
DRAFT—NOT FINALIZED

GROUND LEASE

between

ORANGE COUNTY FAIRGROUNDS AUTHORITY,

as Landlord

AND

OC FAIR AND EVENT CENTER, L.P.,

as Tenant

Dated as of [REDACTED] [REDACTED], 2010

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GROUND LEASE

This Ground Lease (the "Lease"), dated as of the [REDACTED] day of [REDACTED], 2010 (the "Effective Date"), is made and entered into by and between ORANGE COUNTY FAIRGROUNDS AUTHORITY, a joint powers authority formed under the laws of the State of California ("Landlord"), and OC FAIR AND EVENT CENTER, L.P., a California limited partnership ("Tenant").

R E C I T A L S :

A. Landlord has acquired from, or is under contract to acquire from, the State of California (the "State") and the 32nd District Agricultural Association (collectively, the "Sellers") that certain real property consisting of approximately 150 acres located in the City of Costa Mesa (the "City"), County of Orange, State of California, described on Exhibit "A" attached hereto (the "Parcel"). The Parcel, together with all easements, rights-of-way, water rights, and other rights appurtenant thereto are sometimes collectively referred to herein as the "Property".

B. In connection with Landlord's acquisition of the Property from the Sellers, Landlord acquired or will acquire by contract or legislation all right, title and interest in and to the following: (1) those certain trademarks and marks identified on Exhibit "A-1" attached hereto (collectively, the "Trademarks"); (2) all of the Sellers' goodwill, warranties, permits, entitlements, governmental approvals, certificates of occupancy (if any) and other intangible rights for the Property, including without limitation, the right to hold the annual event commonly referred to as the "Orange County Fair" (collectively, the "Intangible Rights"); (3) all tangible personal property for the Property, including, without limitation, the trucks and automobiles described in Exhibit "A-2" attached hereto (collectively, the "Personal Property"); (4) all agreements and contracts relating to reservations, scheduled events, operations at or services provided at the Property or relating to the Property (excluding any employment and labor agreements) as same are more particularly described on Exhibit "A-3" attached hereto (collectively, the "Contracts"); (5) all leases, amendments and guaranties relating to the Property described on Exhibit "A-4" attached hereto (collectively, the "Leases"); and (6) all existing public records pertaining to the businesses, customers, suppliers or personnel with respect to the Property (collectively, the "Records").

C. Landlord desires to lease to Tenant the Property upon which Tenant intends to operate the existing buildings ("Buildings"), parking lots, lighting and other utility facilities, billboards, electronic reader boards, equestrian center, amphitheater, events center, related hardscape and landscape improvements and fixtures (collectively, the "Existing Improvements") and such other buildings, improvements or fixtures that Tenant develops, constructs or installs from time to time, including, without limitation, alterations, expansions and additions to Existing Improvements made by Tenant on the Property after the Commencement Date (as defined below) (collectively, the "New Improvements" and together with the Existing Improvements, the "Improvements") on the terms and conditions contained herein. The Property and the Improvements are collectively referred to herein as the "Premises."

D. Landlord also desires (1) to transfer to Tenant all of Landlord's rights, title and interest in the Personal Property (other than those items of Personal Property identified on Schedule "1" attached hereto (the "Excluded Personal Property"), which Landlord shall retain for its own use and benefit), Contracts, Leases and Records and certain of the Intangible Rights; and (2) to license to Tenant the right to use all of Landlord's rights, title and interest in the Trademarks and certain of the Intangible Rights, all upon the terms and conditions more particularly set forth in this Lease and the other documents and instruments to be executed and delivered upon the Commencement Date as further provided herein.

E. It is the intention of Landlord and Tenant and acknowledged by both parties that execution of the Lease does not authorize any change in the physical environment, aside from the Approved Uses (as defined below) and in accordance with the terms hereof. Each of Landlord and Tenant acknowledge and agree that there can be no (i) increase in the intensity levels of the Approved Uses, or (ii) new "Development" (as that term is defined in California Government Code Section 65927), in any case beyond the uses and intensities contemplated in the EIR

Upon the Commencement Date, Landlord shall also pass through to Tenant the benefit of any credits for any outstanding security deposits and/or advance reservation payments made under the Leases and Contacts and received by Landlord upon the "Close of Escrow" under the Purchase Agreement (as defined below).

1.3 Rights against State. Landlord and Tenant acknowledge that, pursuant to that certain Purchase and Sale Agreement dated [REDACTED], 2010 between Landlord and the State (the "Purchase Agreement"), Tenant is an express third party beneficiary of the rights and remedies of Landlord as "Buyer" under the Purchase Agreement (subject to the express terms, provisions and limitations set forth in the Purchase Agreement). Notwithstanding anything to the contrary in the Purchase Agreement, however, Landlord and Tenant hereby agree as follows:

(a) From and after the Commencement Date, Tenant shall only be entitled to enforce its rights and remedies against the State as third party beneficiary under the Purchase Agreement with respect to those indemnities, warranties and/or covenants of the State that survive the "Close of Escrow" pursuant to the Purchase Agreement and that relate to or affect Tenant or its leasing, development, management or operation of the Premises (collectively, the "Tenant Related Claims"). Tenant shall promptly notify Landlord of any Tenant Related Claims against the State, and Landlord shall cooperate with Tenant, but without any out-of-pocket costs or expense to Landlord, in connection therewith.

(b) From and after the Commencement Date, Landlord shall be entitled to enforce all of its rights and remedies against the State under the Purchase Agreement with respect to those indemnities, warranties and/or covenants of the State that survive the "Close of Escrow" pursuant to the Purchase Agreement and that relate to or affect Landlord or its ownership of the Premises (collectively, the "Landlord Related Claims"). Landlord shall promptly notify Tenant of any Landlord Related Claims against the State, and Tenant shall cooperate with Landlord, but without any out-of-pocket costs or expense to Tenant, in connection therewith. Tenant Related Claims and Landlord Related Claims shall be referred to herein, collectively, as "State Claims."

(c) If both Tenant and Landlord are entitled to and make State Claims against the State based upon or arising out of the same or substantially similar facts and circumstances, and the amount of damages recoverable from the State on account thereof are in any way limited such that either Tenant or Landlord are not fully compensated for any losses, liabilities, obligations, claims, damages, penalties, causes of action, costs or expenses (including reasonable attorneys', consultants' and experts' fees and expenses) (collectively, "Losses"), then the amount of damages actually recovered from the State (whether by Tenant or Landlord) on account thereof shall be apportioned between and paid over to each of Landlord and Tenant in a manner that is fair, just and equitable based upon the actual Losses suffered by each.

1.4 Transfer of Rights on Lease Termination. Upon the expiration or early termination of the Lease, Tenant shall be deemed to have transferred, assigned and/or delegated to Landlord all of Tenant's right, title and interest in and to the Intangible Rights, any Personal Property (including any replacements, modifications, alterations and substitutes therefor or any new personal property) and all other Tenant's Personal Property (as defined below) used by Tenant in connection with the use and operation of the Premises, without the need for any further documentation, and in each case free and clear of any liens or encumbrance. Upon Landlord's request, however, Tenant shall execute a general assignment and a bill of sale substantially in the forms attached hereto as Exhibits "C-3" and "C-4" to transfer the foregoing to Landlord and to take such actions as may be necessary to remove any lien or encumbrance thereon or to transfer title to any vehicles included in the Personal Property. In addition, upon the expiration or termination of this Lease, the License shall automatically terminate and be of no further force and effect, and Tenant shall have no further rights with respect to the Trademarks or the Licensed Intangible Rights.

ARTICLE 2 **TERM; DELIVERY; SURRENDER**

2.1 Term. The term of this Lease (the "Term") shall commence on the date that fee title to the Property is transferred to Landlord by the Sellers pursuant to a grant deed recorded in the Official Records (as

defined below) ("Commencement Date"), and shall continue for a period of fifty-five (55) years following the Commencement Date, unless sooner terminated pursuant to the terms of this Lease.

2.2 Acceptance of the Property. Upon the Commencement Date, Landlord shall record the Memorandum (as defined below) in the Official Records of Orange County, California ("Official Records") and shall deliver to Tenant, and Tenant shall accept from Landlord, possession of the Property and all rights and appurtenances relating thereto, and Tenant shall promptly execute counterparts of the General Assignment, the License, the Bill of Sale, the Assignment of Contracts and the Assignment of Leases delivered by Landlord. Tenant acknowledges and agrees that it is leasing the Property based solely upon Tenant's inspection and investigation of the Property and all documents related thereto, or its opportunity to do so, and, except for Landlord's covenants, representations and warranties otherwise expressly set forth in this Lease, Tenant is leasing the Property in an "AS IS, WHERE IS" condition, without relying upon any representations or warranties, express, implied or statutory, of any kind. Without limiting the above, Tenant acknowledges that, except as otherwise expressly set forth in this Lease, neither Landlord, nor any other party has made any representations or warranties, express or implied, on which Tenant is relying as to any matters, directly or indirectly, concerning the Property including, but not limited to, the land, the square footage of the Property, improvements and infrastructure, if any, development rights and exactions, expenses associated with the Property, taxes, assessments, bonds, utilities, soil, subsoil, drainage, environmental or building laws, rules or regulations, or Hazardous Materials (defined below) or any other matters affecting or relating to the Property.

2.3 Surrender of the Premises. At the expiration of the Lease Term or the earlier termination of this Lease, Tenant will surrender possession of the Premises and all Improvements located thereon and deliver the same to Landlord in good order, condition and repair, ordinary wear and tear, casualty, condemnation and acts of God excepted, in each case free and clear of all liens and encumbrances created or suffered by Tenant or anyone claiming by, through or under Tenant. Upon the expiration or earlier termination of the Lease Tenant shall have no right to remove any Improvements (including any New Improvements) from the Premises without the express written consent of Landlord, and Tenant shall have no obligation to remove any (a) Existing Improvements or (b) any New Improvements permitted to be constructed or installed on the Premises by Tenant under this Lease. Notwithstanding the foregoing, at the option of Landlord, Tenant shall raze all or any portion of any New Improvements not permitted to be constructed or installed on the Premises by Tenant under this Lease and that are designated by Landlord in writing to Tenant to be razed at least six (6) months prior to the expiration of the stated Term of this Lease or within thirty (30) days after any early termination of this Lease, and in such event, Tenant shall surrender the Premises free and clear of any such Improvements so designated. In the event Tenant does not surrender possession of the Premises to Landlord as provided above, Tenant shall be deemed a holdover tenant on a month-to-month basis and shall pay to Landlord for each month or portion of a month in which Tenant holds over in the Premises, an amount equal to one hundred fifty percent (150%) of the monthly portion of the Annual Rent which was payable under this Lease during the last month of the Lease Term, plus all Additional Rent, payable in accordance with the terms of this Lease. Such amount shall be payable in advance on the first day of each and every calendar month. In no event shall any provision contained in this Lease be deemed to permit Tenant to retain possession of the Premises after the expiration of the Lease Term or earlier termination of this Lease.

