminish the rights of any other party.

(k) This Section 2 shall not in any way affect the obligation of any claimant to give notice to the Agency under Section 10 of the Court of Claims Act, Section 880 of the General Municipal Law, or any other provision of law.

(l) The Agency is hereby authorized and empowered to purchase insurance from any insurance company created by or under the laws of the State, or authorized by law to transact business in the State, against any liability imposed by the provisions of this Section 2, or to act as a self-insurer with respect thereto. The provisions of this Section 2 shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

(m) All payments made under the terms of this Section 2, whether for insurance or otherwise, shall be deemed to be for a public purpose and shall be audited and paid in the same manner as other public charges.

(n) Except as otherwise specifically provided in this Section 2, the provisions of this Section 2 shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity to liability available to or conferred upon any Member of the Agency by, in accordance with, or by reason of, any other provision of State or Federal statutory or common law. The benefits under this Section 2 shall supplement, and be available in addition to, defense or indemnification protection conferred by any law or enactment. This Section 2 is intended to confer upon Members of the Agency all of the benefits of Section 18 of the Public Officers Law

and to impose upon the Agency liability for costs incurred under the provisions hereof and thereof.

Section 3. Fiscal Year

The fiscal year of the Agency shall be fixed by the Members, subject to the applicable law.

Section 4. Powers of the Agency

The Agency shall have all the powers of an Industrial Development Agency authorized by Article 18-A of the General Municipal Law and shall have the power to do all things necessary or convenient to carry out its purposes and exercise the powers authorized herein.

EXHIBIT "D"

PUBLIC HEARING RESOLUTION

RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on November 15, 2016, at 8:30 o'clock a.m. in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

The meeting was called to order by the Chairman and upon the roll being duly called, the following members were:

PRESENT: William Ryan, Catherine Richardson, Esq., Donald Schoenwald, Esq., Steven Thompson, Kenneth Kinsey

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff Present: Honora Spillane, Judith DeLaney, Meghan Ryan, Esq., Susan Katzoff, Esq., John Vavonese, Debra Ramsey-Burns, Meghan Ryan, Esq.; Others: Timothy Lynn, Esq., Barry Lentz, Aggie Lane, Michael Wicker, Dave Delvecchio, Suzanne Slack, Donna Harris, Lauryn LaBorde, Ted Trespasz, Esq., Jeff Githens, Mark Riley, Robert Smith, Esq.; Media Present: Rick Moriarty

The following resolution was offered by M. Catherine Richardson and seconded by Donald Schoenwald:

RESOLUTION DETERMINING THAT THE ACQUISITION, CONSTRUCTION, EQUIPPING AND COMPLETION OF A COMMERCIAL FACILITY AT THE REQUEST OF THE COMPANY CONSTITUTES A PROJECT; DESCRIBING THE FINANCIAL ASSISTANCE IN CONNECTION THEREWITH; AND AUTHORIZING A PUBLIC HEARING

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, for the purpose of promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to grant "financial assistance" (as defined in the Act) in connection with the acquisition, reconstruction and equipping of one or more "projects" (as defined in the Act); and

WHEREAS, by application dated October 20, 2016 (the "**Application**"), BVSHSSF Syracuse, LLC, or an entity to be formed (the "**Company**"), requested the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street, in the City of Syracuse, New York (the "**Land**"); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet consisting of new four and five story buildings for use as a mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces , all located on the Land (collectively, the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as "**SEQRA**"), the Agency is required to make a determination with respect to the environmental impact of any "action" (as said quoted term is defined in SEQRA) to be taken by the Agency and the approval of the Project constitutes such an action; and

WHEREAS, the Agency has not yet made a determination under SEQRA; and

WHEREAS, the Agency has not approved undertaking the Project or granting the Financial Assistance; and

WHEREAS, the Project will not be used primarily for retail; and

WHEREAS, the grant of Financial Assistance to the Project is subject to, among other things, the Agency finding after a public hearing pursuant to Section 859-a of the Act that the Project will serve the public purposes of the Act by promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State or increasing the overall number of permanent, private sector jobs in the State.

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency, as follows:

(1) Based upon the representations made by the Company to the Agency, the Agency makes the following findings and determinations:

(A) The Project constitutes a “project” within the meaning of the Act; and

(B) The Financial Assistance contemplated with respect to the Project consists of assistance in the form of exemptions from real property taxes, State and local sales and use taxation and mortgage recording tax.

(C) The Project will not be used primarily for retail; and

(2) The Agency hereby directs that pursuant to Section 859-a of the Act, a public hearing with respect to the Project and Financial Assistance shall be scheduled with notice thereof published, and such notice, as applicable, shall further be sent to affected tax jurisdictions within which the Project is located.

(3) The Secretary or the Executive Director of the Agency is hereby authorized to and may distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

(4) A copy of this Resolution shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>
William M. Ryan	X	
M. Catherine Richardson	X	
Donald Schoenwald	X	
Steven Thompson	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

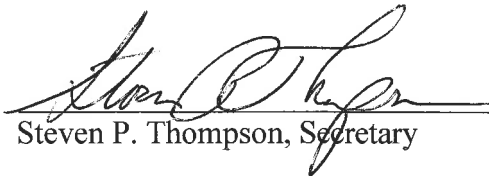
I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on November 15, 2016, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the Agency this 27 day of January, 2017.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(SEAL)

EXHIBIT "E"

**NOTICE OF PUBLIC HEARING WITH EVIDENCE OF PUBLICATION AND COPIES
OF LETTERS TO AFFECTED TAX JURISDICTIONS PURSUANT TO SECTIONS
859-a OF THE ACT**

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Section 859-a of the New York General Municipal Law, will be held by the City of Syracuse Industrial Development Agency (the "Agency") on the 20th day of December, 2016, at 8:30 o'clock a.m., local time, at 233 East Washington Street, Common Council Chambers, City Hall, Syracuse, New York, in connection with the following matter:

BVSHSSF Syracuse, LLC, or an entity to be formed (the "Company"), has requested the Agency undertake a project (the "Project") consisting of: (A)(i) the acquisition of an interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street, in the City of Syracuse, New York (the "Land"); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet consisting of new four and five story buildings for use as a mixed-use student housing complex including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces, all located on the Land (collectively, the "Facility"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "Equipment" and together with the Land and the Facility, the "Project Facility"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the "Financial Assistance"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company shall be the initial owner or operator of the Project Facility.

The Agency will at the above-stated time and place hear all persons with views with respect to the proposed Financial Assistance to the Company, the proposed owner/operator, the location of the Project Facility and the nature of the Project.

A copy of the application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, is available for public inspection during business hours at the office of the Agency located at City Hall Commons, 7th Floor, 201 East Washington Street, Syracuse, New York.

Dated: December 1, 2016

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

The Post-Standard

LEGAL AFFIDAVIT

INV#: 0007949589

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MEDIA GROUP

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BARCLAY DAMON LLP
ONE PARK PLACE
300 S STATE ST
SYRACUSE, NY 13202

Name: BARCLAY DAMON LLP

Sales Rep: Pamela Gallagher

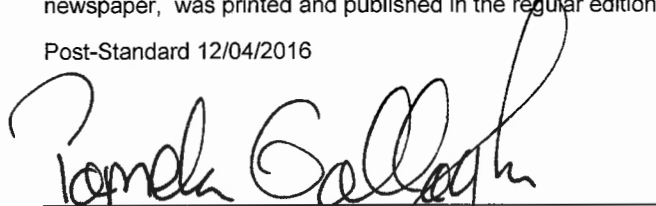
Account Number: 1056027

INV#: 0007949589

Date	Position	Description	P.O. Number	Ad Size
12/04/2016	Other Legals NY	NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN that	matter #3084112	1 x 139.00 CL

State of New York, County of Onondaga ss. Pamela Gallagher, of the City of Syracuse, in said County, being duly sworn, doth depose and says: this person is the Principal Clerk in the office of THE POST-STANDARD, a public newspaper, published in the City of Syracuse, Onondaga County, New York and that the notice, is an accurate and true copy of the ad as printed in said newspaper, was printed and published in the regular edition and issue of said newspaper on the following days, viz.:

Post-Standard 12/04/2016



Pamela Gallagher
Principal Clerk

An Authorized Designee of the President, Timothy R. Kennedy
Subscribed and sworn to before me, this 5th day of December
2016



NOTARY PUBLIC

FOR QUESTIONS CONCERNING THIS AFFIDAVIT,
PLEASE CONTACT PAMELA GALLAGHER AT

HEIDI A. STEPHENS
Notary Public - State of New York
No. 01ST6290718
Qualified in Onondaga County
My Commission Expires: 10/7/2017

Date	Position	Description	P.O. Number	Ad Size
12/04/2016	Other Legals NY	NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN that a	matter #3084112	1 x 139.00 CL

NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN that a public hearing pursuant to Section 859-a of the New York General Municipal Law, will be held by the City of Syracuse Industrial Development Agency (the "Agency") on the 20th day of December, 2016, at 8:30 o'clock a.m., local time, at 233 East Washington Street, Common Council Chambers, City Hall, Syracuse, New York, in connection with the following matter: BVSHSSF Syracuse, LLC, or an entity to be formed (the "Company"), has requested the Agency undertake a project (the "Project") consisting of: (A)(i) the acquisition of an interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street, in the City of Syracuse, New York (the "Land"); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet consisting of new four and five story buildings for use as a mixed-use student housing complex including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces, all located on the Land (collectively, the "Facility"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures, and

equipment (the "Equipment" and together with the Land and the Facility, the "Project Facility"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the "Financial Assistance"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement. The Company shall be the initial owner or operator of the Project Facility. The Agency will at the above-stated time and place hear all persons with views with respect to the proposed Financial Assistance to the Company, the proposed owner/operator, the location of the Project Facility and the nature of the Project. A copy of the application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, is available for public inspection during business hours at the office of the Agency located at City Hall Commons, 7th Floor, 201 East Washington Street, Syracuse, New

York. Dated: December 1, 2016 CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

BARCLAY DAMON^{LLP}

Susan R. Katzoff
Partner

December 1, 2016

VIA CERTIFIED MAIL
7016 1970 0000 3832 9873

Honorable Stephanie A. Miner
Mayor, City of Syracuse
City Hall
233 East Washington Street
Syracuse, New York 13202

VIA CERTIFIED MAIL
7016 1970 0000 3832 9866

Honorable Joanne M. Mahoney
County Executive, Onondaga County
John Mulroy Civic Center, 14th Floor
421 Montgomery Street
Syracuse, New York 13202

Re: City of Syracuse Industrial Development Agency (the "**Agency**")
BVSHSSF Syracuse, LLC (the "**Company**")
BVSHSSF Syracuse, LLC Project

Dear Mayor and County Executive:

Enclosed herewith please find a Notice of Public Hearing in relation to the above-referenced project. The proposed project (the "**Project**") consists of: (A)(i) the acquisition of an interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street, in the City of Syracuse, New York (the "**Land**"); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet consisting of new four and five story buildings for use as a mixed-use student housing complex including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces, all located on the Land (collectively, the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in

December 1, 2016

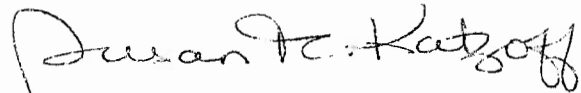
Page 2

connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

General Municipal Law Section 859-a requires that notice of the Public Hearing be given to the chief executive officer of each affected tax jurisdiction in which the Project is located.

As stated in the notice, the public hearing is scheduled for **December 20, 2016** at 8:30 a.m. in the Common Council Chambers at City Hall.

Very truly yours,

A handwritten signature in black ink that reads "Susan R. Katzoff". The signature is written in a cursive style with a large initial 'S'.

Susan R. Katzoff

SRK/llm
Enclosure

cc: Meghan Ryan, Esq., City of Syracuse, via email (w/Enclosure)
Honora Spillane, City of Syracuse Industrial Development Agency, via email (w/Enclosure)
Judy DeLaney, City of Syracuse Industrial Development Agency, via email (w/Enclosure)

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A copy of the application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, is available for public inspection during business hours at the office of the Agency located at City Hall Commons, 7th Floor, 201 East Washington Street, Syracuse, New York.

Dated: December 1, 2016

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Honorable Stephanie A. Miner
 Mayor, City of Syracuse
 233 East Washington Street
 Syracuse, New York 13202



9590 9402 2129 6132 4538 02

Article Number (Transfer from service label)

7016 1970 0000 3832 9873

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Stephanie A. Miner* Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

12-2-16

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt

USPS TRACKING#



9590 9402 2129 6132 4538 02



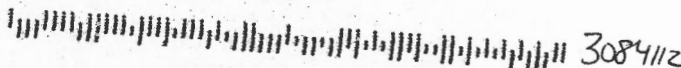
First-Class Mail
 Postage & Fees Paid
 USPS
 Permit No. G-10

United States
Postal Service

* Sender: Please print your name, address, and ZIP+4® in this box*

BARCLAY DAMON, LLP
 Barclay Damon Tower
 125 East Jefferson Street
 Syracuse, NY 13202

Attn: Susan Katzoff, Esq.