ARTICLE 3 **RENT**

3.1 Annual Rental Amount. Subject to Section 3.4 hereof, and any other express provision in this Lease providing for an adjustment of Annual Rent payable hereunder, commencing upon the Commencement Date, Tenant shall pay Landlord as "Annual Rent" during the Term, the following amounts.:

Months of Lease Term

1 – 12

Annual Rental

\$ (to be paid directly to the State upon the Commencement Date and applied towards the principal balance of the State Note [NOTE: **Tenant will pay a specified amount for the Personal Property to be transferred to Tenant upon the Commencement Date, and the \$19,200,000 will be reduced by**

	such amount] , plus \$750,000
13 – 48	\$750,000
49 – 60	\$750,000.00, plus the greater of (i) the amount necessary to pay the “Debt Service,” as defined below or (ii) the “Deemed Annual Debt Service Amount,” as defined below.
61 – 120	\$1,500,000.00, plus the greater of (i) the amount necessary to pay the Debt Service or (ii) the Deemed Annual Debt Service Amount.
121 – 240	\$2,500,000.00, plus the greater of (i) the amount necessary to pay the Debt Service or (ii) the Deemed Annual Debt Service Amount.
241 – 360	\$2,850,000.00, plus the greater of (i) the amount necessary to pay the Debt Service or (ii) the Deemed Annual Debt Service Amount.
361 – 660	\$3,200,000.00, plus the greater of (i) the amount necessary to pay the Debt Service or (ii) the Deemed Annual Debt Service Amount.

During the time when there is any balance owing on the State Note (defined below), the Annual Rent shall be paid to Landlord through an Independent Collection Agent (as defined below).

As used herein, the “Debt Service” shall mean the annual amounts that are due and payable by Tenant to the State pursuant to that certain Promissory Note Secured by Deed of Trust made by Tenant in favor of the State dated on or concurrently with the Commencement Date of the Lease (the “State Note”). Landlord and Tenant acknowledge and agree that the State Note may be refinanced from time to time, subject to the terms and conditions set forth in this Lease and the other “Loan Documents” (as defined in the State Note) (the State Note and such other Loan Documents being referred to herein, collectively, as the “State Loan Documents”). The Debt Service to be paid under the State Note may not be changed without the prior written consent and authorization of Tenant, which Tenant may withhold in its sole and absolute discretion.

As used herein, the “Deemed Annual Debt Service Amount” shall mean the applicable amount set forth on Exhibit “D” attached hereto, notwithstanding any changes, modifications or refinancing of the State Note. At such time as the State Note has been paid in full, the Annual Rent shall continue to include the applicable Deemed Annual Debt Service Amount. Notwithstanding anything to the contrary above, if Tenant elects to prepay any installments of Debt Service due under the State Note for any applicable period(s), then the Annual Rent as calculated above for the corresponding period(s) shall be based on the Debt Service installments so prepaid and not on the Deemed Annual Debt Service Amount for such period(s).

3.2 Payment of Rent. Except for the \$ [redacted] rental payment to be made on the Commencement Date, the Annual Rent set forth above shall be payable by Tenant to Landlord without setoff, deduction, prior notice or demand (except as otherwise expressly permitted herein) in twelve (12) equal monthly installments on the first day of each month during the Lease Term. Any monthly installment of Annual Rent that is for less than an entire month shall be prorated based upon the actual number of days in the month.

3.3 Additional Sponsorship Fee. In addition to the Annual Rent that Tenant is required to pay Landlord as provided above and any Additional Rent Tenant is required to pay Landlord as provided herein, upon the Commencement Date, Tenant shall be required to pay Landlord an additional sponsorship fee (“Sponsor Fee”) calculated and paid as provided in Exhibit “E” attached hereto.

3.4 Events Triggering Recalculated Annual Rent. Notwithstanding anything to the contrary set forth in this Lease, in the event of a “Retriggering Event” (defined below), the Annual Rent shall be recalculated to be the “Fair Market Rent” as to the portion of the Property which is impacted by the particular Retriggering Event. The adjustment of the Annual Rent to the Fair Market Rent will not become effective until the use of the applicable

portion of the Property which gave rise to the Triggering Event has actually been developed issued a temporary or permanent certificate of occupancy for the use contemplated by such Triggering Event. As used herein, the “Fair Market Rent” shall mean the most probable price in terms of ground rent which the Property would bring if ground leased in a competitive and open market under the conditions requisite to a fair transaction, and assuming the ground rent is not affected by undue stimulus and taking into account the remaining Term of this Lease. Implicit in this definition is the consummation of a transaction as of the relevant date under conditions whereby: (i) both parties are typically motivated; (ii) both parties are well informed or well advised and each acting in what they consider their own best interests; (iii) a reasonable time is allowed for exposure in the open market; (iv) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; (v) financing, if any, is on terms generally available in the community at the specified date and typical for the subject of the transaction in its locale; (vi) the ground rent represents the normal consideration for a transaction unaffected by special or creative financing or ground lease concessions granted by anyone associated with the transaction; and (vii) the use is consistent with the use of the Property as of the date of the Retriggering Event (or the changed use based upon the particular Retriggering Event). Notwithstanding anything to the contrary in this Section 3.4, in no event shall the total Annual Rent following any such adjustment be less than the greater of (i) the Annual Rent determined pursuant to Section 3.1 hereof (without regard to any adjustment provided for herein) or (ii) the Annual Rent in effect immediately prior to such adjustment.

Notwithstanding any approval of any change in use by Landlord, or any other provisions set forth herein permitting any change or modification in type or intensity of use, Tenant must obtain all permits, licenses, environmental approvals, entitlements or any other approvals required by any Applicable Laws (as defined below).

(a) Retriggering Events. The following shall constitute a “Retriggering Event” for purpose of this Lease:

(1) Change in Use Not Permitted by General Plan. In the event that Tenant, with Landlord’s approval, and following compliance with all Applicable Laws, including the California Environmental Quality Act (“CEQA”) and action by the City and voter approval, changes the use of the Property, or a portion thereof, to a use that is not permitted by the current City of Costa Mesa General Plan (the “General Plan”) or the Ballot Measure (defined in Section 6.1 below), said change in use shall constitute a Retriggering Event for purposes of the portion of the Property to which the change in use applies. In such event, the portion of the Property affected by the change in use shall have the Annual Rent for such portion adjusted to be the Fair Market Rent, and the Annual Rent for the balance of the Property shall be reduced to an amount equal to the product of the Annual Rent set forth in Section 3.1, multiplied by a fraction whose numerator is gross square footage of land located within the remaining portion of the Property which is not affected by the change in use and whose denominator is the gross square footage of all the land located within the Property. Landlord acknowledges that the approval of a specific plan for the Property or any portion thereof will not be a Triggering Event unless and to the extent the specific plan provides for a use which is specifically prohibited by the current General Plan; provided, however, that in no event shall the total Annual Rent payable following any such adjustment pursuant to this clause (i) be less than the greater of (1) the Annual Rent determined pursuant to Section 3.1 hereof (without regard to any adjustment provided for herein) or (2) the Annual Rent in effect immediately prior to such adjustment.

(2) Lease Segregation. In the event that Tenant requests, and Landlord consents to (which consent shall not be unreasonably withheld, conditioned or delayed), the bifurcation of the Lease to establish a separate leasehold estate for a portion of the Property (for reasons other than those imposed, or initiated, by Landlord), said lease segregation shall constitute a “Retriggering Event” for purposes of the segregation. In such event, the Annual Rent for the portion of the Property covered by the newly segregated lease shall be adjusted to be the Fair Market Rent, and the Annual Rent for the balance of the Property shall be reduced to an amount equal to the product of the Annual Rent set forth in Section 3.1, multiplied by a fraction whose numerator is the gross square footage of land located within the remaining portion of the Property which has not been included within the newly segregated lease and whose denominator is the gross square footage of all land located within the Property; provided, however, that in no event shall the total Annual

Rent following any such adjustment pursuant to this clause (i) be less than the greater of (1) the Annual Rent determined pursuant to Section 3.1 hereof (without regard to any adjustment provided for herein) or (2) the Annual Rent in effect immediately prior to such adjustment.

(b) Fair Market Rent Determination. In the event a Retriggering Event has occurred or will occur, Landlord and Tenant shall meet and attempt to agree upon the amount of such Fair Market Rent for the portion of the Property affected by the Retriggering Event. If Landlord and Tenant reach agreement with respect to the Fair Market Rent within thirty (30) days (the "Outside Agreement Date"), then the parties shall execute and deliver an amendment to this Lease to reflect such agreed upon Fair Market Rent. In the event the parties are unable to agree as to the appropriate amount of the Fair Market Rent on or before the Outside Agreement Date, then each party shall submit to the other party a separate written determination of the Fair Market Rent within thirty (30) days after the Outside Agreement Date, and such determinations shall be submitted to appraisal in accordance with the provisions set forth below. If appraisal is required, the following shall apply:

(1) Landlord and Tenant shall each appoint one appraiser who shall by profession be an independent MAI certified appraiser who shall have been active over the five (5) year period ending on the date of such appointment in the appraising of similar properties in Southern California. The determination of the appraisers shall be limited solely to the issue of the actual Fair Market Rent as determined by the appraisers, taking into account the requirements set forth above in this Section 3.4. Each such appraiser shall be appointed within thirty (30) days after the Outside Agreement Date.

(2) The two (2) appraisers so appointed shall within forty-five (45) days after the date of the appointment of the last appointed appraiser proceed to determine the Fair Market Rent and deliver a written report thereof to each of Landlord, Tenant and the other appraiser; provided, however, that if either Landlord or Tenant fails to appoint its appraiser within the time permitted, or if two (2) appraisers shall have been appointed but only one such appraiser shall have made such determination and delivered a written report thereof to each of Landlord, Tenant and the other appraiser within such forty-five (45) day period, then the determination of such sole appraiser shall be final and binding upon Landlord and Tenant.

(3) If the two (2) appraisers shall have been appointed and shall have made their determinations within the requisite periods set forth above, and if the difference between the amounts so determined shall not exceed five percent (5%) of the lesser of such amounts, then the Fair Market Rent shall be an amount equal to fifty percent (50%) of the sum of the amounts so determined, and shall be final and binding upon Landlord and Tenant. If the difference between the amounts so determined shall exceed five percent (5%) of the lesser of such amounts, then within ten (10) business days after the determination of the Fair Market Rent by the last of the two (2) appraisers, such two appraisers shall agree upon and appoint a third appraiser who shall be qualified under the same criteria set forth hereinabove for qualification of the initial two (2) appraisers.

(4) If the two (2) appraisers fail to agree upon and appoint a third appraiser within the time period set forth above, then the parties shall mutually select the third appraiser. If Landlord and Tenant are unable to agree upon the third appraiser within ten (10) business days, then either party may, upon at least ten (10) days' prior written notice to the other party, request the Presiding Judge of and for the Orange County Superior Court, acting in his private and non-judicial capacity, to appoint the third appraiser. Following the appointment of the third appraiser, the panel of appraisers shall within thirty (30) days thereafter reach a decision as to the Fair Market Rent within thirty (30) days after his or her appointment and to deliver a written report thereof to each of Landlord, Tenant and the other two (2) appraisers.