7016 1970 0000 3832 9873

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OFFICIAL USE

Certified Mail Fee

- Extra Services & Fees (check box, add fee as appropriate)
- Return Receipt (hardcopy) \$ _____
 - Return Receipt (electronic) \$ _____
 - Certified Mail Restricted Delivery \$ _____
 - Adult Signature Required \$ _____
 - Adult Signature Restricted Delivery \$ _____

Postage

Total Postage and Fees

Sent To

Street and Apt. No., or PO Box No.

City, State, ZIP+4®

Postmark
Here

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Honorable Joanne M. Mahoney
 County Executive, Onondaga County
 John Mulroy Civic Center, 14th Floor
 421 Montgomery Street
 Syracuse, New York 13202



9590 9402 2129 6132 4538 40

2. Article Number (Transfer from service label)

7016 1970 0000 3832 9866

PS Form 3811, July 2015 PSN 7530-02-000-9053

A. Signature

Dana Rompo

Agent

Addressee

B. Received by (Printed Name)

Dana Rompo

C. Date of Delivery

REC 2 2016

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

Adult Signature

Priority Mail Express®

Adult Signature Restricted Delivery

Registered Mail™

Certified Mail®

Registered Mail Restricted Delivery

Certified Mail Restricted Delivery

Return Receipt for Merchandise

Collect on Delivery

Signature Confirmation™

Collect on Delivery Restricted Delivery

Signature Confirmation Restricted Delivery

Insured Mail

Insured Mail Restricted Delivery (over \$500)

Domestic Return Receipt

USPS TRACKING



9590 9402 2129 6132 4538 40



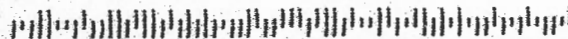
First-Class Mail
 Postage & Fees Paid
 USPS
 Permit No. G-10

United States Postal Service

* Sender: Please print your name, address, and ZIP+4® in this box*

BARCLAY DAMON, LLP
 Barclay Damon Tower
 125 East Jefferson Street
 Syracuse, NY 13202

Attn: Susan Katzoff Esq.



3084112

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Extra Services & Fees (check box, add fee as appropriate)

- Return Receipt (hardcopy) \$ _____
- Return Receipt (electronic) \$ _____
- Certified Mail Restricted Delivery \$ _____
- Adult Signature Required \$ _____
- Adult Signature Restricted Delivery \$ _____

Postage

\$

Total Postage and Fees

\$

Sent To

County Executive

Street and Apt. No., or PO Box No.

City, State, ZIP+4®

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

7016 1970 0000 3832 9866

EXHIBIT "F"

SEQRA RESOLUTION

SEQRA RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on December 20, 2016, at 8:30 o'clock a.m. in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

The meeting was called to order by the Chairman and upon the roll being duly called, the following members were:

PRESENT: William Ryan, Donald Schoenwald, Esq., Steven Thompson, Kenneth Kinsey

EXCUSED: Catherine Richardson, Esq.

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff Present: Honora Spillane, Judith DeLaney, Meghan Ryan, Esq., Susan Katzoff, Esq., John Vavonese, Meghan Ryan, Esq.; Others: Barry Lentz, Paul Curtin, Carol Zenzel, Esq., Timothy Lynn, Esq., Donna Harris, Leann West, Aggie Lane, Michael Wicker, James Trasher, Mark Riley, Rich Punchanski, David Delvecchio, Ed Riley, Richard Engel, Esq., Alex Marion; Media Present: Rick Moriarty

The following resolution was offered by Donald Schoenwald and seconded by Kenneth Kinsey:

RESOLUTION CLASSIFYING A CERTAIN PROJECT AS AN UNLISTED ACTION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT, DECLARING THE AGENCY LEAD AGENCY FOR PURPOSES OF AN UNCOORDINATED REVIEW THEREUNDER AND DETERMINING THAT THE ACTION WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, for the purpose of promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, BVSHSSF Syracuse, LLC, or an entity to be formed (the "**Company**"), by application dated October 20, 2016 (the "**Application**"), requested the Agency undertake a

project (the “**Project**”) consisting of: (A)(i) the acquisition of an interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street, in the City of Syracuse, New York (the “**Land**”); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet containing new four and five story buildings to be used as mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces , all located on the Land (collectively, the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “**SEQRA**”), the Agency is required to make a determination with respect to the environmental impact of any “action” (as defined by SEQRA) to be taken by the Agency and the Project constitutes such an action; and

WHEREAS, to aid the Agency in determining whether the action described above may have a significant adverse impact upon the environment, an Environmental Assessment Form (the “**EAF**”) was prepared, a copy of which is on file at the office of the Agency; and

WHEREAS, the Agency has examined and reviewed the EAF in order to classify the action and make a determination as to the potential significance of the action pursuant to SEQRA; and

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency, as follows:

(1) Based upon an examination of the materials provided by the Company in furtherance of the Project, the criteria contained in 6 NYCRR §617.7(c), and based further upon the Agency’s knowledge of the action and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations pursuant to SEQRA:

(a) The action constitutes an “Unlisted Action” (as said quoted term is defined in SEQRA);

(b) The Agency declares itself “Lead Agency” (as said quoted term is defined in SEQRA) with respect to an uncoordinated review pursuant to SEQRA;

(c) The action will not have a significant effect on the environment, and the Agency hereby issues a negative declaration pursuant to SEQRA, attached hereto as *Exhibit A*, which shall be filed in the office of the Agency in a file that is readily accessible to the public.

(2) A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

(3) This Resolution shall take effect immediately. The Secretary of the Agency is hereby authorized and directed to distribute copies of this Resolution and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>
William Ryan	X	
Donald Schoenwald, Esq.	X	
Steven Thompson	X	
Kenneth Kinsey	X	

The foregoing resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on December 20, 2016, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the Agency this 27 day of January, 2017.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(S E A L)

EXHIBIT "A"

Project:

Date:

**Short Environmental Assessment Form
Part 2 - Impact Assessment**

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Project:	
Date:	

**Short Environmental Assessment Form
Part 3 Determination of Significance**

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

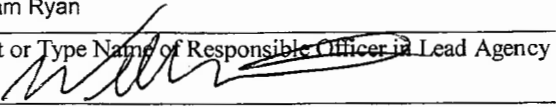
<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input checked="" type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
City of Syracuse Industrial Development Agency	12-20-14
Name of Lead Agency	Date
William Ryan	Chairman
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
	Signature of Preparer (if different from Responsible Officer)
Signature of Responsible Officer in Lead Agency	

EXHIBIT "G"

INDUCEMENT RESOLUTION

INDUCEMENT RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on January 24, 2017 at 8:30 o'clock a.m., local time, in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

The meeting was called to order by the Chairman and upon the roll being duly called, the following members were:

PRESENT: William Ryan, M. Catherine Richardson, Esq., Steven Thompson, Donald Schoenwald, Esq., Kenneth Kinsey

The following persons were **ALSO PRESENT:** Staff Present: Honora Spillane, Judith DeLaney, Meghan Ryan, Esq., Susan Katzoff, Esq., John Vavonese, Debra Ramsey-Burns; Others: Timothy Lynn, Esq., Barry Lentz, Aggie Lane, James Trasher, Paul Curtin, Esq., Carol Zenzel, Esq., Peter King, Lisa Sparks, Neil Patel; Media Present: Rick Moriarty.

The following resolution was offered by Donald Schoenwald and seconded by Kenneth Kinsey:

**RESOLUTION AUTHORIZING THE UNDERTAKING,
ACQUISITION, CONSTRUCTION, EQUIPPING AND
COMPLETION OF A COMMERCIAL FACILITY;
APPOINTING THE COMPANY AS AGENT OF THE
AGENCY FOR THE PURPOSE OF THE ACQUISITION,
CONSTRUCTION, EQUIPPING AND COMPLETION OF
THE PROJECT; AND AUTHORIZING THE
EXECUTION AND DELIVERY OF AN AGREEMENT
BETWEEN THE AGENCY AND THE COMPANY**

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**") to promote, develop, encourage and assist in the acquiring, constructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, lease and sell real property and grant financial assistance in connection with one or more “projects” (as defined in the Act); and

WHEREAS, BVSHSSF Syracuse, LLC, or an entity to be formed (the “*Company*”), by application dated October 20, 2016 (the “*Application*”), requested the Agency undertake a project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street, in the City of Syracuse, New York (the “*Land*”); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet containing new four and five story buildings to be used as mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces , all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency adopted a resolution on November 15, 2016, describing the Project and the proposed financial assistance and authorizing a public hearing (“*Public Hearing Resolution*”); and

WHEREAS, the Agency conducted a public hearing with respect to the Project and the proposed Financial Assistance on December 20, 2016 pursuant to Section 859-a of the Act, notice of which was originally published on December 4, 2016, in the Post-Standard, a newspaper of general circulation in the City of Syracuse, New York and given to the chief executive officers of the affected tax jurisdictions by letters dated December 1, 2016; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “*SEQRA*”), the Agency is required to make a determination whether the “action” (as said quoted term is defined in SEQRA) to be taken by the Agency may have a “significant impact on the environment” (as said quoted term is utilized in SEQRA), and the preliminary agreement of the Agency to undertake the Project constitutes such an action; and

WHEREAS, to aid the Agency in determining whether the Project may have a significant impact upon the environment, the Company has prepared and submitted to the Agency an Environmental Assessment Form (the “*EAF*”), a copy of which is on file at the office of the Agency; and

WHEREAS, the Agency examined the EAF in order to classify the Project and determined that the Project constitutes an “Unlisted Action” as defined under SEQRA; and

WHEREAS, by resolution adopted December 20, 2016 (the “*SEQRA Resolution*”), the Agency determined that the Project will not have a significant adverse effect on the environment and issued a negative declaration; and

WHEREAS, the Agency has considered the policy, purposes and requirements of the Act in making its determinations with respect to taking official action regarding the Project; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the City of Syracuse (the “*City*”); (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act; and (iii) the Project will serve the purposes of the Act by advancing job opportunities and the economic welfare of the people of the State and the City and improve their standard of living.

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency as follows:

Section 1. It is the policy of the State to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, improving, maintaining, equipping and furnishing of certain facilities, including commercial facilities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living.

Section 2. Based upon the representations and projections made by the Company to the Agency, the Agency hereby and makes the following determinations:

- (A) Ratifies the findings in its Public Hearing Resolution and SEQRA Resolution;
- (B) The Project constitutes a “*project*” within the meaning of the Act;

(C) The acquisition of a controlling interest in the Project Facility by the Agency and the designation of the Company as the Agency's agent for completion of the Project will be an inducement to the Company to acquire, construct, equip and complete the Project Facility in the City, and will serve the purposes of the Act by, among other things, advancing job opportunities, the standard of living and economic welfare of the inhabitants of the City;

(D) The Project will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act.

Section 3. As a condition to the extension of State and local sales and use tax exemption benefits, and the Company's appointment as provided herein, the Company agrees to execute an agreement with the Agency setting forth the preliminary undertakings of the Agency and the Company with respect to the Project. The form and substance of the proposed agreement (as set forth as on **Exhibit "A"** attached hereto and presented at this meeting) (the "**Agreement**") are hereby approved. The Chairman or Vice Chairman of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, in substantially the same form as presented at this meeting and attached hereto as **Exhibit "A"**, with changes in terms and form as shall be consistent with this Resolution and as the Chairman or Vice Chairman shall approve. The execution thereof by the Chairman or Vice Chairman shall constitute conclusive evidence of such approval.

Section 4. Subject to the terms of this Resolution and the conditions set forth in the Agreement, the Agency will: (i) acquire an interest in the Land and Facility pursuant to a lease agreement (the "**Lease**") to be entered into between the Company and the Agency; accept an interest in the Equipment pursuant to a bill of sale from the Company (the "**Bill of Sale**"); (ii) sublease the Project Facility to the Company pursuant to a sublease agreement (the "**Sublease**" and with the Lease and the Bill of Sale, the "**Lease Documents**") to be entered into between the Agency and the Company; (iii) execute the Project Agreement (as set forth below); (iv) grant the approved Financial Assistance; and (v) provided that no default shall have occurred and be continuing under the Agreement (as defined herein) and provided the Company has executed and delivered all documents and certificates required by the Agency in conjunction with the Agency's undertaking of the Project, execute and deliver all other certificates and documents necessary or appropriate for the grant of the approved Financial Assistance or requested by the Agency, in form and substance acceptable to the Agency.

Section 5. Subject to the due execution and delivery by the Company of the Agreement, the satisfaction of the conditions of this Resolution and the Agreement, and the payment by the Company of any attendant fees, the Company and its designees, are appointed the true and lawful agent of the Agency to proceed with the construction, equipping and completion of the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf. The appointment made by this Section 5, and the conference of any approved Financial Assistance, shall not be effective until the Company and the Agency have

executed and delivered a project agreement in substantially the same form used by the Agency in similar transactions (the "**Project Agreement**"). The amount of State and local sales and use tax exemption benefits comprising the Financial Assistance approved herein shall not exceed **\$1,360,000**.

Section 6. The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Company shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from State and local sales and use tax exemptions benefits.

Section 7. The Company may utilize, and is hereby authorized to appoint, a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "**Additional Agents**") to proceed with the acquisition, construction, renovation, equipping and completion of the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf, provided the Company execute, deliver and comply with the Agreement. The Company shall provide, or cause its Additional Agents to provide, and the Agency shall maintain, records of the amount of State and local sales and use tax exemption benefits provided to the Project and the Company shall, and cause each Additional Agent, to make such records available to the State Commissioner of Taxation and Finance (the "**Commissioner**") upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company or Project's receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause its Additional Agents to make, all records and information regarding State and local sales and use tax exemption benefits realized by the Project available to the Agency or its designee upon request. for purposes of exemption from New York State (the "**State**") sales and use taxation as part of the Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

Section 8. The Chairman and/or Vice Chairman of the Agency, acting individually, are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the documents and agreements identified herein and any such additional certificates, instruments, documents or affidavits, to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred herein and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this Resolution and the Agreement.

Section 9. The obligation of the Agency to consummate any transaction contemplated herein or hereby is subject to and conditioned upon the Agency's approval of the Financial Assistance and the Company's execution and delivery of, among other things, the

Agreement, the Project Agreement and an Environmental Compliance and Indemnification Agreement in favor of the Agency in form and substance acceptable to the Agency and its counsel, in the discretion of the Chairman and/or Vice Chairman of the Agency.

Section 10. No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

Section 11. Should the Agency's participation in the Project, or the appointments made in accordance herewith, be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursement of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under the Act to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

Section 12. Counsel to the Agency is hereby authorized to work with the Company and others to prepare for submission to the Agency, all documents necessary to effect the grant of Financial Assistance and consummate the Lease Documents.

Section 13. The Secretary and/or the Executive Director of the Agency are hereby authorized and may distribute copies of this Resolution and do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 14. This Resolution shall take effect immediately. A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>
William M. Ryan	X	
M. Catherine Richardson	X	
Steven Thompson	X	
Donald Schoenwald	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)


I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on January 24, 2017, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the Agency this 28th day of February, 2017.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(SEAL)

EXHIBIT "A"

AGENCY/COMPANY AGREEMENT

THIS AGREEMENT is between **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY** (the "**Agency**"), with an office at 201 East Washington Street, 7th Floor, Syracuse, New York 13202 and **BVSHSSF SYRACUSE, LLC**, with a mailing address of 353 North Clark Street, Chicago, Illinois 60654 (the "**Company**").

Article 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this agreement are the following:

1.01. The Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, and Chapter 641 of the Laws of 1979 of the State (collectively, the "**Act**") to designate an agent for constructing, renovating and equipping "projects" (as defined in the Act).

1.02. The purposes of the Act are to promote, attract, encourage and develop recreation and economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes, including the power to acquire and dispose of interests in real property and to appoint agents for the purpose of completion of projects undertaken by the Agency.

1.03. The Company, by application dated October 20, 2016 (the "**Application**"), requested the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street, in the City of Syracuse, New York (the "**Land**"); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet containing new four and five story buildings to be used as mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces , all located on the Land (collectively, the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of

exemptions from real property tax, State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

1.03(a). All documents necessary to effectuate the Agency’s undertaking of the Project and the granting of the Financial Assistance between the Agency and the Company, including but not limited to, a project agreement, a company lease, an agency lease, a bill of sale and an environmental compliance and indemnification agreement, shall be collectively referred to herein as the “*Lease Documents*”.

1.04. The Company hereby represents to the Agency that undertaking the Project, the designation of the Company as the Agency’s agent for the construction, equipping and completion of the Project Facility, and the use and appointment, as necessary, by the Company of a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, “*Additional Agents*”): (i) will be an inducement to it to construct and equip the Project Facility in the City of Syracuse (the “*City*”); (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or of any other proposed occupant of the Project Facility from one area of the State to another or in the abandonment of one or more plants or facilities of the Company or of any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act; and (iii) undertaking the Project Facility will promote, create and/or preserve private sector jobs in the State. The Company hereby further represents to the Agency that the Project Facility is not primarily used in making retail sales to customers who personally visit the Facility.

1.05. The Agency has determined that the acquisition of a controlling interest in, and the construction and equipping of the Project Facility and the subleasing of the same to the Company will promote and further the purposes of the Act.

1.06. On January 24, 2017, the Agency adopted a resolution (the “*Inducement Resolution*”) agreeing, subject to the satisfaction of all conditions precedent set forth in such Resolution, to designate the Company as the Agency’s agent for the acquisition, construction and equipping of the Project Facility and determining that the leasing of the same to the Company will promote further purposes of the Act. For purposes of that designation, the Agency authorized as part of the approved Financial Assistance, State and local sales and use tax exemption benefits in an amount not exceed **\$1,360,000**.

1.07. In the Resolution, subject to the execution of, and compliance with, this Agreement by the Company, the execution and delivery of a project agreement by the Company, and other conditions set forth in the Resolution and herein, the Agency appointed the Company

as its agent for the purposes of construction and equipping the Project Facility, entering into contracts and doing all things requisite and proper for construction and equipping the Project Facility.

Article 2. Undertakings on the Part of the Agency. Based upon the statement, representations and undertakings of the Company and subject to the conditions set forth herein, the Agency agrees as follows:

2.01. The Agency confirms that it has authorized and designated, pursuant to the terms hereof, the Company as the Agency's agent for constructing and equipping the Project Facility.

2.02. The Agency will adopt such proceedings and authorize the execution of such Agency documents as may be necessary or advisable for: (i) acquisition of a controlling interest in the Project Facility; (ii) designation by the Company of Additional Agents for construction and equipping of the Project Facility subject to the terms hereof; and (iii) the leasing or subleasing of the Project Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

2.03. Nothing contained in this Agreement shall require the Agency to apply its funds to Project costs.

2.04. After satisfying the conditions precedent set forth in the Sections 2.05, 3.06 and 4.02 hereof and in the Inducement Resolution, the Company may proceed with the construction and equipping of the Project Facility and the utilization of and, as necessary the appointment of, Additional Agents.

2.05. Subject to the execution of the Lease Documents and Section 4.02 hereof, the Company is appointed the true and lawful agent of the Agency: (i) for the construction and equipping of the Project Facility; and (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for the construction and equipping of the Project Facility, all with the same powers and the same validity as if the Agency were acting in its own behalf.

2.06. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof. The Agency may in accordance with Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as "**SEQRA**"), undertake supplemental review of the Project. Such review to be limited to specific significant adverse environmental impacts not addressed or inadequately addressed in the Agency's review under SEQRA that arise from changes in the proposed Project, newly discovered information or a change in the circumstances related to the Project.

Article 3. Undertakings on the Part of the Company. Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein the Company agrees as follows:

3.01. (a) The Company shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition of a controlling interest in, and construction and equipping of the Project Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), whether such claims or liabilities arise as a result of the Company or Additional Agents acting as agent for the Agency pursuant to this Agreement or otherwise.

(b) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove, any mechanics' or other liens against the Project Facility for labor or material furnished in connection with the acquisition, construction and equipping of the Project Facility.

(c) The Company shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation to the Project Facility, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(d) The Company shall defend, indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on the non-disclosure of information, if any, requested by the Company in accordance with Section 4.05 hereof.

(e) The defense and indemnities provided for in this Article 3 shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

(f) The Company shall provide and carry: (i) worker's compensation and disability insurance as required by law; and (ii) comprehensive liability and property insurance with such coverages (including without limitation, owner's protective coverage for the benefit of the Agency, naming the Agency as an additional insured on all policies of coverage regarding the Project; providing the coverage with respect to the Agency be primary and non-contributory; and contractual coverage covering the indemnities herein provided for), with such limits and which

such companies as may be approved by the Agency. Upon the request of the Agency, the Company shall provide certificates, endorsements, binders and/or policies of insurance in form satisfactory to the Agency evidencing such insurance.

(g) The Company shall apply and diligently pursue all approvals, permits and consents from the State of New York, the City, the City Planning Commission and any other governmental authority which approvals, permits and consents are required under applicable law for the development, construction and equipping of the Project and any related site improvements. The Company acknowledges and agrees that the Agency's findings and determinations under SEQRA do not and shall not in and of themselves (except as specifically set forth in SEQRA) satisfy or be deemed to satisfy applicable laws, regulations, rules and procedural requirements applicable to such approvals, permits and consents.

(h) The Company shall complete a Contractor Status Report to be obtained from the City of Syracuse Industrial Development Agency and agrees to utilize, and cause its Additional Agents to utilize, local contractors and suppliers for the construction, equipping and completion of the Project unless a waiver is received from the Agency in writing. For purposes of this Agency Agreement, the term "**Local**" shall mean Onondaga, Oswego, Oneida, Madison, Cayuga and Cortland Counties. The Company agrees that such Local contractors shall be provided the opportunity to bid on contracts related to the Project Facility.

3.02. The Company agrees that, as agent for the Agency or otherwise, it will comply at the Company's sole cost and expense with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or Company with respect to the Project Facility, the acquisition of a controlling interest therein, construction and equipping thereof, the operation and maintenance of the Project Facility, supplemental review of adverse environmental impacts in accordance with SEQRA and the financing of the Project. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full, including, but not limited to, Section 875 of the Act; and upon the request of either party, this Agreement shall be amended to specifically set forth any such provision or provisions.

3.03. The Company agrees that, as agent for the Agency or otherwise, to the extent that such provisions of law are in fact applicable (without creating an obligation by contract beyond that which is created by statute) it will comply with the requirements of Section 220 of the Labor Law of the State of New York, as amended.

3.04. The Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.05. If it should be determined that any State or local sales or compensatory use taxes are payable with respect to the acquisition, purchase or rental or machinery or equipment, materials or supplies in connection with the Project Facility, or are in any manner otherwise

payable directly or indirectly in connection with the Project Facility, the Company shall pay the same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.06 The Company shall proceed with the acquisition, construction, equipping and completion of the Project Facility and advance such funds as may be necessary to accomplish such purposes. The Company may appoint Additional Agents as agents of the Agency in furtherance thereof. Any appointment of an Additional Agent is conditioned upon the Company first obtaining and providing the Agency the following:

(1) A written, executed agreement, in form and substance acceptable to the Agency, from each Additional Agent which provides for the assumption by the Additional Agent, for itself, certain of the obligations under this Agreement relative to the appointment, work and purchases done and made by each Additional Agent; (ii) a commitment to utilize local contractors and suppliers for the construction and equipping of the Project (“local” being defined in Section 3.01(h) hereof); (iii) an acknowledgement that the Additional Agent is obligated, to timely provide the Company with the necessary information to permit the Company, pursuant to General Municipal Law §874(8), to timely file an Annual Statement with the Agency and the New York State Department of Taxation and Finance on “Annual Report of Sales and Use Tax Exemptions” (Form ST-340) regarding the value of sales and use tax exemptions the Additional Agent claimed pursuant to the agency conferred on it by the Company with respect to this Project; (iv) an acknowledgment by the Additional Agent that the failure to comply with the foregoing will result in the loss of the exemption; and (v) such other terms and conditions as the Agency deems necessary; and

(2) A completed “IDA Appointment of Project Operator or Agent for Sales Tax Purposes” (Form ST-60) for each Additional Agent appointed within fifteen (15) days of the appointment of each Additional Agent such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment of each such Additional Agent.

Failure of the Company to comply with the foregoing shall nullify the appointment of any Additional Agent and may result in the loss of the Company’s exemption with respect to the Project at the sole discretion of the Agency.

The Company acknowledges that the assumption by the Additional Agent in accordance with Section 3.06(1) above, does not relieve the Company of its obligations under those provisions or any other provisions of this Agreement with respect to the Project.

3.07 The Company ratifies and confirms its obligations to pay an annual administrative reporting fee in accordance with the Agency’s fee schedule to cover administrative and reporting requirements to comply with New York State reporting regulations on Agency assisted projects.

Article 4. General Provisions.

4.01. This Agreement shall take effect on the date of the execution hereof by the Agency and the Company and, subject to Section 4.04 hereof, shall remain in effect until the Lease Documents become effective. It is the intent of the Agency and the Company that, except as to those provisions that survive, this Agreement be superseded in its entirety by the Lease Documents.