(5) In the event a third appraiser is so appointed, the determination of the three (3) appraisers which differs most in terms of dollar amount from the determinations of the other two (2) appraisers shall be excluded, and fifty percent (50%) of the sum of the remaining two determinations shall be final and binding upon Landlord and Tenant as the Fair Market Rent.

(6) If the foregoing two (2) or three (3) appraiser system is utilized, then Landlord and Tenant shall each pay the fees and expenses of the appraiser appointed by it and each shall pay one-half of the fees and expenses of the third appraiser. Each party shall pay for the cost of its own witnesses and attorneys.

(7) This provision for determination by appraisal shall be specifically enforceable to the extent such remedy is available under Applicable Laws.

(8) If the process described hereinabove has not resulted in a determination of a final Fair Market Rent rate by the date the Retriggering Event occurs, then the Annual Rent payable during the last month prior to the Retriggering Event will be used until the appraiser(s) reach a decision, and, following the determination by the appraiser(s), Tenant shall pay Landlord any underpayment of Annual Rent made by Tenant, from the date of the Retriggering Event, plus interest at the Prime Rate (as defined below), plus one percent (1%).

(c) Amendment. After the Fair Market Rent is determined as provided above, Landlord and Tenant shall execute an amendment to this Lease to establish the modified Annual Rent.

ARTICLE 4 ADDITIONAL RENT; PAYMENT OF RENT; TRIPLE NET LEASE

4.1 Additional Rent. All sums of money or charges required to be paid by Tenant under this Lease, including the Sponsor Fee, but excluding the Annual Rent, are collectively referred to in this Lease as "Additional Rent". If such amounts or charges are not paid at the time provided in this Lease, they shall nevertheless be collectible as Additional Rent with the next installment of Annual Rent thereafter falling due, but nothing herein contained shall be deemed to suspend or delay the payment of any amount of money or charge at the time the same becomes due and payable hereunder or to limit any other remedy of Landlord. All amounts of Annual Rent and Additional Rent payable in a given month (also collectively sometimes referred to in this Lease as "Rental") shall be deemed to comprise a single rental obligation of Tenant to Landlord.

4.2 Failure to Pay; Interest. If Tenant fails to pay, when due and payable, the Annual Rent or any Additional Rent, such unpaid amounts shall bear interest at the Interest Rate (defined in Section 25.10 below) from the date due to the date of payment, compounded monthly, based upon actual days elapsed compared to a 360-day year.

4.3 Late Charge. The late payment of any installment of Annual Rental or Additional Rent will cause Landlord to incur additional costs, including administration and collection costs and processing and accounting expenses and increased debt service ("Delinquency Costs"). Tenant shall receive, during the term hereof, a grace period (each, a "Grace Period"), not to exceed five (5) days after the due date for any installment of Annual Rental or Additional Rent. No Late Charge as defined herein shall be due as long as the applicable installment of Annual Rental or Additional Rental is paid on or before the expiration of the applicable Grace Period. As to any installment of Annual Rent or Additional Rent which Landlord has not received prior to the expiration of such Grace Period, Tenant shall pay a late charge equal to three percent (3%) of the installment of Annual Rent or Additional Rent payment which was not paid timely ("Late Charge") which is agreed to represent a reasonable estimate of the Delinquency Costs incurred by Landlord. Landlord and Tenant recognize that the damage which Landlord shall suffer as a result of Tenant's failure to pay such amounts is difficult to ascertain and said Late Charge is the best estimate of the damage which Landlord shall suffer in the event of late payment. So long as any amounts remain outstanding under the State Note, the Late Charge will be paid to the Independent Collection Agent to be applied towards the payment of any late charges due under the State Note, and any remaining balance shall be paid to Landlord. If the State Note is no longer outstanding, then the Late Charges shall be paid directly to Landlord. Late Charges due to Landlord are independent and separate from any Late Charges which Tenant may incur to State by reason of any payment under the State's Note not being made on or before the due date as a result of Tenant's failure to timely pay any installment of Annual Rent payable hereunder as and when due, though Landlord acknowledges and agrees that the Independent Collection Agent will utilize the Late Charges paid by Tenant under this Lease to satisfy any late charges which may be due under the State Note.

4.4 Address for Payments. All Annual Rent due and payable by Tenant pursuant to this Lease shall be paid by Tenant to Landlord at [REDACTED] (the “Independent Collection Agent”) to help ensure that all amounts due under the Note are kept current. The Independent Collection Agent shall utilize the Rental to first pay the Debt Service directly to the State and any remaining amounts after the payment of the Debt Service shall be paid to Landlord. Tenant shall ensure that Rental payments will be made to the Independent Collection Agent in sufficient time for Debt Service payments to the State and all remaining Rental amounts to Landlord are received on or before the first day of each month in which the payments are due. Landlord and Tenant agree to execute any agreements reasonably required by the Independent Collection Agent to effectuate the foregoing, including those certain instructions attached hereto as Exhibit “F”. In the event there is no further Debt Service under the Note (i.e., the Note has been fully paid), all amounts paid by Tenant as Annual Rent hereunder shall be paid directly to Landlord and the use of the Independent Collection Agent shall no longer be required. All Additional Rent (except property taxes and Late Charges (if any amounts remain outstanding under the State Note)), and other sums due to Landlord hereunder shall be paid directly to Landlord at the address set forth in Section 24.1 below and need not be paid to the Independent Collection Agent. Tenant shall be responsible to pay for all the fees charged by the Independent Collection Agent.

4.5 Tenant Responsible for All Costs. Landlord and Tenant acknowledge and agree that this is a triple net lease, and that except as otherwise expressly provided in this Lease, all obligations relating to the Property, including without limitation, all Annual Rent, Additional Rent, assessments and costs of compliance under all Applicable Laws; insurance costs and taxes shall be the sole and exclusive obligation of Tenant. Landlord shall not be responsible or liable for any expenses whatsoever in connection with the maintenance and upkeep of the Property except the Landlord shall cooperate with Tenant to receive the funds for the ADA Work (defined in Section 11.2) from the State.

4.6 Fair Market Rent. Landlord represents and warrants to Tenant, and Tenant hereby acknowledges and agrees that Landlord has determined that, to the best of its knowledge and belief, the Rental under this Lease is not less than the fair market rental value of the Premises.

ARTICLE 5 **TAXES**

5.1 Taxes. Commencing on the Commencement Date, and continuing for the balance of the Lease Term, Tenant agrees to pay, or cause to be paid, without setoff or deduction, as Additional Rent, the amount of all Taxes assessed for any reason and levied on the Property and all improvements thereon. Such Taxes shall be paid directly to the tax assessor by Tenant. Tenant shall provide to Landlord proof of payment of all Taxes assessed on the Property within ten (10) days after payment of such Taxes.

The term “Taxes” levied on the Property or the improvements thereon shall mean any form of tax, special tax, assessment, lien, bond obligation, license fee, license tax, tax or excise on rent, possessory interest tax or any other levy, charge or expense, together with any statutory interest thereon, imposed or required at any time by any federal, state, county, city or quasi-governmental authority having jurisdiction, or any political subdivision thereof, or any school, agricultural, lighting, drainage or other improvement or special assessment district thereof (hereinafter individually and collectively referred to as “Governmental Agencies”), on any interest of Landlord or Tenant or both in the Property or the improvements thereon, including without limitation: (a) any impositions by Governmental Agencies (whether or not such impositions constitute tax receipts) or any other payments to Governmental Agencies (whether involuntarily imposed by any such Governmental Agencies or voluntarily agreed to by Landlord) in substitution, partially or totally, of any impositions now or previously included within the definition of real property taxes; (b) any impositions upon this Lease or any document to which Tenant is a party, creating or transferring an interest or an estate in the Premises; and (c) special taxes, fees and/or charges assessed or otherwise payable under any community facilities district, special service district or any other special taxing district or authority, annual or periodic license or use fees, excises, transit and traffic charges, housing fund assessments, open space charges, childcare fees, school, sewer and parking fees or any other assessments, levies, fees, exactions or charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen (including fees “in-lieu” of any such tax or assessment). However, Tenant shall in no event be obligated to pay Landlord’s general income, inheritance, gift or estate taxes. In addition, in no event shall Tenant be responsible for paying any increases in

Taxes that are directly attributable to Landlord's sale or transfer of fee title to the Property that constitutes a "change in ownership" for purposes of real property taxes and assessments against the Property; it being agreed that any such increases that are triggered by such a "change in ownership" as a result of a sale or transfer by Landlord shall be the sole responsibility of Landlord; provided, however, that it is further agreed that any such increases imposed as a result of a "change in ownership" of Tenant's interest in this Lease or the Premises shall at all times be the sole responsibility of Tenant.

Any Taxes relating to a fiscal period of the taxing authority, only a part of which period is included within the Lease Term, shall be prorated as between Landlord and Tenant so that Tenant shall pay the portion attributable to any period during the Lease Term. Tenant's obligation to pay Taxes that accrued during the Lease Term shall survive the expiration or earlier termination of this Lease.

Tenant shall have the right to contest any Taxes or the increase in any Taxes which Tenant is obligated to pay under this Lease; provided, however, Tenant shall (i) give Landlord written notice of any such intention to contest at least thirty (30) days before any delinquency could occur, (ii) indemnify and hold Landlord harmless from all liability on account of said contest, (iii) take such action as is necessary to remove the effect of any lien which attaches to the Parcel or the improvements thereon due to such contest, and (iv) in the event of a final determination adverse to Tenant, prior to enforcement, foreclosure or sale, pay the amount involved together with all penalties, fines, interest, costs and expenses which may have accrued.

5.2 Personal Property Taxes. Prior to delinquency, Tenant shall pay all taxes and assessments levied upon trade fixtures, alterations, additions, Improvements, inventories and other personal property (including all of Tenant's Personal Property, as defined below) located and/or installed on the Premises by or on behalf of Tenant, and shall provide proof of payment thereof to Landlord within thirty (30) days after such taxes and assessments are paid.

ARTICLE 6 **USE**

6.1 Permitted Uses. Subject to compliance with all Applicable Laws, including CEQA and any review required by such Applicable Laws, Tenant shall have the right to use the Premises for any and all uses permitted in the current General Plan or the amendment to the General Plan text passed in February, 2010 as City Resolution No. 10-12 and approved as Measure C on June 8, 2010 (the "Ballot Measure") (collectively, the "Approved Uses"). Subject to compliance with all Applicable Laws, including CEQA and any review required by such Applicable Laws, Tenant shall have the right to re-size, relocate and change the existing operations within the Property (except that the equestrian center and Centennial Farm shall in no event be down-sized without Landlord's approval, which shall not be unreasonably withheld) so long as: (a) the Required Operations (defined below) are continued; (b) the use and operation is consistent with the General Plan and the Ballot Measure; and (c) Tenant provides Landlord with prior written notice of any change in the proposed use of the Property. Any use which is not consistent with the General Plan or the Ballot Measure and/or which is not otherwise expressly permitted in this Lease shall not be permitted unless approved by Landlord, which approval shall not be unreasonably withheld, and any required permits have been obtained, including any General Plan amendment necessary to permit such use has been processed and approved by the City Council of the City and has been approved by the voters of the City as required by the Ballot Measure. Landlord and Tenant expressly acknowledge that the provisions of the Ballot Measure apply to the Premises notwithstanding any other Applicable Law to the contrary. Regardless of any change in the General Plan or the zoning of all or any part of the Property, Tenant shall not permit the operation of any sexually-oriented business as defined by Costa Mesa Municipal Code (CMMC) section 9-448(a) on the Premises at any time, nor shall it permit or allow the scheduling of events or conventions on the Premises which are conducted exclusively for the patronage of adults and as to which minors are excluded, either by law and/or by the sponsors or holders of the event or convention, and which is characterized by an emphasis on "specified sexual activities" and/or "specified anatomical areas," as those terms are defined in CMMC section 9-448, or which would qualify as a "sexually-oriented business" as defined in CMMC section 9-448(a) if it were operated on an on-going basis.