4.02. (a) It is understood and agreed by the Agency and the Company that the grant of Financial Assistance and the execution of the Lease Documents and related documents are subject to: (i) payment by the Company of the Agency's fee and Agency's counsel fees; (ii) obtaining all necessary governmental approvals, permits and consents of any kind required in connection with the Project Facility; (iii) approval by the members of the Agency; (iv) approval by the Company; and (v) the condition that there are no changes in New York State Law, including regulations, which prohibit or limit the Agency from fulfilling its obligations hereunder; (b) the Company, by executing this agreement, acknowledges and agrees to make, or cause its Additional Agents to make, all records and information regarding State and local sales and use tax exemption benefits given to the Project as part of the Financial Assistance available to the Agency upon request, including but not limited to the Form ST-340 for itself and each Additional Agent; (c) the Company, by executing this Agreement, acknowledges and agrees to the terms and conditions of Section 875(3) of the Act as if such section were fully set forth herein and further agrees to cause all of its Additional Agents to acknowledge, agree and consent to same. Without limiting the scope of the foregoing the Company acknowledges that pursuant to Section 875(3) of the Act, and in accordance with the Agency's Recapture of Benefits Policy, the Agency shall, and in some instances may, recover, recapture, receive or otherwise obtain from the Company some or all of the Financial Assistance (the "**Recapture Amount**") including, but not limited to: (1) (a) that portion of the State and local sales and use tax exemption to which the Company was not entitled, which is in excess of the amount of the State and local sales and use tax exemption authorized by the Agency or which is for property or services not authorized by the Agency; or (b) the full amount of such State and local sales and use tax exemption, if the Company fails to comply with a material term or condition regarding the use of the property or services as represented to the Agency in its Application or otherwise; or (c) the full amount of such State and local sales and use tax exemption in the event the Company fails to execute and deliver the Lease Documents in accordance herewith or fails to complete the Project; and (2) any interest or penalties thereon imposed by the Agency or by operation of law or by judicial order or otherwise; and (d) the failure of the Company to promptly pay such Recapture Amount to the Agency will be grounds for the Commissioner to collect sales and use taxes from the Company under Article 28 of the State Tax Law, together with interest and penalties. In addition to the foregoing, the Company acknowledges and agrees that for purposes of exemption from New York State (the "**State**") sales and use taxation as part of the Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight. In addition to the foregoing, the Agency may recapture other benefits comprising

the Financial Assistance in accordance with the Agency's Recapture Policy (a copy of which is on the Agency's website).

4.03. The Company agrees that it will, within thirty (30) days of a written request for same, regardless of whether or not this matter closes or the Project Facility is completed: (i) reimburse the Agency for all reasonable and necessary expenses, including without limitation the fees and expenses of counsel to the Agency arising from, out of or in connection with the Project, and/or any documents executed in connection therewith, including, but not limited to any claims or actions taken by the Agency against the Company, Additional Agents or third parties; and (ii) indemnify the Agency from all losses, claims, damages and liabilities, in each case which the Agency may incur as a consequence of executing this Agreement or performing its obligations hereunder, including but not limited to, any obligations related to Additional Agents.

4.04. If for any reason the Lease Documents are not executed and delivered by the Company and the Agency on or before **January 24, 2018**, the provisions of this Agreement (other than the provisions of Articles 1.04, 2.02, 2.04, 3.01, 3.02, 3.03, 3.05, 3.06, 4.02, 4.03, 4.04, 4.05 and 4.06, which shall survive) shall unless extended by agreement of the Agency and the Company, terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

(a) The Company shall pay the Agency for all expenses incurred by the Agency in connection with the acquisition, construction and equipping of the Project Facility;

(b) The Company shall assume and be responsible for any contracts for the construction or purchase of equipment entered into by the Agency at the request of or as agent for the Company in connection with the Project Facility; and

(c) The Company will pay the out-of-pocket expenses of members of the Agency and counsel for the Agency incurred in connection with the Project Facility and will pay the fees of counsel for the Agency for legal services relating to the Project Facility, Additional Agents or the proposed financing thereof.

4.05. **The Company acknowledges that Section 875(7) of the New York General Municipal Law ("GML") requires the Agency to post on its website all resolutions and agreements relating to the Company's appointment as an agent of the Agency or otherwise related to the Project, including this Agreement; and Article 6 of the New York Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Company feels that there are elements of the Project or information about the Company in the Agency's possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the Company's competitive position, the Company must identify such elements in writing, supply same to the Agency: (i) with respect to this Agreement, prior to or contemporaneously with the execution hereof; and (ii) with respect to all other agreements**

executed in connection with the Project, on or before the Closing Date, and request that such elements be kept confidential in accordance with Article 6 of the Public Officers Law. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the GML.

4.06 That every controversy, dispute or claim arising out of or relating to this Agreement shall be governed by the laws of the State of New York, without regard to its conflict-of-laws provisions that if applied might require the application of the laws of another jurisdiction; and that the Company irrevocably and expressly submits to the exclusive personal jurisdiction of the Supreme Court of the State of New York and the United States District Court for the Northern District of New York, to the exclusion of all other courts, for the purposes of litigating every controversy, dispute or claim arising out of or relating to this Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the 24th day January, 2017.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
William M. Ryan, Chairman

BVSHSSF SYRACUSE, LLC

By: _____
Name: _____
Title: _____

EXHIBIT "H"

FINAL APPROVING RESOLUTION

FINAL APPROVING RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on January 24, 2017 at 8:30 o'clock a.m., local time, in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

The meeting was called to order by the Chairman and upon the roll being duly called, the following members were:

PRESENT: William Ryan, M. Catherine Richardson, Esq., Steven Thompson, Donald Schoenwald, Esq., Kenneth Kinsey

The following persons were **ALSO PRESENT:** Staff Present: Honora Spillane, Judith DeLaney, Meghan Ryan, Esq., Susan Katzoff, Esq., John Vavonese, Debra Ramsey-Burns; Others: Timothy Lynn, Esq., Barry Lentz, Aggie Lane, James Trasher, Paul Curtin, Esq., Carol Zenzel, Esq., Peter King, Lisa Sparks, Neil Patel; Media Present: Rick Moriarty.

The following resolution was offered by Donald Schoenwald and seconded by M. Catherine Richardson:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS BY THE AGENCY IN CONNECTION WITH A COMMERCIAL PROJECT UNDERTAKEN AT THE REQUEST OF THE COMPANY

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, for the purpose of promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, BVSHSSF Syracuse, LLC, or an entity to be formed (the "**Company**"), by application dated October 20, 2016 (the "**Application**"), requested that the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street, in the City of Syracuse, New York (the "**Land**"); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet consisting of new four and five story buildings for use as a mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square

feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces , all located on the Land (collectively, the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency conducted a public hearing with respect to the Project and the proposed Financial Assistance on December 20, 2016 pursuant to Section 859-a of the Act, notice of which was originally published on December 4, 2016, in the Post-Standard, a newspaper of general circulation in the City of Syracuse, New York and given to the chief executive officers of the affected tax jurisdictions by letters dated December 1, 2016; and

WHEREAS, pursuant to Article 8 of the State Environmental Conservation Law, as amended and the regulations promulgated thereunder (collectively “**SEQRA**”), the Agency is required to make a determination with respect to the environmental impact of any “action” (as defined by SEQRA) to be taken by the Agency and the approval of the Project and grant of Financial Assistance constitute such an action; and

WHEREAS, the Agency adopted a resolution on December 20, 2016 (the “**SEQRA Resolution**”) entitled:

RESOLUTION CLASSIFYING A CERTAIN PROJECT AS AN UNLISTED ACTION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT, DECLARING THE AGENCY LEAD AGENCY FOR PURPOSES OF AN UNCOORDINATED REVIEW THEREUNDER AND DETERMINING THAT THE ACTION WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

which resolution is in full force and effect and has not been amended or modified; and

WHEREAS, the Agency adopted a resolution on January 24, 2017 (the “**Inducement Resolution**”) entitled:

RESOLUTION AUTHORIZING THE UNDERTAKING, ACQUISITION, CONSTRUCTION, EQUIPPING AND COMPLETION OF A COMMERCIAL FACILITY;

APPOINTING THE COMPANY AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, EQUIPPING AND COMPLETION OF THE PROJECT; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BETWEEN THE AGENCY AND THE COMPANY

which resolution is in full force and effect and has not been amended or modified; and

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency, as follows:

Section 1. Based upon the representations made by the Company to the Agency and after consideration of the comments received at the public hearing, if any, the Agency hereby ratifies all of its prior resolutions adopted in conjunction with the Project, including but not limited to the SEQRA Resolution, the Inducement Resolution and all other action with respect to the Project and Financial Assistance taken by the Agency, and makes the following findings and determinations:

(a) The acquisition of a controlling interest in the Project Facility by the Agency, the granting of the Financial Assistance and the designation of the Company as the Agency's agent for completion of the Project will be an inducement to, and permit the Company to develop and operate the Project Facility in the City of Syracuse, thus serving the public purposes of Article 18-A of the General Municipal Law of New York State by promoting and preserving the job opportunities, general prosperity, health and economic welfare of the inhabitants of the City of Syracuse (the "**City**") in furtherance of the purposes of the Act.

(b) The Project will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act.

(c) The commitment of the Agency to provide Financial Assistance to the Company will enable and induce the Company to acquire, construct, equip and complete the Project Facility.

(d) The acquisition, construction, equipping and completion of the Project Facility and the attendant promotion of the local economy will advance the job opportunities, health, prosperity and economic welfare of the people of the City and the granting of the Financial Assistance is a necessary component to the financing of the Project.

(e) The Project Facility constitutes a "project" within the meaning of the Act.

(f) It is desirable and in the public interest for the Agency to grant Financial Assistance in connection with the Project.

Section 2. It is the policy of the State to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. The Project will serve the public purposes of Article 18-A of the General Municipal Law of the State of New York by advancing job opportunities and promoting economic development.

Section 3. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, improving, maintaining, equipping and furnishing of certain facilities, including commercial facilities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living.

Section 4. Subject to the conditions set forth in this and prior resolutions adopted by the Agency, the Project Agreement, and the Agreement (each as defined in the Inducement Resolution), the Agency will: (A) acquire a controlling interest in the Project Facility; (B) lease the Land and Facility from the Company pursuant to a lease agreement between the Agency and the Company (the “*Company Lease*”); acquire an interest in the Equipment pursuant to a bill of sale from the Company (the “*Bill of Sale*”); and sublease the Project Facility to the Company pursuant to a sublease agreement (the “*Agency Lease*”); (C) secure the Company’s borrowings with respect to the Project Facility by joining in one or more construction or permanent mortgages on the Project Facility in favor of the Company’s lenders(s); (D) provide the approved Financial Assistance; and (E) execute and deliver any other documents necessary to effectuate the actions contemplated by and consistent with this Resolution upon the advice of counsel to the Agency.

Section 5. The Chairman, Vice Chairman and any authorized representative of the Agency, acting individually, are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the documents and agreements identified in Section 4 of this Resolution, as well as the Lease Documents (as defined in the Inducement Resolution) and any such additional certificates, instruments, documents or affidavits, to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred to in Section 4 of this Resolution and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this Resolution.

Section 6. The Agency’s participation in any of the documents referenced herein and in the Inducement Resolution, or the granting of the approved Financial Assistance, is contingent upon counsel for the Agency’s review and the Chairman or Vice Chairman’s approval of, all documents requested or required by the Agency in connection with the Project Facility, as

well as the Company's execution of the Agreement (as defined in the Inducement Resolution) and all other documents required by the Agency to effectuate the intent of this Resolution and as required in similar transactions.

Section 7. No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

Section 8. Counsel to the Agency is hereby authorized to work with the Company and others to prepare, for submission to the Chairman and/or Vice Chairman, all documents necessary to effect the undertaking of the Project and the grant of Financial Assistance in connection with the Project.

Section 9. The approvals provided for herein are contingent upon the Company's payment of all of the Agency's fees and costs, including but not limited to attorneys fees.

Section 10. The Secretary and/or Executive Director of the Agency is hereby authorized to distribute copies of this Resolution and do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 11. This Resolution shall take effect immediately. A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>
William M. Ryan	X	
M. Catherine Richardson	X	
Steven Thompson	X	
Donald Schoenwald	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) **SS.:**
COUNTY OF ONONDAGA)

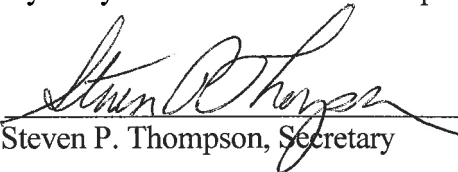
I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on January 24, 2017, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the Agency this ___ day of February, 2017.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(S E A L)

20

AFFIDAVIT RE: MORTGAGE TAX EXEMPTION

STATE OF NEW YORK)
)
COUNTY OF ONONDAGA) **SS.**

WILLIAM M. RYAN, being duly sworn, deposes and says:

He is Chairman of the City of Syracuse Industrial Development Agency (the “**Agency**”).

The Agency is an industrial development agency duly established under Title I of Article 18-A of the General Municipal Law of the State of New York (the “**State**”), as amended, and Chapter 641 of the Laws of 1979 of the State (collectively, the “**Act**”), and it is a corporate governmental agency constituting a public benefit corporation of the State.

On or about January 24, 2017 the Agency adopted a resolution at the request of BVSHSSF Syracuse, LLC (the “**Applicant**” and/or “**Company**”) agreeing to undertake a project (the “**Project**”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street), in the City of Syracuse, New York (the “**Land**”); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet containing new four and five story buildings to be used as mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces, all located on the Land (collectively, the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company and the Agency are mortgaging their respective interests in the improved real property described on **Exhibit “A”** to: Citizens Bank, National Association (the “**Mortgagee**”), pursuant to a certain Building Loan Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated May 19, 2017 in the amount of \$47,371,216.00 (the “**Building Loan Mortgage**”), a Project Loan Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated May 19, 2017 in the amount of \$2,863,917.00 (the “**Project Loan Mortgage**” and together with the Building Loan Mortgage, the “**Mortgages**”), an Assignment of Leases and Rents dated May 19, 2017 (“**Assignment of Leases and Rents**”) and a

Project Loan Assignment of Leases and Rents dated May 19, 2017 (the “***Project Loan Assignment of Leases and Rents***” and together with the Assignment of Leases and Rents, the “***Assignments of Leases and Rents***”). The Mortgages are pledged to secure notes given by the Company to the Mortgagee.

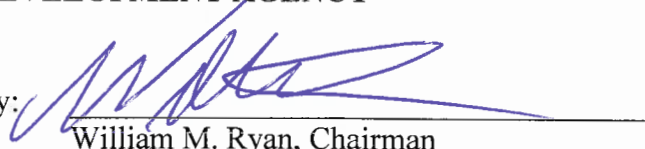
Pursuant to Article 18-A of the New York General Municipal Law, as amended from time to time (the “***Act***”), the Agency is regarded as performing a governmental function and is generally not required to pay taxes or assessments upon any property acquired by it or under its jurisdiction, control or supervision or upon its activities.

Deponent submits that no mortgage tax, should be imposed upon the Mortgages and the Assignments of Rents, insomuch as the Mortgages and the Assignments of Rents are being executed and delivered under the State authority creating the Agency, insomuch as the use by the Agency of its powers to secure the payment of principal and interest on the loan is deemed by Article 18-A public purpose essential to the public interest, and insomuch as both the New York State Department of Taxation and Finance and Counsel to the New York State Department of Taxation and Finance have expressed their opinion that the recording of similar documents by similar agencies organized under Article 18-A of the New York General Municipal Law are operations of said agencies entitled to exemption from the mortgage recording tax.

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**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By:



William M. Ryan, Chairman

Subscribed and sworn to before me
this 9th day of May, 2017.



Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 2018

EXHIBIT A

LEGAL DESCRIPTION

NEW LOT No. 100, RESUBIVISION OF PART OF LOT Nos. 18, 19, 21, LOT Nos. 22, 23, 24, 25, 26, 27 & 28 AND ADDITIONAL LANDS PART OF BLOCK No. 240, CITY OF SYRACUSE

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block No. 240 in said City, being New Lot No. 100 of Resubivision of Part of Lot Nos. 18, 19, 21, Lot Nos. 22, 23, 24, 25, 26, 27 & 28 and additional lands according to a map by Ianuzi & Romans Land Surveying, P.C. dated August 11, 2016, last revised December 12, 2016 filed in the Onondaga County Clerk's Office on February 28, 2017, as Map No. 12334, bounded and described as follows:

Beginning at the intersection of the northerly boundary of East Genesee Street with the westerly boundary of South Crouse Avenue (Chestnut Street, formerly), said point being the southeasterly corner of said Block No. 240; running thence N 83°37'20" W along said northerly boundary of East Genesee Street, a distance of 155.32 feet to the easterly boundary of lands conveyed to Caserta, LLC by deed recorded in the Onondaga County Clerk's Office in Book 4912 of Deeds at page 523; thence N 00°29'40" E along said easterly boundary of lands conveyed to Caserta, LLC, a distance of 84.87 feet to the northeasterly corner thereof; thence N 89°30' 50" W along the northerly boundary of said lands conveyed to Caserta, LLC, a distance of 100.51 feet to the easterly boundary of Irving Avenue; thence N 00°29'40" E along said easterly boundary of Irving Avenue, a distance of 240.42 feet to a southerly boundary of lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 69; thence S 89°30'50" E along said southerly boundary

of lands conveyed to 900 East Fayette Group, LLC, a distance of 123.01 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC, a distance of 65.00 feet to a southwesterly corner of other lands conveyed to 900 East Fayette Group, LLC by deed recorded in the Onondaga County Clerk's Office in Book 5270 of Deeds at page 78; thence S 89°30'50" E along the southerly boundary of said other lands conveyed to 900 East Fayette Group, LLC and along a southerly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 42.0 feet to a southeasterly corner thereof; thence N 00°29'40" E along an easterly boundary of said lands conveyed to 900 East Fayette Group, LLC by deed recorded in Book 5270 of Deeds at page 69, a distance of 100.0 feet to the southerly boundary of East Fayette Street; thence S 89°30'50" E along said southerly boundary of East Fayette Street, a distance of 90.0 feet to the aforementioned westerly boundary of South Crouse Avenue (Chestnut Street, formerly); thence S 00°29'40" W along said westerly boundary of South Crouse Avenue (Chestnut Street, formerly), a distance of 506.23 feet to the point of beginning.

Section: 48

Block: 5

Lot: 05.1 [formerly lots 4.0, 5.0, 6.0, 10.0, 11.0, 12.0 and 13.0]

Common Address: 919 East Genesee Street, Syracuse, New York

21

**GENERAL CERTIFICATE OF
BVSHSSF SYRACUSE, LLC**

This certificate is made in connection with the execution by BVSHSSF Syracuse, LLC, a Delaware limited liability company authorized to do business in the State of New York (the “**Company**”) of the Project Agreement, the Company Lease, the Agency Lease, the Mortgage, the Environmental Compliance and Indemnification Agreement and any other document now or hereafter executed by the Company in connection with the City of Syracuse Industrial Development Agency (the “**Agency**”) agreeing, at the Company’s request, to undertake a project (the “**Project**”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street), in the City of Syracuse, New York (the “**Land**”); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet containing new four and five story buildings to be used as mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces , all located on the Land (collectively, the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Project Facility is owned by the Company. The Company will sublease the Land and Facility to the Agency pursuant to a Company Lease Agreement dated as of May 1, 2017 (the “**Company Lease**”) and transfer its interest in the Equipment to the Agency pursuant to a bill of sale dated as of May 1, 2017 (the “**Bill of Sale**”) and the Agency will sublease the Project Facility back to the Company pursuant to an Agency Lease Agreement dated as of May 1, 2017 (the “**Agency Lease**”).

Capitalized terms used herein which are not otherwise defined herein shall have the meanings ascribed to such terms in the Agency Lease, except that, for purposes of this certificate: (A) all definitions with respect to any document shall be deemed to refer to such document only as it exists as of the date of this Certificate and not as of any future date; and (B) all definitions with respect to any Person shall be deemed to refer to such Person only as it exists as of the date of this certificate and not as of any future date or to any successor or assign.

The undersigned does hereby certify as follows:

1. Attached hereto as **Exhibit "A"** is a true, correct and complete copy of the Certificate of Formation of the Company and any amendments thereto filed with the Delaware State Secretary of State with proof of publication thereof attached thereto, which Certificate of Formation (including any amendments) are in full force and effect on the date hereof.

2. Attached hereto as **Exhibit "B"** is a true, correct and complete copy of the Company's Limited Liability Company Agreement, and any amendments thereto, and such Limited Liability Company Agreement, as may have been amended, is in full force and effect on the date hereof.

3. The Company is, and at all times will be, a limited liability company, duly organized, validly existing and in good standing under the laws of Delaware State and authorized and licensed under the laws of New York State to transact business as a business corporation for the purpose of owning and operating the Project Facility in New York. Attached hereto as **Exhibit "C"** is a true and correct copy of a Certificate of Good Standing of the Company issued by the Delaware State Secretary of State and the New York State Secretary of State.

4. The Company has full legal right, power and authority to execute and deliver the Company Documents and to consummate the transactions on the part of the Company contemplated by the Company Documents. The Company Documents have been duly authorized, executed, and delivered by the Senior Vice President of Blue Vista Student Housing Select Strategies Manager, LLC, as manager of BVSHSSF REIT, LLC, as sole member of the Company and are in full force and effect as of the date hereof. Attached hereto as **Exhibit "D"** is a true, correct and complete copy of the authorizing resolution of the Managing Member of the Company (the "**Resolution**") in respect of the execution, delivery and performance of the Company Documents.

5. The Company understands and agrees that, unless a written waiver is first obtained from the Agency, the Company and its Additional Agents shall utilize local labor, contractors and suppliers for the construction, renovation, reconstruction and equipping of the Project Facility. The term "**local**" shall mean Onondaga, Oswego, Madison, Cayuga, Oneida and Cortland Counties. The Company further understands and agrees that failure to comply with these local labor requirements may result in the revocation or recapture of benefits provided/approved to the Project by the Agency. In furtherance thereof, Appendix I to the Agency's Application entitled "Local Access Agreement" has been completed and is attached hereto as **Exhibit "E"**.

6. The Company understands and agrees that it is the preference of the Agency that the Company provide opportunities for the purchase of goods and services from: (i) business enterprises located in the City; (ii) certified minority and or women-owned business enterprises; and (iii) business enterprises that employ residents of the City. The Company further understands and acknowledges that consideration will be given by the Agency to the Company's efforts to comply, and compliance, with this objective at any time an extension of benefits is sought or involvement by the Agency with the Project is requested by the Company.

7. All consents, approvals, authorizations or orders of, notices to, or filings, registrations or declarations with, any court or governmental authority, board, agency, commission or body having jurisdiction which are required on behalf of the Company or for the execution and delivery by the Company of the Company Documents or the consummation on the part of the Company of the transactions contemplated thereby have been obtained.

8. After performing due diligence, there is no legal action, suit, proceeding, inquiry or investigation at law or in equity (before or by any court, agency, arbitrator, public board or body or other entity or person) pending or threatened against or affecting the Company or, to the knowledge of the Company, any basis therefor: (i) in any way affecting the organization, existence or good standing of the Company; (ii) contesting or materially affecting the validity or enforceability of the Company Documents; (iii) contesting the powers of the Company or its authority with respect to the Company Documents; (iv) contesting the authority of the Company to act on behalf of the Company or the authority of the representatives of the Company to act on behalf of the Company; (v) wherein an unfavorable decision, ruling or finding would have a material adverse effect on: (A) the financial condition or operations of the Company; or (B) the consummation on the part of the Company of the transactions contemplated by any Company Documents.

9. The execution and delivery by the Company of the Company Documents and the consummation by the Company of the transactions contemplated thereby are not prohibited by, do not violate any provision of, and will not result in a breach of or default under: (i) the organizational documents of the Company; (ii) any applicable law, rule, regulation, order, writ, injunction, judgment or decree of any court or governmental body or other requirement to which the Company is subject; or (iii) any contract, agreement, mortgage, lease, guaranty, commitment or other obligation or instrument to which the Company is a party or by which the Company or its properties is bound.

10. All information concerning the Project Facility and the Company submitted to the Agency and any Mortgagee by the Company is true and correct in all material respects and does not omit to state a material fact necessary to make the statements therein not misleading.

11. Assuming the valid authorization, execution and delivery of the Agency Lease and the other Company Documents by the other parties thereto, the Agency Lease and the other Company Documents are the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except to the extent that enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally or by the exercise of judicial discretion in accordance with general principles of equity. No default by the Company or, to the best of knowledge of the undersigned, no event of default on the part of any other party to the Company Documents has occurred or is continuing and no event has occurred which, with the giving of notice or passage of time or both, would be such an event of default. The Company has duly authorized the taking of and has taken all actions necessary to carry out and give effect to the transactions contemplated to be performed on its part by the Company Documents.

12. All permits (including building permits), licenses and authorizations necessary for the construction, ownership and operation of the Project in the manner contemplated by each of the Company Documents have been obtained or will be obtained, and said construction, ownership and operation will not, to the best knowledge of the Company, conflict with any zoning or similar ordinance applicable to the Project. To the best of the Company's knowledge, the Project conforms to all material environmental regulations.

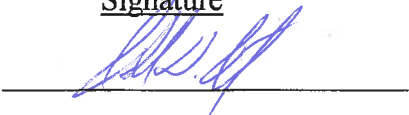
13. There is no Event of Default or default on the part of the Company under the Company Lease, the Agency Lease, the Mortgage, the Environmental Compliance and Indemnification Agreement or any other Company Document, and no event has occurred and is continuing which, after notice or passage of time or both, would give rise to a default under any thereof.

14. The Company Lease, the Agency Lease, the Mortgage, the Environmental Compliance and Indemnification Agreement and the other Company Documents are in full force and effect and the Company has not assigned or pledged any of its rights under these documents.

15. The Company acknowledges and restates all of the obligations, representations and covenants in Sections 2.2, 8.12, 11.12 and 11.14 of the Agency Lease and incorporates same herein by reference as if fully set forth herein.

16. The Company further acknowledges its obligation under Section 8.5 of the Agency Lease to provide the additional information as set forth therein and agrees to same.