Notwithstanding any approval of any change in use by Landlord, or any other provisions set forth above permitting any change or modification in type or intensity of use, Tenant must obtain all permits, licenses, environmental approvals, entitlements or any other approvals required by any Applicable Laws. Tenant further

specifically acknowledges that the Approved Uses may be conducted at an increased intensity only up to and including the intensity contemplated by the Environmental Impact Report prepared for the Orange County Fair and Exposition Center Master Plan, certified by the Orange County Fair Board in September 2003 (the "EIR"). By way of example, Tenant may increase intensity of use as to non-Fair events, to the level contemplated in the EIR, and may make re-use of the existing amphitheater, to the level contemplated in the EIR and subject to the noise mitigation measures set forth in the EIR, and any applicable judgments, injunctions and settlement agreements, for re-use of the amphitheater. However, no re-location of any Improvements or other construction activities are permitted without compliance with Applicable Laws. In no case shall operations under this Lease exceed activities or intensity levels contemplated in the EIR without application to, and review by, the City and other applicable Governmental Agencies as to such increased or changed activities. Alterations, improvements or maintenance activities relating to Existing Improvements on the Property, for instance, are required to be approved by the City and any other applicable Governmental Agencies in accordance with all Applicable Laws. Tenant expressly acknowledges that any intensification in use of the Premises beyond its current uses, whether or not contemplated by the EIR, are subject to all Applicable Laws and may require additional permitting, licensing or approvals prior to such intensification.

6.2 Operating Covenant. During the Term of this Lease, Tenant shall continue the operations on the Property described in Exhibit "H" (collectively, the "Required Operations") at its sole cost and expense and at least at their current levels of operation as required in Exhibit "H", unless otherwise mutually agreed to by Landlord and Tenant and subject to compliance with all Applicable Laws. Landlord shall have the right to review all Required Operations at such intervals as it deems appropriate for the sole purpose of ensuring that they are being funded and operated by Tenant as required by this Lease, and shall have the right to give direction to Tenant to correct any deficiencies in such Required Operations as required by the Lease with reasonable notice to allow correction by Tenant of any such deficiencies. **[STILL UNDER NEGOTIATION -- As to the Community Uses identified in Exhibit "H", Attachment 2, the parties agree that these uses include both contracted and non-contracted uses, and that the schools, community groups and non-profit organizations which are currently engaged in Community Uses on the Premises will likely change over time, but it is expressly intended by the parties that Community Uses continue on the Premises at substantially the same level, or greater, as they currently occur, subject to reasonable scheduling and insurance requirements. Tenant and Landlord shall jointly develop a non-profit events policy to ensure that all eligible Community, Educational and Non-Profit groups are provided fair access to use of the Premises consistent with Tenant's operations. In addition, during the annual review of the Tenant's Business Plans, the parties agree to review the number and types of Community Uses on the Premises to ensure fair access for these Community Uses in a way which does not materially, detrimentally affect Tenant's operation of the Premises. The parties further specifically agree that the current community uses also include groups which are treated as tenants on the Premises, and who use office space and facilities for their non-profit organizational functions, including the All American Boys Chorus and Cooperative Extension (a Governmental Agency which is part of the UC system), by way of example. Tenant shall make commercially reasonable efforts to continue to accommodate these and similar tenants on the Premises who contribute to the success of the Annual Fair, Centennial Farm, and the agricultural and cultural programs held on the Premises.]**

[STILL UNDER NEGOTIATION --Notwithstanding any of Tenant's rights set forth in this Lease regarding sponsorship rights, naming rights, trademarks or other provisions, and notwithstanding anything to the contrary in the License, Tenant shall not change, alter, modify, add to, or delete from, the name by which the Property is commonly known, "The Orange County Fair and Events Center" (sometimes referred to as the "OC Fair and Events Center") , either officially or unofficially, regardless of the purpose of any such proposed change, alteration, modification, addition or deletion, without the express consent of the JPA and the City.]

6.3 Applicable Laws.

(a) During the Term of this Lease, Tenant, at Tenant's sole cost and expense, shall comply with all applicable local, state or federal laws, statutes, regulations, ordinances, permits, licenses, judgments, decrees, injunctions, including those affecting the Premises, the Intangible Rights, Tenant's Personal Property, Contracts, Leases and Records, whether now or hereafter enacted and in force, including any which may (i) require repairs, modifications or Alterations in or to the Premises, Personal Property to Tenant's Personal Property or (ii) in any way adversely affect the use and enjoyment thereof (collectively, "Applicable Laws"); provided, however, that with respect to any Hazardous Materials which were located

upon, beneath, about or adjacent to the Property as of the Commencement Date (the “Pre-Existing Environmental Conditions”), Tenant shall only be responsible to take any action to comply with Applicable Laws to the extent required in order for Tenant to conduct its operations on the Property or to the extent any applicable Governmental Agency which is not Affiliated with Landlord has ordered that Landlord or Tenant take action with respect to the Pre-Existing Environmental Conditions. Tenant shall be responsible for obtaining any permit, business license, certificate of occupancy, or other permits or licenses required by any Governmental Agency permitting Tenant’s use or occupancy of the Premises; provided that Landlord shall cooperate with Tenant to obtain the foregoing. If any Applicable Laws are hereafter changed so as to require during the Term of the Lease, any alteration of the Premises, or the reinforcement of any other physical modification of the Premises, Tenant shall be solely responsible for such cost and expense, unless Tenant’s obligation to comply with the change in the Applicable Laws has been “grandfathered” or is otherwise exempted from compliance. Landlord agrees to cooperate with Tenant to minimize the impact of any new Applicable Laws on the Property and agrees to cooperate with any challenge to Applicable Laws made by Tenant, except that this requirement shall not apply if the Applicable Law being challenged by Tenant is a law, policy, or regulation of the City. It is hereby expressly agreed and acknowledged that the use and occupancy of the Premises by Tenant is solely for private purposes, subject to the terms and provisions of this Lease, and that the Applicable Laws are limited solely to those laws, rules and regulations applicable to private uses of property.

(b) During the Term of this Lease, Tenant, at Tenant’s sole cost and expense, shall also observe and comply with all obligations imposed by any covenants, conditions, restrictions, easements, rights, rights of way and other agreements (i) currently of record or known to Tenant affecting the Premises or any portion thereof, including the Reciprocal Easements and Agreements, or (ii) created after the Effective Date by, at the request of or with the written consent of Tenant.

6.4 Environmental Matters.

(a) Hazardous Materials. Tenant shall not cause nor permit, nor allow any of Tenant’s employees, agents, licensees, contractors, assignees or subtenants (individually, a “Tenant Party” and collectively, “Tenant Parties”) to cause or permit, any “Hazardous Materials” (defined below) to be brought upon, stored, manufactured, generated, blended, handled, recycled, treated, disposed or used on, under or about the Premises, except for routine office and janitorial supplies and other Hazardous Materials stored, used and disposed of in accordance with all applicable “Environmental Laws” (defined below). As used herein, “Hazardous Materials” means any chemical, substance, material, controlled substance, object, condition, waste, living organism or combination thereof which is or may be hazardous to human health or safety or to the environment due to its radioactivity, ignitability, corrosivity, reactivity, explosivity, toxicity, carcinogenicity, mutagenicity, phytotoxicity, infectiousness or other harmful or potentially harmful properties or effects, including, without limitation, petroleum and petroleum products, asbestos, radon, polychlorinated biphenyls (PCBs), refrigerants (including those substances defined in the Environmental Protection Agency’s “Refrigerant Recycling Rule,” as amended from time to time), and all of those chemicals, substances, materials, controlled substances, objects, conditions, wastes, living organisms or combinations thereof which are now or become in the future listed, defined or regulated in any manner by any Environmental Law based upon, directly or indirectly, such properties or effects. As used herein, “Environmental Laws” means any and all federal, state or local environmental, health and/or safety-related laws, regulations, standards, decisions of courts, ordinances, rules, codes, orders, decrees, directives, guidelines, permits or permit conditions, currently existing and as amended, enacted, issued or adopted in the future which are or become applicable to Tenant or the Premises.

(b) Existing Conditions. Landlord hereby discloses to Tenant that certain Hazardous Materials are located on, in and under the Premises as more particularly described in [REDACTED] (collectively, the “Environmental Reports”).

(c) Indemnification. Tenant shall indemnify, protect, defend and hold harmless Landlord and Landlord’s board members, managers, directors, officers and employees (individually and collectively, “Indemnitees”) from and against any and all Losses arising at any time during or after the Term as a result (directly or indirectly) of or in connection with the presence of Hazardous Materials on, under or about the

Premises as a result (directly or indirectly) of Tenant's and/or any Tenant's Party's activities, or failure to act, in connection with Hazardous Materials on, at and in the Premises. This indemnity shall (i) exclude any Losses for any clean-up or remediation work to the extent arising from the presence or existence of any Pre-Existing Environmental Conditions except to the extent a Governmental Agency which is not Affiliated (as defined below) with the Landlord makes a claim against Landlord based on the Pre-Existing Environmental Conditions or Tenant and/or any Tenant Party exacerbates such Pre-Existing Environmental Conditions (though the mere discovery and disclosure of any Pre-Existing Environmental Conditions shall not be considered an exacerbation) and (ii) specifically include any and all Losses for injury to or death of persons or loss of or damage to property which occurs during the Term of the Lease in connection with Hazardous Materials on, at and in the Premises, including based upon any Pre-Existing Environmental Conditions. Landlord agrees to cooperate with Tenant to obtain any and all approvals and permits to perform any required remediation work. Tenant's obligations pursuant to the foregoing indemnity shall survive the expiration or earlier termination of this Lease.