17. The authorized representatives of the Company who, pursuant to the Resolution, are authorized to execute the Company Documents and the office held by each person are as set forth below. The signature set opposite the name of such officer, if any, is a genuine specimen of such officer's signature:

<u>Name</u>	<u>Signature</u>	<u>Office/Title</u>
Ronald W. Koretz		Senior Vice President of Blue Vista Student Housing Select Strategies Manager, LLC, manager of BVSHSSF REIT, LLC, sole Member of BVSHSSF Syracuse, LLC

18. The Company represents and warrants that it has no employees and therefore is not now required to carry worker's compensation insurance. The Company represents and acknowledges that in the event it hires any employees in the future, it has an obligation pursuant to the Agency Lease, dated as of May 1, 2017 by and between the Company and the Agency, to obtain worker's compensation insurance and provide proof of same to the Agency.

IN WITNESS WHEREOF, I have set my hand and signature as officer of the Company as of May 1, 2017.

BVSHSSF SYRACUSE, LLC,
a Delaware limited liability company

By: **BVSHSSF REIT, LLC,**
a Delaware limited liability company,
its sole Member

By: **Blue Vista Student Housing Select
Strategies Manager, LLC,**
a Delaware limited liability company,
its Manager

By: 

Ronald W. Koretz, Senior Vice President

EXHIBIT "A"
CERTIFICATE OF FORMATION

State of Delaware
Secretary of State
Division of Corporations
Delivered 10:56 AM 08/03/2016
FILED 10:56 AM 08/03/2016
SR 20165205309 - File Number 6114217

CERTIFICATE OF FORMATION

OF

BVSHSSF SYRACUSE, LLC

The undersigned, an authorized natural person, for the purpose of forming a limited liability company (hereinafter called the "company"), under the provisions and subject to the requirements of the Delaware Limited Liability Company Act, hereby certifies that:

1. The name of the limited liability company is BVSHSSF Syracuse, LLC.

2. The address of the registered office and the name and the address of the registered agent of the limited liability company required to be maintained by Section 18-104 of the Delaware Limited Liability Company Act are National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, Delaware 19904.

Executed on August 3, 2016.

s/David J. Kuker

David J. Kuker, Authorized Person

CERTIFICATE OF AUTHORITY UNDER SEC. 805 OF THE LIMITED LIABILITY COMPANY LAW

ENTITY NAME: BVSHSSF SYRACUSE, LLC

DOCUMENT TYPE: APPLICATION FOR AUTHORITY (FOR LLC)

COUNTY: ONON

FILED:11/14/2016 DURATION:***** CASH#:161114000209 FILM #:161114000188
DOS ID:5037465

FILER:

EXIST DATE

NATIONAL SERVICE INFORMATION INC
145 BAKER ST

11/14/2016

MARION, OH 43302

ADDRESS FOR PROCESS:

C/O NATIONAL REGISTERED AGENTS, INC.
111 EIGHTH AVENUE
NEW YORK, NY 10011

REGISTERED AGENT:

NATIONAL REGISTERED AGENTS, INC.
111 EIGHTH AVENUE
NEW YORK, NY 10011



The limited liability company is required to file a Biennial Statement with the Department of State every two years pursuant to Limited Liability Company Law Section 301. Notification that the biennial statement is due will only be made via email. Please go to www.email.ebiennial.dos.ny.gov to provide an email address to receive an email notification when the Biennial Statement is due.

SERVICE COMPANY: DELANEY CORPORATE SERVICES LTD. - 30

SERVICE CODE: 30

FEES 280.00
FILING 250.00
TAX 0.00
CERT 0.00
COPIES 5.00
HANDLING 25.00

PAYMENTS 280.00
CASH 0.00
CHECK 0.00
CHARGE 0.00
DRAWDOWN 280.00
OPAL 0.00
REFUND 0.00

161114000

188

APPLICATION FOR AUTHORITY

OF

BVSHSSF SYRACUSE, LLC

Under Section 802 of the Limited Liability Company Law

FIRST: The name of the limited liability company is: _____

BVSHSSF Syracuse, LLC

If the name does not contain a required word or abbreviation pursuant to Section 204 of the Limited Liability Company Law, the following word or abbreviation is added to the name for use in this state:

If the name of the limited liability company is unavailable, the fictitious name under which it will do business in New York is:

SECOND: The jurisdiction of organization of the limited liability company is: Delaware

The date of its organization is: August 3, 2016

THIRD: The county within this state in which the office, or if more than one office, the principal office of the limited liability company is to be located is:

Onondaga County

FOURTH: The secretary of state is designated as agent of the limited liability company upon whom process against it may be served. The post office address within this state to which the secretary of state shall mail a copy of any process against him or her is:

c/o National Registered Agents, Inc., 111 Eighth Avenue, New York, New York 10011

FIFTH: The name and street address within this state of the registered agent of the limited liability company upon whom and at which process against the limited liability company can be served is:

National Registered Agents, Inc., 111 Eighth Avenue, New York, New York 10011

SIXTH: The address of the office required to be maintained in the jurisdiction of formation by the laws of that jurisdiction or, if not so required, the address of the principal office of the limited liability company is:

160 Greentree Drive, Suite 101

Dover, Delaware 19904

SEVENTH: The limited liability company is in existence in its jurisdiction of formation at the time of the filing of this application.

EIGHTH: (Complete the applicable statement)

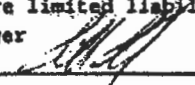
The name and address of the authorized officer in the jurisdiction of formation where a copy of the articles of organization of the limited liability company is filed is (e.g. Secretary of State):
Delaware Secretary of State, Division of Corporations, 401 Federal Street, Suite 4,
Dover, Delaware 19901

No public filing of the limited liability company's articles of organization is required by the laws of the jurisdiction of formation. The limited liability company shall provide, upon request, a copy thereof with all amendments thereof. The name and post office address of the person responsible for providing such copies is:

BVSHSSP SYRACUSE, LLC, a Delaware limited liability company
Name and Capacity of Signer

By: BVSHSSP REIT, LLC,
a Delaware limited liability company,
its sole Member

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

By: 
Ronald Korets, Authorized Person
Senior Vice President and Secretary

Delaware

Page 1

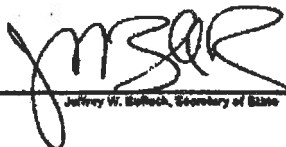
The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "BVSHSSF SYRACUSE, LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE NINTH DAY OF NOVEMBER, A.D. 2016.

AND I DO HEREBY FURTHER CERTIFY THAT THE SAID "BVSHSSF SYRACUSE, LLC" WAS FORMED ON THE THIRD DAY OF AUGUST, A.D. 2016.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL FRANCHISE TAXES HAVE BEEN ASSESSED TO DATE.




Jeffrey W. Bullock, Secretary of State

6114217 8300

SR# 20166562316

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 203305831

Date: 11-09-16

188

FILED

RECEIVED

2016 NOV 14 AM 11:02 2016 NOV 14 AM 11:30

Application for Authority

of

BVSHSSF SYRACUSE, LLC

(Entity Name)

PC

Under Section 802 of the Limited Liability Company Law

RECEIVED

2016 NOV 10 PM 2:12

Filed by:

National Service Information, Inc.

(Name)

145 Baker St.

(Mailing address)

Marion, OH 43302

(City, State and ZIP code)

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED

NOV 14 2016

TAX \$ _____

BY: _____

[Signature]

DRAWDOWN
DELANEY #30

209

EXHIBIT "B"
LIMITED LIABILITY COMPANY AGREEMENT

**LIMITED LIABILITY COMPANY AGREEMENT
OF
BVSHSSF SYRACUSE, LLC**

This Limited Liability Company Agreement (this "Agreement") of BVSHSSF Syracuse, LLC, a limited liability company organized pursuant to the Delaware Limited Liability Company Act, is executed as of this 1st day of December, 2016, by the undersigned as the sole Member.

**ARTICLE I
DEFINITIONS**

For purposes of this Agreement, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

"Act" means the Delaware Limited Liability Company Act, as it may be amended from time to time, and any successor to such statute.

"Capital Contribution" means any contribution of property made to the Company by or on behalf of a Member.

"Certificate" means the Certificate of Formation of the Company as properly adopted and amended from time to time by the Members and filed with the Delaware Secretary of State pursuant to the Act.

"Company" means the limited liability company organized pursuant to the Certificate and this Agreement, and any successor limited liability company.

"Member" means any Person who has signed this Agreement as a Member.

"Person" means a natural person, trust, estate, partnership, limited liability company or any incorporated or unincorporated organization.

**ARTICLE II
FORMATION**

2.1. **Organization.** The Member hereby ratifies the formation of the Company as a Delaware limited liability company pursuant to the provisions of the Act effective on the date of the filing of the Certificate with the Delaware Secretary of State.

2.2. **Registered Agent and Office.** The registered agent for the service of process and the registered office shall be that Person and location reflected in the Certificate as filed with the Delaware Secretary of State. The Company may, from time to time, change the registered agent or office through appropriate filings with the Secretary of State. In the event the registered agent ceases to act as such for any reason or the registered office shall change, the Company shall promptly designate a replacement registered agent or file a notice of change of address as the case may be. If the Company fails to designate a replacement registered agent or change of address of the registered office, the Member may designate a replacement registered agent or file a notice of change of address.

5.3. Return of Capital Contributions. Except as otherwise provided in this Agreement, the Member shall be entitled to a return of its Capital Contribution only upon the dissolution and winding up of the Company as provided in Article VII.

ARTICLE VI ALLOCATIONS AND DISTRIBUTIONS

6.1. Allocations of Profits and Losses. Profits, losses and other items of income, gain, deduction and credit shall be allocated to the Member.

6.2. Distributions. All net earnings of the Company that remain after paying or providing for dividends, setting aside reasonable and necessary additions to the Company's capital reserve and paying or providing for income taxes shall be allocated to the Member and paid out as a distribution. However, no distributions may be declared or paid if, after giving effect thereto, either (a) the Company would not be able to pay its debts as they become due in the ordinary course of business; or (b) the Company's total assets would be less than its total liabilities (plus any amount that would be needed if the affairs of the Company were to be wound up at the time of the distribution to satisfy any preferential rights that are superior to the rights of the Member).

ARTICLE VII DISSOLUTION AND WINDING UP

7.1. Dissolution. The Company shall be dissolved and its affairs wound up, at such time as determined by the Member.

7.2. Effect of Dissolution. Upon dissolution, the existence of the Company shall continue, but the Member shall wind up all of the Company's affairs and proceed to liquidate all of the Company's assets as promptly as is consistent with obtaining their fair value.

7.3. Distribution of Assets on Dissolution. Upon the winding up of the Company, the assets of the Company shall be distributed:

(a) First, to creditors, including the Member if it is a creditor, to the extent permitted by law, in satisfaction of the Company's liabilities; and

(b) Second, to the Member. Liquidation proceeds shall be paid within sixty (60) days of the end of the Company's taxable year or, if later, within ninety (90) days after the date of liquidation. Such distributions shall be in cash or property (which need not be distributed proportionately) or partly in both, as determined by the Members.

7.4. Winding Up and Articles of Dissolution. The winding up of the Company shall be completed when all debts, liabilities, and obligations of the Company have been paid and discharged or reasonably adequate provision therefor has been made, and all of the remaining property and assets of the Company have been distributed to the Members. Upon the completion of winding up of the Company, articles of dissolution shall be delivered to the Secretary of State for filing. The articles of dissolution shall set forth the information required by the Act.

ARTICLE VIII INDEMNIFICATION

8.1. General. The Company shall indemnify any Person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal, by reason of the fact that it is or was a Member of the Company, or who, while a Member of the Company, is or was serving at the request of the Company as a director, officer, partner, manager, trustee, employee or agent of another corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise, whether for profit or not, against expenses (including counsel fees), judgments, settlements, penalties and fines (including excise taxes assessed with respect to employee benefit plans) actually or reasonably incurred in accordance with such action, suit or proceeding, if such Member acted in good faith and in a manner reasonably believed by such Member to have been, in the case of conduct taken as a Member, in the best interest of the Company and in all other cases, not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, either such Person had reasonable cause to believe such conduct was lawful or no reasonable cause to believe such conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Person did not meet the prescribed standard of conduct. The Company may also, with the consent of the Member, indemnify any employee or agent of the Company who is not a Member in the manner and to the extent that it shall indemnify Member pursuant to this section.

8.2. Authorization. To the extent that a Member has been successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to in Section 8.1, or in the defense of any claim, issue or matter therein, the Company shall indemnify such Person against expenses (including counsel fees) actually and reasonably incurred by such Person in connection therewith. Any other indemnification under Section 8.1 shall be made by the Company only as authorized in the specific case, upon a determination that indemnification of the Member, employee or agent is permissible in the circumstances because such Person has met the applicable standard of conduct. Such determination may be made by the Member.

ARTICLE IX MISCELLANEOUS PROVISIONS

9.1. Entire Agreement. This Agreement and the Certificate represent the entire agreement by the Member.

9.2. Amendment or Modification of this Agreement. This Agreement may be amended or modified from time to time only by a written instrument executed by the Member.