ARTICLE 7 **BUSINESS PLAN**

7.1 Annual/Five Year Business Plan. The initial annual business plan ("Annual Business Plan") and the initial five year business plan (the "5 Year Plan") for the Property shall be provided to Landlord for its information and review within one hundred twenty (120) days following the Commencement Date. Thereafter, not later than January 1st of each calendar year with respect to the Annual Business Plan and not later than the January 1st following the fifth (5th) anniversary of the Commencement Date and each five (5) years thereafter with respect to the 5 Year Plan, Tenant shall submit to Landlord for its information and review an Annual Business Plan or 5 Year Plan, as applicable, in a reasonable form approved by Landlord. The Annual Business Plan and 5 Year Plan shall include the expected capital improvements projected for the Property and operations during the applicable period, but shall in no event include budgets, cost or revenue projections or other financial information of Tenant, except that Tenant shall include within the Annual Business Plan and the 5 Year Plan a budget for costs to be incurred for the Required Operations (excluding the marketplace). Within thirty (30) days following Landlord's receipt of the Annual Business Plan and the 5 Year Plan, as applicable, Landlord and Tenant shall meet and confer to discuss the Annual Business Plan and the 5 Year Plan, as applicable, and a public hearing shall be held to discuss the Annual Business Plan and the 5 year Plan. Landlord may make suggestions and give advice on the Annual Business Plan and the 5 Year Plan. Tenant shall have no obligation to make any changes based upon any suggestions or advice received by Landlord as to any part of the Annual Business Plan other than the Required Operations, except the Landlord can disapprove the Annual Business Plan or the 5 Year Plan if (i) the Required Operations are not included; (ii) the budgets are not sufficient to conduct the Required Operations; or (iii) if the Required Operations as set forth in the Annual Business Plan are not in conformance with the provisions of this Lease.

7.2 Contents of Annual Business Plan and Five Year Business Plan. The Annual Business Plan and the initial Five Year Business Plan shall include a detailed presentation of the following elements at a minimum:

1. Executive Summary
2. Mission Statement
3. Business Overview, including identification of any changes in principal ownership of Tenant of 10% or more
4. Discussion of products and services.
5. Operating Plan setting forth summary information regarding management, staffing, contract services, facilities & equipment and related operating elements.
6. Basic Summary of any Legal Issues including claims status, compliance with local, state & federal regulations and licensing (which shall not include any information which is privileged).

7.3 Confidential Records to be Submitted to Landlord.

(a) In addition to the Annual Business Plan and the initial Five Year Business Plan, Tenant shall submit to Landlord with the Annual Business Plan its most recent Market Analysis and Marketing

Plan, if any, and any reports regarding advertising and promotion, it being expressly agreed by the parties that such documents will contain confidential financial and proprietary information and will be received by Landlord in confidence and such documents shall be kept confidential and shall not be released to the public and shall not be considered public records.

(b) Without in anyway limiting any other rights or remedies of Landlord upon the occurrence of an Event of Default, if Tenant is in any monetary default under this Lease and such default continues for thirty (30) days without being cured, Tenant shall provide to Landlord, within ten (10) days of Landlord's written request therefor, any and all financial statements (included audited statements, if prepared) covering a period of up to five (5) years prior to Landlord's request, it being expressly agreed by the parties that any such information provided to Landlord will contain confidential financial and proprietary information and will be received by Landlord in confidence and such documents shall be kept confidential and shall not be released to the public and shall not be considered public records.

ARTICLE 8 **UTILITIES**

8.1 **Utilities.** Tenant shall pay or cause to be paid, all charges for water, gas, electrical power, telephone, sewer, trash collection and all other utilities and services supplied to or for the Premises from and after the Commencement Date (hereinafter referred to as "**Utilities**"). Tenant shall make a reasonable effort to operate the Premises in an energy efficient manner to the extent financially feasible to Tenant.

8.2 **No Liability.** Landlord shall not be liable in damages or otherwise for any discontinuance, failure or interruption of Utility service to the Premises. No such discontinuance, failure or interruption shall be deemed a constructive eviction of Tenant or entitle Tenant to terminate this Lease or withhold payment of any Rental due under this Lease.

ARTICLE 9 **INDEMNITY; INSURANCE**

9.1 **Indemnity by Tenant.** In addition to the other indemnities contained herein, and notwithstanding the existence of any insurance carried by or for the benefit of Landlord or Tenant, and without regard to the policy limits of any such insurance, except to the extent arising from Landlord's gross negligence or willful misconduct, Tenant shall indemnify, protect, defend, and hold Landlord and all other Indemnitees harmless from and against any and all Losses imposed upon or incurred by or asserted against Landlord and all other Indemnitees by reason of (a) any accident, injury to or death of persons or loss of or damage to property occurring on or about the Property or Premises during the Term of this Lease, (b) the use, misuse, occupation, improvement or maintenance of the Premises or any work or activity in or about the Premises by Tenant or its assignees or subtenants or their respective agents, employees or contractors, (c) any breach or failure to perform any obligation imposed on Tenant under the Lease, (d) any act or omission of Tenant or its assignees or subtenants or their respective agents, contractors or employees or (e) the violation of any Applicable Laws by Tenant or its assignees or subtenants or their respective agents, employees or contractors. The foregoing shall in no event include an indemnification relating to Hazardous Materials and/or the Pre-Existing Environmental Conditions, it being acknowledged that such matters are covered in Section 6.4 hereof. Any amounts which become payable by Tenant under this Section 9.1 shall be paid within ten (10) days after liability therefor is determined by litigation or otherwise, and if not timely paid shall bear interest at the Interest Rate from the date of such determination to the date of payment. Tenant, at its sole cost and expense, shall contest, resist and defend any such claim, action or proceeding asserted or instituted against Landlord or any other Indemnitee for which Tenant is obligated to provide indemnification pursuant to this Section 9.1 or any other provision of this Lease; provided, however, that any legal counsel selected by Tenant to defend Landlord shall be reasonably satisfactory to Landlord, and, if there are any conflicts of interest that cannot be waived, any such counsel retained by Tenant to defend Landlord shall be separate, independent counsel from any counsel selected by Tenant to defend Tenant. In addition, whether or not any legal counsel retained by Tenant to defend Landlord is joint counsel to Tenant or separate, independent counsel, to the extent Landlord is a Governmental Agency, Tenant shall also be responsible for the reasonable costs and expenses of Landlord's counsel in providing oversight to any such outside counsel so retained by Tenant. All indemnification covenants set forth in this Section 9.1 or elsewhere in this Lease are intended to apply to Losses incurred directly by the indemnified parties and their property, as well

as by the indemnifying party or third party, and their property. For purposes of this Section 9.1 and the other indemnification obligations of Tenant under this Lease, any acts or omissions of Tenant, or by employees, agents, assignees, contractors, subcontractors or others acting for or on behalf of Tenant (whether or not they are negligent, intentional, willful or unlawful), shall be strictly attributable to Tenant. It is understood and agreed that payment shall not be a condition precedent to enforcement of the foregoing indemnification obligations or any of the other indemnification obligations of Tenant set forth in this Lease. The obligations of this Section 9.1 shall survive the expiration or earlier termination of this Lease.

9.2 Tenant's Insurance Obligations. Tenant covenants and agrees that from and after the Commencement Date, Tenant will carry and maintain, at its sole cost and expense, the following types of insurance, in the amounts and in the form hereinafter specified:

(a) Public Liability. A policy of commercial general liability insurance (“CGL Policy”) (occurrence form, rather than “claims made”) having a combined single limit of not less than Five Million Dollars (\$5,000,000) per occurrence and Ten Million Dollars (\$10,000,000) aggregate, including coverage for, among other things, Bodily Injury, Personal Injury, Property Damage, Contractual (both oral and written contracts), Products and Completed Operations. The CGL Policy requirements set forth above can be satisfied by the limit afforded under the CGL Policy, or by such policy in combination with the limits afforded by an umbrella or excess liability policy (or policies); provided the coverage afforded under any such umbrella or excess liability policy is at least as broad in all material respects as that afforded by the underlying CGL Policy as primary policy, supplemented with an excess umbrella policy.

(b) Workers' Compensation. Workers' compensation insurance having limits not less than those required by applicable state and federal statute, and covering all persons employed by Tenant in the conduct of its operations on the Premises, together with employer's liability insurance coverage in the amount of at least One Million Dollars (\$1,000,000) each accident for bodily injury by accident; One Million Dollars (\$1,000,000) each employee for bodily injury by disease; and One Million Dollars (\$1,000,000) policy limit for bodily injury by disease.

(c) Business Interruption. Insurance covering losses of income and extra expense in amounts which will reimburse Tenant for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Tenant or attributable to prevention of access to the Premises caused by any insured or uninsured perils, and in sufficient amounts to maintain Tenant's Rental obligations hereunder for a period of one (1) year.

(d) Buildings and Improvements. Insurance covering loss or damage to all Buildings on the Property in excess of 5,000 square feet, in an amount not less than one hundred percent (100%) of their full replacement cost from time to time; provided that in no event shall Tenant be obligated to provide coverage for earthquake, flood or terrorism. Furthermore, Landlord acknowledges and agrees that Tenant shall not be obligated to maintain any such property insurance for Buildings containing less than 5,000 square feet. Any policy proceeds shall be used for the repair or replacement of the property damaged or destroyed, unless this Lease shall cease and terminate under the provisions of Article 18.

(e) Builder's Risk Insurance. Before commencement of any demolition or construction to the Property with respect to a Building containing 5,000 or more square feet, Tenant shall procure and maintain in force and effect until the completion thereof, “all risks” builder's risk insurance including vandalism and malicious mischief, covering the Improvements in place and all material and equipment at the job site furnished under contract for such work, with such limits as may reasonably be required by Landlord (but in any event not less than the value of the completed Improvements subject to such work, including increased costs resulting from change orders or other increased costs of construction).

(f) Pollution Legal Liability. Pollution legal liability coverage for the Property in a minimum amount of Ten Million Dollars (\$10,000,000); provided that such coverage is available at commercially reasonable rates.

(g) Additional Insurance. In addition to the insurance described above, at any time during the Term, Tenant may procure and maintain any insurance not required by this Lease, but all such insurance shall be subject to all provisions hereof pertaining to insurance and shall be for the mutual benefit of Landlord and Tenant. At the request of Landlord, Tenant shall obtain such additional insurance coverage or policies as may be reasonably necessary to provide coverage for the Premises consistent with coverage generally recommended and in place for similar property in the geographic area in which the Property is located, provided that in no event shall Tenant be obligated to provide coverage for earthquake, flood or terrorism. Tenant shall, within thirty (30) days following Landlord's request, provide evidence of any such new insurance coverage.

All insurance policies required by express provisions hereof shall be carried only in insurance companies licensed to do business in the State, with an A.M. Best rating of at least *A-IX*, and otherwise reasonably acceptable to Landlord and, for so long as any obligations under the State Note are outstanding, the State, provided, that Landlord shall reasonably consider insurance policies which do not satisfy the foregoing rating requirements so long as such policies are approved by the State if the State Note is outstanding.. All insurance policies shall also name Landlord and Landlord's mortgagees or trust deed beneficiaries as "additional insureds", including the State so long as any obligations under the State Note are outstanding. Tenant agrees that a loss payable endorsement will be issued to the State for the policies of insurance under subparagraph (d) and (e) in accordance with the terms and provisions of the deed of trust which encumbers the Property and secures the State Note pursuant to the State Loan Documents. Certificates of the foregoing insurance shall be delivered to Landlord and the State concurrently with Tenant's execution of this Lease, and thereafter executed copies of renewal certificates thereof shall be delivered to Landlord at least five (5) days prior to the expiration of the term of each such policy; provided, however, that the coverage required by Section 9.2(a) above shall at all times shall be evidenced by an original Acord 25-S Certificate of General Comprehensive Liability Insurance, and shall name each of Landlord and Landlord's mortgagees or trust deed beneficiaries as "additional insureds", including the State so long as any obligations under the State Note are outstanding. As often as any policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Tenant in like manner and to like extent. All public liability, property damage or other casualty policies shall be written as primary policies, not contributing with or secondary to coverage which Landlord may carry. All deductibles and/or self-insured retentions for any policies required to be or otherwise maintained by Tenant under this Lease shall be commercially reasonable and in any event no greater than those deductibles and/or self-insured retentions maintained by similarly situated owners or tenants (including with similar financial wherewithall) under insurance policies affording the same coverage(s) for similar property in the geographic area in which the Property is located. No policy of insurance issued as to which the Landlord or City is an additional insured shall contain a provision which requires, in substance, that no party except the named insured can satisfy any such deductible or self-insured retention.