9.3. Rights of Creditors and Third Parties under this Agreement. This Agreement is executed by the Member for the exclusive benefit of the Company, the Member, and their successors and assignees. This Agreement is expressly not intended for the benefit of any creditor of the Company or any other Person. Except and only to the extent provided by applicable statute, no such creditor or third party shall have any rights under this Agreement or

any agreement between the Company and the Member with respect to any Capital Contribution or otherwise.

9.4. Tax Treatment. Pursuant to Treasury Regulation § 301.7701-3(b)(ii), the Company will be disregarded as an entity separate from the Member for federal income tax purposes.

9.5. Headings. Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope, extent or intent of any provision of this Agreement.

9.6. Delaware Law Controlling. The laws of the State of Delaware, including the Act, shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties hereto.

9.7. Severability. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

9.8. Number and Gender. All provisions and references to gender shall be deemed to refer to masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

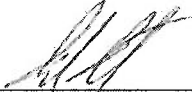
9.9. Binding Effect. Except as otherwise provided in this Agreement, every covenant, term and provision of this Agreement shall be binding upon and inure to the benefit of the Member and his respective heirs, legatees, legal representatives, successors and assigns.

9.10. No Partition. Notwithstanding any other provision hereof or of any governing law, no Member shall have the right of partition with respect to any property of the Company during the term hereof; nor shall any Member make application to any court or authority having jurisdiction in the matter, or otherwise commence or prosecute any action or proceeding for partition of Company property or the sale thereof. Upon any breach of the provision of this paragraph, the Company and each other Member, in addition to any other rights or remedies which they have at law or in equity, shall be entitled to a decree or other order restraining and enjoining any such application, action or proceeding.

IN WITNESS WHEREOF, this Agreement has been executed by the undersigned Member as of the date first above written.

BVSHSSF REIT, LLC
a Delaware limited liability company

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

By: 

Ronald Korétz, Senior Vice President
and Secretary

EXHIBIT A

<u>Member</u>	<u>Capital Contribution</u>	<u>Interest</u>
BVSHSSF REIT, LLC	\$ _____	100%

EXHIBIT "C"
GOOD STANDING CERTIFICATES (DE & NYS)

Delaware

Page 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "BVSBSF SYRACUSE, LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE NINTH DAY OF NOVEMBER, A.D. 2016.

AND I DO HEREBY FURTHER CERTIFY THAT THE SAID "BVSBSF SYRACUSE, LLC" WAS FORMED ON THE THIRD DAY OF AUGUST, A.D. 2016.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL FRANCHISE TAXES HAVE BEEN ASSESSED TO DATE.



6114217 8300

SR# 20166562316

You may verify this certificate online at corp.delaware.gov/authver.shtml

A handwritten signature in black ink, appearing to read "JBULLOCK", written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed in a small font.

Authentication: 203305831

Date: 11-09-16

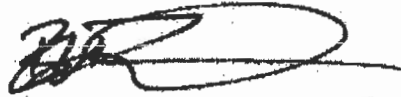
State of New York
Department of State } **ss:**

I hereby certify, that BVSHSSF SYRACUSE, LLC a DELAWARE Limited Liability Company filed an Application for Authority pursuant to the Limited Liability Company Law on 11/14/2016. I further certify that so far as shown by the records of this Department, such Limited Liability Company is still authorized to do business in the State of New York. I further certify the following:

A Certificate of Publication of BVSHSSF SYRACUSE, LLC was filed on 01/11/2017.

I further certify, that no other documents have been filed by such Limited Liability Company.

*Witness my hand and the official seal
of the Department of State at the City
of Albany, this 04th day of May
two thousand and seventeen.*



Brendan W. Fitzgerald
Executive Deputy Secretary of State



STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy for BVSHSSF SYRACUSE, LLC, File Number 161114000188 has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on May 05, 2017.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan W. Fitzgerald
Executive Deputy Secretary of State

Rev. 06/07

Authentication Number: 1705051001 To verify the authenticity of this document you may access the Division of Corporation's Document Authentication Website at <http://ecorp.dos.ny.gov>

EXHIBIT "D"
RESOLUTION

**CERTIFICATE OF MEMBERS OF
BVSHSSF SYRACUSE, LLC**

The undersigned, being all of the members of **BVSHSSF SYRACUSE, LLC**, a Delaware limited liability company (the "LLC"), do hereby certify that Exhibit "A" attached hereto is a true, complete and correct copy of resolutions adopted by the LLC at the meeting of the LLC held on April 3, 2017, which meeting was duly called and convened and at which all members participated throughout, and we do hereby

FURTHER CERTIFY, that the undersigned are the only members of the LLC, that the attached resolutions are entered in the minutes of the proceedings of the LLC, that the attached resolutions are in full force and effect and have not been superseded, modified or amended, and that the attached resolutions are not in conflict with or contrary to any resolution or other agreement of the LLC.

IN WITNESS WHEREOF, the undersigned have executed this certificate this 3 day of April, 2017.

MEMBERS:

BVSHSSF REIT, LLC,
a Delaware limited liability company,
its sole Member

By: Blue Vista Student Housing Select
Strategies Manager, LLC,
a Delaware limited liability company,
its Manager

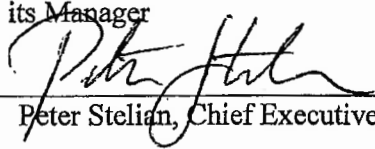
By: 
Peter Stelian, Chief Executive Officer

EXHIBIT "A"

**RESOLUTIONS OF MEMBERS OF
BVSHSSF SYRACUSE, LLC**

RESOLVED, that BVSHSSF SYRACUSE, LLC (the "LLC") is authorized to make an application to the City of Syracuse Industrial Development Agency (the "Agency") for the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax with respect to the Project more fully described herein; and be it further

RESOLVED, that the LLC is authorized to undertake a project (the "Project") consisting of: (A)(i) the acquisition of an interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street, in the City of Syracuse, New York (the "**Land**"); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet containing new four and five story buildings to be used as mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces , all located on the Land (collectively, the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the "**Financial**

Assistance”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and be it further

RESOLVED, that the LLC is authorized to lease the Land together with the Facility to the Agency pursuant to a Lease Agreement to be dated as of May 1, 2017 (the “Lease”); and be it further

RESOLVED, that the LLC shall transfer its interest in the Equipment to the Agency pursuant to a bill of sale to be dated as of May 1, 2017 (the “Bill of Sale”); and be it further

RESOLVED, that the LLC will enter into a lease with the Agency wherein the Agency will sublease the Land, Facility and Equipment back to the LLC; and be it further

RESOLVED, that the LLC will execute and deliver any and all documents otherwise necessary or appropriate to accomplish the same; and be it further

RESOLVED, that in connection with the foregoing transaction, Ronald W. Koretz be, and hereby is, authorized, directed and empowered, in the name and on behalf of the LLC, to execute and deliver all necessary and proper documents reasonably required by the Agency, each such document to be in such form and substance as he may approve, such approval to be conclusively evidenced by his execution and delivery thereof and as so executed shall be binding upon the LLC; and be it further

RESOLVED, that Ronald W. Koretz be, and hereby is, authorized, directed and

empowered, in the name and on behalf of the LLC, to take all such other actions which in his judgment may be necessary or appropriate in connection with the foregoing transaction.

EXHIBIT "E"
LOCAL ACCESS AGREEMENT

City of Syracuse
Industrial Development Agency

Local Access Agreement

BVSHSSF Syracuse, LLC (the Company) understands and agrees that local labor, contractors and suppliers will be used for the construction, renovation, reconstruction and equipping of the Project unless a written waiver is first received from the Agency, and agrees to provide the information requested below as a way to provide access for local participation.

Company		BVSHSSF Syracuse, LLC				General Contractor		Hueber-Breuer Construction Co. Inc.			
Representative for Contract Bids and Awards		Andrew Vendal VP of Construction				Contact		Ken Czarnecki			
Address		2970 Clairmont Road NE, Suite 310				Address		148 Berwyn Ave			
City	Atlanta	ST	GA	Zip	30329	City	Syracuse	ST	NY	Zip	13030
Phone	404 920-5360		Fax	404920-5460		Phone	315-476-7917		Fax	315-476-7990	
Email		avendal@peakcampus.com				Email		kczarnecki@hueber-breuer.com			
Project Address		919 E Genesee				Construction Start Date		3/16/17			
City	Syracuse	ST	NY	Zip	13210	Occupancy Date		8/15/18			

Project Components – Indicate those for which bids will be sought:

Item	Estimated Value	Bid Date	Contact
Site work/Demolition	\$1,750,000	5/19/17	Ken Czarnecki
Foundation and footings	\$1,562,000	5/19/17	Ken Czarnecki
Building	\$5,000,000	5/19/17	Ken Czarnecki
Masonry	\$555,000	5/19/17	Ken Czarnecki
Metals	\$1,200,000	5/19/17	Ken Czarnecki
Wood/casework	\$8,086,000	5/19/17	Ken Czarnecki
Thermal/moisture proof	\$3,217,000	5/19/17	Ken Czarnecki
Doors, windows, glazing	\$1,862,000	5/19/17	Ken Czarnecki
Finishes	\$5,600,000	5/19/17	Ken Czarnecki
Electrical	\$3,900,000	5/19/17	Ken Czarnecki
HVAC	\$2,800,000	5/19/17	Ken Czarnecki
Plumbing	\$5,150,000	5/19/17	Ken Czarnecki
Specialties	\$300,000	5/19/17	Ken Czarnecki
Machinery & Equipment	\$885,000	5/19/17	Ken Czarnecki
Furniture and Fixtures	\$0	5/19/17	Ken Czarnecki
Utilities	\$581,000	5/19/17	Ken Czarnecki
Paving	\$468,000	5/19/17	Ken Czarnecki
Landscaping	\$150,000	5/19/17	Ken Czarnecki
Other (identify) Elevator	\$565,000	5/19/17	Ken Czarnecki

Date: 5/18/17 Company: BVSHSSF Syracuse, LLC

Signature:  Name: Andrew Vendal

22

May 19, 2017

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202

BVSHSSF Syracuse, LLC
353 North Clark Street
Chicago, Illinois 60654

Re: City of Syracuse Industrial Development Agency
Lease/Leaseback Transaction
BVSHSSF Syracuse, LLC – Peak Campus Project

Ladies and Gentlemen:

We have acted as counsel to the City of Syracuse Industrial Development Agency (the “**Agency**”) in connection with a project (the “**Project**”) undertaken by the Agency at the request of BVSHSSF Syracuse, LLC (the “**Company**”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street), in the City of Syracuse, New York (the “**Land**”); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet containing new four and five story buildings to be used as mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces, all located on the Land (collectively, the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**”) and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company has also requested that the Agency grant the Financial Assistance to the Project. Capitalized terms used herein which are not otherwise defined shall have the meanings ascribed to them in the Agency Lease.

As counsel to the Agency, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such instruments, certificates, and documents as we have deemed necessary or appropriate for the purposes of the opinion expressed below. In such examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to the original documents of all documents submitted to us as copies, and have assumed the accuracy and truthfulness of the factual information, expectations, conclusions, representations, warranties, covenants and opinions of the Company and its counsel and representatives as set forth in the various documents executed and delivered by them or any of them and identified in the Closing Memorandum in connection with the Project.

We are of the opinion that:

1. The Agency is a duly organized and existing corporate governmental agency constituting a public benefit corporation of the State of New York.
2. The Agency is duly authorized and empowered by law to acquire, construct, reconstruct, renovate and equip the Project, to lease the Land and the Facility from the Company pursuant to the Company Lease; to accept an interest in the Equipment pursuant to the Bill of Sale; to sublease the Project Facility back to the Company pursuant to the Agency Lease and to appoint the Company as its agent for completion of the Project.
3. The Agency Documents have been authorized by and lawfully executed and delivered by the Agency and (assuming the authorization, execution, and delivery by the other respective parties thereto) are valid and legally binding obligations enforceable against the Agency in accordance with their respective terms.

In rendering this opinion, we advise you of the following:

The enforceability of the Agency Documents may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium, or similar law or enactment now or hereafter enacted by the State of New York or the Federal government affecting the enforcement of creditors' rights generally and the general principles of equity, including limitations on the availability of the remedy of specific performance which is subject to discretion of the court.

This opinion is rendered to the addressees named above and their successors and/or assigns, and may not be relied upon by any other person without our prior, express written consent.