Tenant's obligations to carry the insurance provided for above may be satisfied by inclusion of the Premises within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Tenant; provided, however, that Landlord and those persons or entities identified in the preceding paragraph shall be named as additional insureds thereunder as their interests may appear and that the coverage afforded Landlord will not be reduced or diminished by reason of the use of such blanket policies of insurance, and provided further that the requirements set forth herein are otherwise satisfied.

Notwithstanding anything to the contrary in this Lease, for so long as any obligations under the State Note remain outstanding, Tenant shall at all times obtain, maintain and comply with all insurance requirements under the State Loan Documents.

9.3 Waiver of Rights. Tenant (for itself and its insurer) hereby waives any rights, including rights of subrogation, that Tenant may have against Landlord for compensation for any loss or damage occasioned to Tenant with regard to its property and the Premises. All insurance policies carried by Tenant with regard to its property and the Premises, including contents, fire and casualty insurance, shall expressly waive any right of subrogation on the part of the insurer against Landlord.

9.4 Exemption of Landlord from Liability. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property including, but not limited to, Buildings, fixtures, equipment, furniture and alterations or injury to persons in, upon or about the Premises arising from any cause, and Tenant hereby

expressly releases Landlord and waives all Losses in respect thereof against Landlord, except only such Losses as are caused solely by Landlord's gross negligence or willful misconduct, subject to Section 9.3 above.

ARTICLE 10 TITLE TO PREMISES

10.1 Real Property. Tenant acknowledges that Landlord's title to the Property is subject to: (a) the effect of all covenants, conditions, restrictions, easements, mortgages or deeds of trust, any rights-of-way of record or apparent; (b) the effect of any zoning, building or other land-use laws of the city, county and state where the Premises are located now or hereinafter enacted; and (c) general and special Taxes not delinquent.

10.2 Ownership and Removal of Improvements. Landlord acknowledges and agrees that during the Term of this Lease, Tenant shall be the owner of any New Improvements that Tenant may hereafter make to the Property, and all Tenant's Personal Property. Tenant shall retain all rights to depreciation deductions and tax credits arising from its ownership of such New Improvements and Tenant's Personal Property during the Term of this Lease. Without limiting the provisions of Sections 1.4 and 2.3 hereof, upon expiration or earlier termination of this Lease, all Improvements and any Tenant's Personal Property (including any replacements or new Tenant's Personal Property acquired by Tenant for the operations conducted upon the Premises) then used in connection with the use, operation or maintenance of the Premises shall automatically vest in, revert to (as applicable) and become the property of Landlord, in each case free and clear of all liens or encumbrances, but without any other representation or warranty by Tenant and without any compensation to, or requirement of consent or other act of Tenant and without the necessity of executing a deed, bill of sale, conveyance or other act or agreement of Tenant.

ARTICLE 11 ALTERATIONS

11.1 Alterations of Improvements. At Tenant's sole expense, after giving Landlord at least sixty (60) days' notice in writing of its intention to do so, and following all necessary compliance with all Applicable Laws, including, without limitation, Costa Mesa Municipal Code section 13.200 et seq., for any activities involving a "Cultural Resource" and any applicable permitting requirements of the City or other applicable Governmental Agencies and compliance with the provisions of the State Loan Documents, and without limiting Tenant's right to remove and/or replace Personal Property in accordance with Section 14.1, Tenant may, from time to time, demolish Improvements, make such alterations, additions or changes to improvements or make new improvements to the Premises (collectively, "Alterations") as Tenant may find necessary or convenient for its purposes; provided that (a) once commenced, any Alterations shall be diligently prosecuted to completion, (b) all such Alterations shall be performed and completed in a good and workmanlike manner and in conformity with all Applicable Laws, and (c) Tenant must be able to continue to conduct the Required Operations during the making of such Alterations and after such Alterations are made. Landlord acknowledges and agrees Landlord's approval of the Alterations shall not be required, except that any demolition of a Building in excess of 5,000 square feet shall require the consent of Landlord, which consent shall not be unreasonably withheld, so long as the Required Operations will continue.

11.2 Deferred Maintenance. Landlord and Tenant acknowledge that there are certain pre-existing conditions at the Property (collectively, the "Deferred Maintenance") that need to be repaired and/or addressed (in addition to the Pre-Existing Environmental Conditions that are covered by Section 6.4 above). The Deferred Maintenance are more particularly described on Exhibit "I" attached hereto. The Deferred Maintenance includes certain repairs required for the amphitheater on the Property to comply with the Americans With Disabilities Act (the "ADA Work"). Tenant agrees that Landlord shall not have any obligations with respect to the Deferred Maintenance, except that Landlord shall diligently pursue and obtain from the State, in accordance with the Purchase Agreement, the amount of up to One Million Dollars (\$1,000,000.00) to be used for the ADA Work ("ADA Reimbursement"). Upon receiving said funds from the State (if same have not been delivered directly to Tenant), Landlord shall promptly deliver the funds to Tenant. Landlord and Tenant shall work together in good faith to obtain said funds as soon as possible following the Commencement Date. Except for Landlord's express obligation set forth above with respect to obtaining funds for the ADA Work, Tenant shall be solely responsible for the Deferred Maintenance, which Deferred Maintenance will be addressed by Tenant to bring the Property into good condition and repair in accordance with the performance schedule set forth on Exhibit "I" and in compliance with

and subject to all Applicable Laws. Landlord and Tenant acknowledge and agree that the ADA Reimbursement: (i) is to remedy a pre-existing condition satisfying an obligation of the State of California pursuant to the Agreement and Settlement and Release arising out of the matter entitled Schneider v. State of California, et al., and (ii) the receipt and use of the funds by Tenant was factored into the negotiations establishing the fair market rental value of the Premises under this Lease (i.e., Tenant would have otherwise paid less under this Lease had Tenant not assumed the obligation to perform the ADA Work), (iii) Tenant is obtaining no public benefit from the receipt of the ADA Reimbursement, and (iv) Tenant's performance of the ADA Work may require the payment of prevailing wages, and if so paid, the ADA Reimbursement shall be limited solely to the ADA Work. In the event that Tenant is able to complete the ADA Work for less than the amount of the ADA Reimbursement, Tenant shall refund any remaining funds to the State within sixty (60) days after completion of the ADA Work.

11.3 Capital Investment. In furtherance of the rights and benefits of Tenant set forth in this Lease and notwithstanding anything to the contrary herein, subject to the requirements of Applicable Laws, Tenant agrees during the five (5) year period following the Commencement Date to make a capital investment of between Six Million Dollars (\$6,000,000.00) and Eight Million Dollars (\$8,000,000.00) to be utilized for repair of the Deferred Maintenance and/or additional improvements for the Property; provided that Tenant makes no more specific representation and warranty about the actual time frame for making such investment, the actual amount of the investment and the exact use for which such investment shall be made other than as set forth in this Section.

11.4 Landlord Cooperation. Subject to Tenant's compliance with all Applicable Laws, and the customary and normal planning and development process of the City, Landlord agrees to cooperate with Tenant's Alterations and/or operations at the Property, including, without limitation, executing easements, covenants, parcel maps and other subdivision approvals required in connection therewith. Upon request, Landlord shall promptly execute and notarize (if appropriate) any documents reasonably requested by Tenant.

11.5 Applicable Law. Notwithstanding any Alterations, Improvements, maintenance or other construction permitted or approved as provided for herein, Tenant must obtain all permits, licenses, environmental approvals, entitlements or any other approvals required by any Applicable Laws.

ARTICLE 12 **MECHANICS' LIENS**

12.1 Tenant's Covenants. Tenant agrees that it will pay, or cause to be paid, all costs of labor, services and/or materials supplied in the prosecution of any work, done, or caused to be done, on the Premises, and Tenant will keep the Premises free and clear of all mechanics' liens and other liens on account of work done for Tenant or persons claiming under Tenant.

12.2 Contest of Lien. If Tenant desires to contest any mechanics' lien claim it shall (a) either (i) post a mechanics' lien release bond issued by a responsible corporate surety in an amount and in a manner sufficient to satisfy statutory requirements for the release of such mechanics' lien in the state where the Premises are located or (ii) furnish Landlord with adequate security reasonably acceptable to Landlord for the amount of the claim plus estimated costs and interest and (b) promptly pay or cause to be paid all sums awarded to the claimant on its suit.

12.3 Notice of Lien. Tenant shall forthwith notify Landlord in writing of any claim or lien filed against the Premises or the commencement of any action affecting the title thereto.

12.4 Notice of Non-responsibility. Landlord or its representatives shall have the right to go upon and inspect the Premises at all reasonable times and shall have the right to post and keep posted thereon notices of non-responsibility or such other notices which Landlord may deem to be proper for the protection of Landlord's interest in the Premises. Before the commencement of any work which might result in any such lien, Tenant shall give to Landlord written notice of its intention to do so in sufficient time to enable Landlord to post such notices.

ARTICLE 13
BUILDING PREMISES/SIGNS

13.1 General. Tenant shall have the right to install any and all signs and graphics in and around the Property so long as same complies with all Applicable Laws. For purposes hereof, the term “signs and graphics” includes, without limitation, all signs, designs, monuments, logos, banners, projected images, pennants, decals, advertisements, pictures, notices, lettering, graphics and decorations. Tenant shall not be obligated to remove any such signs and graphics at the expiration or early termination of this Lease. Tenant shall be required to submit to the City a comprehensive Planned Signage Program through the City’s existing planning process in accordance with City’s existing sign and development ordinances.

13.2 Billboards. Upon the Commencement Date, Landlord shall assign to Tenant all Contracts, Leases and/or other agreement relating to the use of all billboards located on the Property for the Term hereof, and from and after such date during the Term hereof, all revenues received for the use of the billboards on the Property shall belong solely to Tenant, subject to the pre-existing rights of any third party in and to the billboards or revenues therefrom. Landlord makes no representation to Tenant regarding its rights to own or use the billboards located on the Property, and assigns to Tenant only such rights as Landlord has acquired from the State as to such billboards. Tenant shall, at Tenant’s sole expense be responsible for any and all legal costs and expenses associated with resolving any dispute about its rights to use the billboards or receive the revenue therefrom. Tenant will allow Landlord and/or the City to utilize the billboards and electronic reader boards located adjacent to Newport Boulevard and Fairview Avenue for the limited periods of times to promote Landlord and/or City of Costa Mesa events in accordance with the terms, provisions and timeframes outlined in Exhibit “G” attached hereto, with approval of Tenant not to be unreasonably withheld.

ARTICLE 14
TENANT’S PERSONAL PROPERTY

14.1 Removal and Replacement. The Personal Property (other than the Excluded Personal Property), and all of Tenant’s other trade fixtures, furniture, furnishings and other personal property not permanently affixed to the Premises (hereinafter with such Personal Property (other than the Excluded Personal Property), collectively referred to as “Tenant’s Personal Property”) shall be and remain the property of Tenant during the Term of this Lease. During the Term of this Lease, Tenant shall have the right to remove or dispose any or all of Tenant’s Personal Property which it may have stored or installed in the Premises in the ordinary course of business, though Tenant shall repair any damage caused to the Premises resulting from such removal; provided, however, that at all times Tenant shall provide and maintain during the entire Term such Tenant’s Personal Property as necessary in order to operate the Premises in accordance with the terms of this Lease. Notwithstanding the foregoing, to the extent any of Tenant’s Personal Property (including any replacements or new Tenant’s Personal Property acquired by Tenant for the operations conducted upon the Property) has not been disposed of or replaced, such remaining Tenant’s Personal Property shall be turned over to Landlord upon the termination of the Lease as provided in Section 1.4 and 10.2 hereof.

14.2 Improvements. Any of Tenant’s trade fixtures, furniture, furnishings or other property which is permanently affixed to the Premises shall be deemed Improvements as defined in this Lease and shall not be removed by Tenant upon the termination of this Lease.

ARTICLE 15
ASSIGNMENT AND SUBLETTING; OPERATING CONTRACTS

15.1 Assignment and Subletting. Except for any subleases or licenses permitted pursuant to Section 15.4 and which are entered into in compliance with the terms of the State Loan Documents, any transactions expressly permitted pursuant to Section 15.5 hereof or any Leasehold Mortgages permitted pursuant to Article 18 hereof, and further subject to Landlord’s right of first negotiation as provided in Section 15.9 hereof, Tenant shall not sell, assign, encumber, pledge, or transfer, whether voluntarily, involuntarily, or by operation of law, its leasehold interest in the Premises, or any portion thereof (hereinafter, an “Assignment”) without Landlord’s prior written consent, which consent shall not be unreasonably withheld or delayed, and if required pursuant to the State

Loan Documents, the consent of the State. As used herein, the term “Assignment” shall also include, without limitation, the occurrence of any of the following, whether occurring, directly or indirectly, voluntarily or by operation of law, or as a result of a single transaction or event or a series of one or more related transactions or events: (i) the sale, assignment, transfer or disposition of all or substantially all of the assets and property of Tenant or any Controlling Person of Tenant; (ii) the conveyance, sale, assignment, transfer or disposition of any stock, partnership, membership or other interests (whether equity or otherwise) in Tenant or any Controlling Person of Tenant, if such conveyance, sale, assignment, transfer or disposition results, directly or indirectly, in a change in Control of Tenant or any such Controlling Person), (iii) any dissolution, merger, reorganization, share exchange, recapitalization, restructure or consolidation of Tenant or any Controlling Person of Tenant, if such dissolution, merger, reorganization, share exchange, recapitalization, restructure or consolidation results, directly or indirectly, in a change in Control of Tenant or any such Controlling Person; (iv) the conveyance, sale, assignment, transfer or disposition of any general partnership, managing member or other managing entity interest in Tenant or any Controlling Person; or (v) the consummation of any other transaction that directly or indirectly, results in a change in Control of Tenant or any such Controlling Person.

As used in this Lease, the following terms shall have the following meanings:

- (1) “Affiliate” means, as applied to any Person, any other Person that, directly or indirectly, Controls, is Controlled by, or is under common Control with, such Person;
- (2) “Control” (including with correlative meanings, the terms “Controlling,” “Controlled by” and “under common Control with”), as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, partnership interests, membership interests, beneficial interests, trust powers, by contract or otherwise;
- (3) “Controlling Person” means (i) any Person(s) that, directly or indirectly (including through one or more intermediaries), Controls another Person, including any partners, shareholders, principals, members, trustees and/or beneficiaries of any such Person(s) to the extent the same Control or exercise Control over such Person, and (ii) any Person(s) that Controls, directly or indirectly (including through one or more intermediaries), any other Controlling Person(s); and
- (4) “Person” means any individual, estate, trust, corporation, partnership, limited liability company or any other organization or entity (whether a Governmental Agency or private).

In exercising such reasonable right of approval or disapproval with respect to any proposed Assignment, Landlord shall be entitled to take into account any fact or factor which Landlord reasonably deems relevant to such decision, including but not necessarily limited to the following, each of which are agreed to reasonable factors on which Landlord may elect to withhold its consent:

- (a) The transferee is not adequately capitalized in light of the responsibilities of Tenant hereunder and/or the ultimate Controlling Person of such transferee does not have reasonable financial worth and/or stability to support Tenant in light of the obligations of Tenant hereunder, provided, that, so long as such transferee is adequately capitalized and the ultimate Controlling Person has such reasonable financial wherewithal and stability, such transferee may be a special purpose entity whose sole asset will be the rights to be assigned under this Lease and no guaranty from another Person will be required if the Guaranty Termination Date (as defined below) has occurred. Any financial statements provided to Landlord in order to evaluate the financial worth or stability of a proposed transferee and/or Controlling Person(s) shall remain confidential and shall not be deemed to be Public Records.
- (b) In Landlord’s reasonable judgment the transferee and/or ultimate Controlling Person of such transferee is of a character or engages in businesses that are not consistent with the reasonable values and goals of Landlord.

(c) Tenant is in default under this Lease or an event or circumstance has occurred which with notice, passage of time, or both, would constitute an event of default by Tenant under this Lease.

(d) The transferee or its ultimate Controlling Person does not possess the necessary reputation, skill, or experience to assume Tenant's obligations hereunder.

Moreover, Landlord shall be entitled to be satisfied that each and every covenant, condition and obligation imposed upon Tenant by this Lease and each and every right, remedy and benefit afforded Landlord by this Lease is not impaired or diminished by such Assignment. Landlord and Tenant acknowledge that the express standards and provisions set forth in this Lease dealing with a proposed Assignment have been freely negotiated and are reasonable as of the Effective Date taking into account the favorable terms contained in this Lease have been afforded to Tenant due to the reputation and integrity of Tenant and the Controlling Person(s) of Tenant as of the Effective Date. Landlord would not likely offer similar terms to less qualified and responsible tenants.

No Assignment, sublease or license, whether made with or without Landlord's consent, shall release Tenant of any of its obligations under this Lease, and the covenants and obligations of Tenant contained in this Lease shall be binding on Tenant and its permitted successors and assigns throughout the Term, provided, that, in connection with any Assignment approved by Landlord as provided herein, (i) if the Guaranty Termination Date has occurred and the transferee has assumed the obligations of Tenant hereunder in writing pursuant to written assignment and assumption agreement reasonably acceptable to Landlord, and for so long as any obligations under the State Loan Documents are outstanding, approved by the State to the extent such approval is required under the State Loan Documents, then Landlord agrees to release Tenant from any and all obligations under this Lease which first accrue and arise from and after the effective date of such Assignment, and (ii) if the Guaranty Termination Date has not occurred, Landlord will, if requested by Tenant, release Tenant and the current Guarantors from any and all obligations under this Lease and the Guaranty (as defined below) if (x) the transferee has assumed the obligations of Tenant hereunder in writing pursuant to written assignment and assumption agreement reasonably acceptable to Landlord and for so long as any obligations under the State Loan Documents are outstanding, approved by the State, and (y) one or more replacement guarantors with an aggregate net worth equal to or greater than Fifty Million Dollars (\$50,000,000.00), as reasonably determined by Landlord, and for so long as any obligations under the State Loan Documents are outstanding, approved by the State, execute and deliver to Landlord a written guaranty, jointly and severally, in form and substance substantially similar to the form of Guaranty attached hereto as Exhibit "K".

A consent by Landlord or Tenant to one Assignment, whether by operation of law or otherwise, shall not be deemed to be a consent to any subsequent Assignment. Any Assignment made contrary to the terms of this Section shall be void.

15.2 Procedures. Should Tenant desire to effect an Assignment, it shall give notice thereof to Landlord by requesting in writing Landlord's consent to such Assignment at least thirty (30) days before the effective date thereof and shall provide Landlord with the following:

- (a) The nature of the proposed transaction and its proposed effective date;
- (b) A description of the identity, net worth and previous business experience of the proposed transferee and its ultimate Controlling Person, and, if applicable, any proposed replacement guarantors;
- (c) A statement that the Tenant intends to consummate the transaction if the Landlord consents thereto; and
- (d) Any further information relevant to the transaction which the Landlord shall reasonably request within fifteen (15) days after receipt of Tenant's written request for consent.

Within thirty (30) days after receipt of Tenant's written request for consent in accordance with this Section 15.2, Landlord shall respond to the proposed Assignment, and if it disapproves of such Assignment, Landlord shall set forth with reasonable specificity the grounds upon which such disapproval is based, which may include but is not limited to, for so long as any obligations under the State Note are outstanding, the State's refusal to consent to any such Assignment.

15.3 Documentation and Expenses. Each approved Assignment shall be evidenced by a written assignment and assumption agreement reasonably acceptable to Landlord, which shall be executed by the assignor and the transferee. By such instrument, the transferee shall assume and promise to perform the terms, covenants and conditions of this Lease which are the obligation of Tenant accruing on and after the date of the assignment. Tenant shall reimburse Landlord for all reasonable out-of-pocket third party costs and expenses incurred by Landlord in connection with processing any request by Tenant for Landlord's consent to any Assignment as provided in Section 15.1 hereof or any sublease, license or Operating Contract or non-disturbance agreement with respect thereto as provided in Sections 15.4, 15.7 or 15.8 hereof. Subject to the provisions set forth in Section 15.1 above, Tenant shall remain fully liable to perform its duties under this Lease notwithstanding that Tenant has subleased, assigned, or licensed all or a portion of the Premises.

15.4 Subletting; Licensing. Notwithstanding the provisions of Section 15.1 hereof, Tenant shall not be required to obtain Landlord's prior consent with respect to subleases or licenses of individual space in Improvements or areas within the Property, so long as each such sublease or license (a) is subject and subordinate to this Lease, (b) by its terms does not extend or purport to extend beyond the Term of this Lease, (c) does not bind or purport to be binding on Landlord, (d) such sublease or license is entered into for a legitimate purpose and not for the purpose of otherwise consummating an Assignment without Landlord's consent and (e) for so long as any obligations under the State Note are outstanding, is permitted under the State Loan Documents or has been entered into with the State's consent. Tenant further agrees for the benefit of Landlord that each sublease and license (i) shall state that it is subject to the terms and provisions of this Lease, (ii) shall require that the subtenant and licensee thereunder attorn to and accept Landlord as the lessor thereunder in the event this Lease is terminated and Landlord requests such attornment, and (iii) shall provide that in the event Landlord delivers a notice to subtenant and licensee stating that Tenant is in default under this Lease, then from and after receipt of such notice subtenant and licensee shall pay the rental payments payable by subtenant and licensee under its sublease or license directly to Landlord until such time as subtenant and licensee is notified by Landlord that Tenant has cured such default. **[STILL UNDER NEGOTIATION -- Tenant shall encourage all major sublessees or licensees to offer non-profit and community groups reasonable opportunities to engage in fundraising activities in conjunction with their use of the subleased or licensed space or areas.]** Notwithstanding the fact that Tenant shall not be required to obtain Landlord's prior consent to subleases and licenses of the Property, Landlord understands that Tenant may request that Landlord approve and/or consent to certain subleases and licenses, which approval and/or consent may be for the benefit of Tenant or the subtenant and licensee. In such instances, Landlord agrees that its approval and/or consent to such subleases and licenses shall not be unreasonably withheld or delayed. In the event of a sublease or license under this Lease, Tenant shall not be relieved of any of its obligations under this Lease.