May 19, 2017
Page 3

Very truly yours,

BARCLAY DAMON, LLP

Barclay Damon, LLP

23

Robert J. Smith*
Michael A. Tremont
Alicia S. Calagiovanni
James J. Gascon
Paul G. Ferrara**
Maureen G. Fatcheric
Timothy J. Conan
John R. Langey
Daniel P. Fletcher

Anthony R. Hanley
Dennis P. Hennigan
Robert W. Connolly**
Nicole Marlow-Jones
Donald S. DiBenedetto
Nadine C. Bell+
Wendy S. Reese
Zachary R. Benjamin
Melinda B. Bowe

Kevin M. Gilligan, Senior Counsel
Donald L. Nicholas, Of Counsel
Warren W. Bader, Of Counsel
Peter J. Corrigan, Of Counsel
Scott W. Bush, Of Counsel
John M. DeLaney, Of Counsel
Michael E. O'Connor, Of Counsel



COSTELLO • COONEY • FEARON
PLLC

Attorneys at law since 1896

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Jennifer L. Wang
Richard J. Andino
Elizabeth A. Hoffman
Daniel R. Rose
Megan E. Grimsley

Alexandra L. Condon
Nicholas S. Cortese
Erin K. Skuce
C. Taylor Payne

Carol C. Olech, Special Counsel
Jonathan P. McSherry, Special Counsel, CPA

* Also admitted in Texas
** Also admitted in Massachusetts
+ Also admitted in Pennsylvania

May 19, 2017

BVSHSSF Syracuse, LLC
353 North Clark Street
Chicago, Illinois 60654

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202

Re: City of Syracuse Industrial Development Agency
Lease/Leaseback Transaction
BVSHSSF Syracuse, LLC – Peak Campus Project

Ladies and Gentlemen:

We have acted as special counsel to BVSHSSF Syracuse, LLC (the "**Company**") in connection with a certain project (the "**Project**") undertaken by the City of Syracuse Industrial Development Agency (the "**Agency**") at the Company's request. The Project consists of: (A)(i) the acquisition of a leasehold interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street), in the City of Syracuse, New York (the "**Land**"); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet containing new four and five story buildings to be used as mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces, all located on the Land (collectively, the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an

interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Agency has acquired an interest in the Project Facility pursuant to that certain Company Lease Agreement dated as of May 1, 2017 (the "**Company Lease**") and the Company's transfer of its interest in the Equipment to the Agency pursuant to a bill of sale dated as of May 1, 2017 (the "**Bill of Sale**") and the Agency will sublease the Project Facility back to the Company pursuant to an Agency Lease Agreement dated as of May 1, 2017 (the "**Agency Lease**"). Capitalized terms used herein and not otherwise defined shall have the meaning given to them in the Agency Lease.

In that regard, we have examined the Company Lease, the Agency Lease, the Bill of Sale, the Mortgage, the Environmental Compliance and Indemnification Agreement and the other documents identified in the Closing Memorandum and defined in the Agency Lease to which the Company is a party (collectively, the "**Company Documents**").

We have also examined corporate documents and records of the Company and made such investigation of law and/or fact that we deem necessary or advisable in order to render this opinion. For purposes of such examination, we have assumed the genuineness of all certificates and the authenticity of all documents submitted to us as original counterparts or as certified or photostatic copies; the genuineness of all signatures of all parties to the Company Documents other than on behalf of the Company; and the due authorization, execution and delivery of the Company Documents by and the enforceability thereof against all parties thereto other than the Company.

As to questions of fact material to our opinion, we have relied upon the representations and warranties made by the Company in the Company Documents and upon one or more certificates of officers of the Company. Whenever the phrase "to the best of our knowledge" is used in this opinion, it refers to actual knowledge of members of this firm obtained from our representation of the Company and inquiries of responsible officers of the Company made in connection with this opinion, but no further investigation or review has been conducted.

Based upon the foregoing, it is our opinion that:

1. The Company is a validly existing Delaware limited liability company and possesses full corporate power and authority to own its property, to conduct its business, to execute and deliver the Company Documents, and to carry out and perform its obligations thereunder. The Company is duly licensed and qualified to do business and is in good standing in New York and in every other state in which the nature of its business or ownership of its property requires such licensing or qualification.

2. The execution, delivery and performance of the Company Documents have been duly authorized by the Company and the Company Documents have been duly executed and delivered by an Authorized Representative of the Company.

3. The Company Documents constitute the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with their terms, except as enforceability may be limited by applicable bankruptcy and insolvency laws and laws affecting creditors' rights generally and to the extent that the availability of the remedy of specific performance or injunctive relief or other equitable remedies is subject to the discretion of the court before which any proceeding therefor may be brought.

4. To the best of our knowledge, in reliance on the certificates and opinions specified herein, the execution and delivery by the Company of the Company Documents, the execution and compliance with the provisions of each and the consummation of the transactions contemplated therein do not and will not constitute a breach of, or default under the Company's Articles of Organization, Operating Agreement or any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Company or any of its Property may be bound, for which a valid consent has not been secured; nor is any approval or any action by any governmental authority required in connection with the execution, delivery and performance thereof by the Company.

5. To the best of our knowledge, in reliance on the certificates and opinions specified herein, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened against, or affecting the Company wherein an unfavorable decision, ruling or finding would in any way adversely affect in a material fashion the validity or enforceability of the Company Documents.

Our examination of law relevant to matters herein is limited to the laws of the State of New York and also the Federal law, where appropriate, and we express no opinion as to matters governed by the laws of any other state or jurisdiction.

This opinion is only for the benefit of and may be relied upon only by the Agency, its successors and assigns. The opinions set forth in this letter are limited to those expressly stated and no other opinion may be inferred nor is any implied. No other use of this opinion may be made without prior written consent. This opinion is given as of the date hereof and we undertake no obligation, and hereby disclaim any obligation, to update or supplement this opinion in response to a subsequent change in the law or future events affecting the documents identified in this letter.

Very truly yours,

COSTELLO, COONEY & FEARON, PLLC

Castello, Cooney & Fearon, PLLC

24

CLOSING MEMORANDUM

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

BVSHSSF SYRACUSE, LLC (PEAK CAMPUS PROJECT)

DATE AND TIME OF CLOSING: May 19, 2017

PLACE OF CLOSING: Via mail

I. Action Taken Prior to Closing

At the request of BVSHSSF Syracuse, LLC (the "**Company**"), the City of Syracuse Industrial Development Agency (the "**Agency**"), a public benefit corporation organized under the laws of the State of New York, has undertaken a project (the "**Project**") consisting of: (A)(i) the acquisition of a leasehold interest in approximately 93,200 square feet of improved real property located at 945 East Genesee Street (to be known as 919 E. Genesee Street), in the City of Syracuse, New York (the "**Land**"); (ii) the removal of the existing structures and the construction of a complex totaling approximately 421,482 square feet consisting of new four and five story buildings for use as a mixed-use student housing including: (i) approximately 600 beds across 244 apartment style units; (ii) approximately 5,770 square feet of retail and retail support space; (iii) approximately 9,000 square feet of ground floor amenities; (iv) approximately 2,000 square feet of bike storage facility; (v) an approximately 2,000 square foot fitness facility; and (vi) approximately 274 parking spaces, all located on the Land (collectively, the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**") and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company also requested the Agency appoint the Company as its agent for purposes of completing the Project and the granting of certain Financial Assistance.

The Company is, or will be at the time of closing, the owner/operator of the Project Facility.

The Agency will acquire a leasehold interest in the Land and Facility from the Company pursuant to a Company Lease Agreement dated as of May 1, 2017 (the "**Company Lease**"), between the Company, as landlord and the Agency, as tenant; and an interest in the Equipment pursuant to a bill of sale from the Company dated as of May 1, 2017 (the "**Bill of Sale**"). The Agency will sublease the Project Facility back to the Company, pursuant to an Agency Lease Agreement dated as of May 1, 2017 (the "**Agency Lease**") between the Agency, as lessor and the Company, as lessee. Capitalized terms used herein and not otherwise defined shall have the meaning given to such terms in Exhibit "C" to the Agency Lease.

Among the actions taken by the Agency with respect to the Project prior to Closing were the following:

- | | |
|-------------------|--|
| October 20, 2016 | The Company submitted an application for financial assistance for the project. |
| November 15, 2016 | A resolution determining that the acquisition, construction, equipping and completion of a commercial facility constitutes a project; describing the financial assistance in connection therewith; and authorizing a public hearing (the " Public Hearing Resolution "). |
| December 1, 2016 | Notice of the Public Hearing was mailed to the chief executive officers of the affected tax jurisdictions pursuant to Section 859-a of the Act. |
| December 4, 2016 | Notice of the Public Hearing was published in the <u>Post-Standard</u> pursuant to Section 859-a of the Act. |
| December 20, 2016 | The Agency conducted the Public Hearing pursuant to Section 859-a of the Act. |
| December 20, 2016 | A resolution classifying a certain project as an Unlisted Action pursuant to SEQRA, declaring the Agency lead agency for purposes of an uncoordinated review thereunder and determining that the action will not have a significant effect on the environment. |
| January 24, 2017 | A resolution authorizing the undertaking of the acquisition, construction, equipping and completion of a commercial facility; appointing the Company agent of the Agency for the purpose of the acquisition, construction, equipping and completion of the Project Facility and authorizing the execution and delivery of an |

agreement between the Agency and the Company (the "**Inducement Resolution**").

January 24, 2017

A resolution authorizing the execution and delivery of certain documents by the agency at the request of the Company (the "**Final Approving Resolution**").

II. Action To Be Taken At Closing

The following documents, or copies thereof, are to be delivered (except as indicated) to the Agency (A), Agency's Counsel (AC), the Company (C), Company's Counsel (CC), Lender's Counsel (LC) as follows:

A. Basic Documents		Responsible Party	Signatories
1.	Project Agreement	AC	C, A
2.	Company Lease Agreement	AC	C, A
3.	Memorandum of Company Lease Agreement with TP-584	AC	C, A
4.	Bill of Sale		
5.	Agency Lease Agreement	AC	C, A
6.	Memorandum of Agency Lease Agreement with Form TP-584	AC	C, A
7.	Company Certification re: Local Labor Policy	AC	C
8.	Certificates of casualty, liability, workers' compensation and other required insurance	AC	
9.	Environmental Compliance and Indemnification Agreement	AC	C
10.	Closing Receipt	AC	C, A
11.	Sales Tax Exemption Letter	AC	A
12.	Form ST-60 indicating appointment of the Company to act as the agent of the Agency	AC	A

13.	Building Loan Mortgage	LC	C, A
14.	Assignment of Leases and Rents (Building Loan Mortgage)	LC	C, A
15.	Project Loan Mortgage	LC	C, A
16.	Assignment of Lease and Rents (Project Loan Mortgage)	LC	C, A
17.	UCC-1 Financing Statement(s)	LC	
18.	Survey	CC	

B. Items To Be Delivered By The Agency

1.	General Certificate of the Agency relating to incumbency and signatures of officers, execution and delivery of Agency Documents to which it is a party, no litigation and continued existence, with the following items included as exhibits:	AC	A
	Exhibit "A" - Chapter 641 of the Laws of 1979 of the State of New York, as amended	A	
	Exhibit "B" - Certificate of Establishment of the Agency and Certificates of appointment of current members	A	
	Exhibit "C" - By-laws	A	
	Exhibit "D" - Public Hearing Resolution	AC	
	Exhibit "E" - Notice of Public Hearing with evidence of publication and copies of letters to affected tax jurisdictions	AC	
	Exhibit "F" - SEQRA Resolution	AC	
	Exhibit "G" - Inducement Resolution	AC	

	Exhibit "H" – Final Approving Resolution	AC	
2.	Mortgage Recording Tax Affidavit	AC	A
C.	Items To Be Delivered By The Company		
1.	General Certificate of the Company relating to capacity and signatures of officers, execution and delivery of the Documents to which it is a party, no litigation and approval, with the following items included as exhibits:	AC	C
(DE)	Exhibit "A" – Certificate of Formation	C	
	Exhibit "B" – Limited Liability Company Agreement	C	C
	Exhibit "C" – Certificates of Good Standing (DE & NY)	C	
	Exhibit "D" – Company Resolution	C	
	Exhibit "E" – Local Access Agreement	C	
D.	Opinions of Counsel	C	
1.	Opinion of Barclay Damon, LLP, counsel to the Agency, addressed to the Company and the Agency	AC	AC
2.	Opinion of Costello, Cooney & Fearon, PLLC, counsel to the Company, addressed to the Agency and the Company.	AC	CC

III. Action To Be Required Concurrently With Or After Closing

Memorandum of Company Lease Agreement, Memorandum of Agency Lease Agreement, Mortgage and the Assignment of Leases and Rents are to be filed with the Onondaga County Clerk and the UCC-1 Financing Statement(s) are to be filed as appropriate under the Uniform Commercial Code.

IV. Post-Closing

Scan copy of Local Access Agreement to SIDA.

SCHEDULE "A"

PERSONS APPEARING

For the Agency:	City of Syracuse Industrial Development Agency William M. Ryan, Chairman
For the Company:	BVHSSF Syracuse, LLC Brian Minnehan
Company Counsel:	Costello, Cooney & Fearon, PLLC Robert Smith, Esq.
For the Lender:	Citizens Bank
Lender's counsel:	Ginsberg Jacobs LLC Barrett J. Schultz, Esq.
Agency's Counsel:	Barclay Damon, LLP Susan R. Katzoff, Esq.