For purposes of this Lease, the Leases assigned to Tenant pursuant to the Assignment of Leases shall be deemed subleases for all purposes of this Lease, and Landlord hereby acknowledges that it has approved all such Leases (as subleases) which Landlord so assigned to Tenant pursuant to such Assignment of Leases.

15.5 Permitted Transfers. Notwithstanding the provisions of Section 15.1 hereof, the conveyance, sale, assignment, transfer or disposition of any stock, partnership, membership or other interests (whether equity or otherwise) in Tenant or any Controlling Person of Tenant, by any partners, shareholders, principals, members, and/or beneficiaries of Tenant or any Controlling Person as of the Effective Date (each a "Current Equity Holder") to any other Current Equity Holder or by any such Current Equity Holder to a personal trust established for estate planning or tax reasons or to such Current Equity Holder's spouse or lineal descendant(s) (including by gift or death) shall not require the consent or approval of Landlord.

15.6 Assignment by Landlord. Landlord may, with Tenant's consent, which shall not be unreasonably withheld or delayed, directly or indirectly, sell or assign all or part of its interest in the Premises, including its interest in this Lease, and Tenant shall attorn to any purchaser or assignee of Landlord's interest, provided such purchaser or assignee shall be bound by this Lease and shall assume Landlord's obligations hereunder from and after the effective date of such sale or assignment. As used in this Lease, "Landlord" shall mean only the fee owner(s) of the Premises at the time in question, and in the event of any transfer(s) of title to the Premises, the transferor shall be automatically freed and relieved, from and after the date of such transfer and conveyance, of all covenants and obligations of Landlord under this Lease thereafter to be performed. The covenants and obligations of Landlord

contained in this Lease shall be binding on Landlord, its successors and assigns, only during and in respect to their respective successive periods of ownership.

15.7 Operating Contracts. Landlord acknowledges and agrees that Tenant shall not be required to obtain Landlord's consent of any operating contracts and other agreements relating to the operations of the Property (collectively, "Operating Contracts"); unless said Operating Contracts will extend beyond the Term of this Lease or will be binding upon Landlord in the event of the early termination of this Lease. In such event, the Operating Contract shall be subject to Landlord's approval, which approval shall not be unreasonably withheld. In addition, Landlord shall have the right to approve any capital improvement contracts in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) if any public funds will be utilized in connection with such work (excluding the ADA Work contracts, which shall not be subject to Landlord's approval). **[STILL UNDER NEGOTIATION -- Tenant shall encourage all contracting parties involved in Operating Contracts to offer non-profit and community groups reasonable opportunities to engage in fundraising activities in conjunction with their operations on the Premises.]**

15.8 Non-Disturbance Agreement. Landlord hereby agrees that, if Landlord has reasonably approved in writing a sublease or Operating Contract of a subtenant or vendor upon Tenant's request therefor as provided in this Article 15, then, if also requested by Tenant in connection therewith, Landlord shall enter into a separate non-disturbance and attornment agreement with such subtenant or vendor upon customary terms and conditions and reasonably acceptable to Landlord that provides, in substance, that upon the expiration or early termination of this Lease, (a) so long as such subtenant or vendor is not in default under its sublease or Operating Contract, Landlord shall recognize the subtenant or vendor under such sublease or Operating Contract (or cause a replacement tenant of the Premises, or applicable portion thereof, to recognize such subtenant or vendor) as the direct tenant/vendor of Landlord (or such replacement tenant) under all terms and conditions contained in such sublease or Operating Contract and for a term equal to the then unexpired term of such sublease or Operating Contract and (b) such subtenant or vendor shall attorn to Landlord (or its replacement tenant) as its landlord/vendee and shall be bound under all of the terms, covenants and conditions of such sublease or Operating Contract for the balance of the term thereof; provided, however, that in no event shall Landlord (or such replacement tenant) be: (1) liable for the breach of any representations or warranties set forth such sublease or Operating Contract by Tenant or for any act, omission or obligation of Tenant or any other party occurring or accruing prior to the date of such attornment by such subtenant/vendor in favor of Landlord (or such replacement tenant); (2) liable for any obligation to construct any improvements in, or make any alterations to, the Premises, or any portion thereof, or to reimburse any such subtenant or vendor by way of allowance or otherwise for any such improvements or alterations constructed or made, or to be constructed or made, by or on behalf of such subtenant/vendor in the Premises or any portion thereof; (3) subject to any offsets or defenses which subtenant/vendor might have against Tenant or any other party arising out of any events or circumstances occurring prior to the date of such attornment by such subtenant/vendor in favor of Landlord (or such replacement tenant); (4) liable for the return of any security deposit made by such subtenant/vendor under any sublease or Operating Contract, unless such security deposit shall have been actually deposited with Landlord (or such replacement tenant); (5) bound by any payment of rents, additional rents or other sums which such subtenant/vendor may have paid more than one (1) month in advance; or (6) bound by any agreement amending, modifying or terminating the sublease or Operating Contract in any material respect made without Landlord's prior written consent.

15.9 Landlord's Right of First Negotiation.

(a) If during the Term of this Lease, Tenant desires to sell and assign Tenant's entire leasehold interest in this Lease to Person that is not an Affiliate of Tenant (a "Third Party Sale"), Tenant shall provide Landlord with a right of first negotiation to purchase Tenant's leasehold interest in this Lease, upon the terms and conditions more particularly set forth herein. In the event Tenant desires to sell its leasehold interest in this Lease pursuant to a Third Party Sale, Tenant shall first give prior written notice (a "Sale Notice") of such desire to Landlord.

(b) For a period of thirty (30) days following receipt of the Sale Notice, Landlord and Tenant shall negotiate exclusively regarding the sale of Tenant's leasehold interest in this Lease to Landlord;

provided, however, neither Landlord nor Tenant shall be obligated to agree upon any such sale or upon any specific terms or conditions as to any such sale, including, without limitation, the purchase price. If Landlord and Tenant fail to negotiate and execute a definitive agreement regarding Landlord's purchase of Tenant's leasehold interest in this Lease within said thirty (30) day period, Tenant shall be entitled to place the sale of its leasehold interest under the Lease on the open market for sale to third parties on terms and conditions as may be determined by Tenant in its sole and absolute discretion and without regard to any terms or conditions discussed and/or negotiated by Landlord and Tenant during said thirty (30) day period. The consummation of any such Third Party Sale, however, shall be subject to the other provisions of this Article 15, including, without limitation, the prior approval of Landlord, and if applicable, the State.

(c) Landlord's right of first negotiation as provided herein shall be extinguished if Landlord and Tenant fail to negotiate and execute a definitive agreement within the thirty (30) day period described in Section 15.9(b) hereof.

ARTICLE 16

REPAIRS; MAINTENANCE

16.1 Tenant's Obligations. Subject to the extended time frames to allow Tenant to repair the Deferred Maintenance as provided in Exhibit "I" attached hereto and the rights of Tenant to delay any remediation of any Pre-Existing Environmental Condition as provided above, Tenant agrees at all times from and after delivery of the Premises, at its own cost and expense, to repair, maintain in good and tenantable condition the Premises in good order, condition and repair, ordinary wear and tear excepted and subject to the other express provisions of this Lease relating to, casualty, condemnation and acts of God. All replacements made by Tenant in accordance with this Section shall be of like size, kind and quality to the items replaced as they existed when originally installed.

16.2 Right to Enter. Tenant agrees to permit Landlord, or its authorized representatives, to enter the Premises at all times during usual business hours upon giving Tenant reasonable written notice (except that no notice will be required in the event of an emergency) to inspect the same, including, without limitation, for purposes of determining Tenant's compliance with its duties, covenants and obligations under this Lease and any Applicable Laws (including any applicable Master Plan or Specific Plan and Environmental Laws).

16.3 Landlord Has No Obligation. Landlord shall have no obligation whatsoever concerning the maintenance, repair, alteration, improvement, reconstruction or replacement of the Premises or their compliance with Applicable Laws. Tenant hereby waives, to the extent permitted by Applicable Laws, the right to make repairs at the expense of Landlord pursuant to any Applicable Law in effect as of the Effective Date or thereafter enacted.

ARTICLE 17

RECONSTRUCTION

17.1 Obligations of Tenant. Except as hereinafter otherwise provided, in case of damage to or destruction of the Improvements located on the Premises or any part thereof by fire or other cause, Tenant, at Tenant's sole cost and expense, may elect to restore, repair, replace, rebuild or alter the same as nearly as possible to their value, condition and character immediately prior to such damage or destruction or with such changes or alterations as may be made at Tenant's election in accordance with and subject to the conditions of Article 11 hereof. If Tenant elects to make any such repairs, such restoration, repairs, replacements, rebuilding or alterations shall be commenced within ninety (90) days following Tenant's receipt of building permits for such work and prosecuted to completion with due diligence and in good faith. If Tenant does not desire to make the repairs (regardless of whether insurance proceeds are available), Tenant shall notify Landlord in writing. Thereafter, Landlord and Tenant shall meet and confer in good faith to determine whether Landlord will approve Tenant's election not to rebuild, repair or restore (which approval Landlord shall not unreasonably withhold). The obligation of Tenant to pay Rental shall remain in full force and effect regardless of whether Tenant is able to operate any business and nothing contained in this Section shall be deemed or construed to relieve Tenant of its obligations to comply with the other covenants and obligations of Tenant under this Lease, including, without limitation, Article 6 hereof. Tenant shall not be entitled to any compensation or damages from Landlord for loss of use of the whole or

any part of the Premises, Tenant's Personal Property located on the Premises or for any inconvenience or annoyance occasioned by such damage.

17.2 Disbursement of Insurance Proceeds. All property insurance proceeds recovered on account of damage or destruction to the Improvements (the "Proceeds") shall be applied to the payment of the cost of repairing and replacing the Improvements so damaged regardless of whether such proceeds first become available after the expiration of the Term. If the Term expires or will expire prior to the completion of reconstruction and/or the proceeds will not be utilized for the restoration contemplated on the Property, all insurance proceeds shall, subject to the terms of the State Loan Documents, be delivered to Landlord if the proceeds are applicable to Existing Improvements and shall be retained by Tenant if applicable to New Improvements and any Alterations made by Tenant following the Commencement Date to the extent such New Improvements or Alterations did not replace any Existing Improvements.

17.3 Destruction Not A Release. Except as expressly provided for in this Lease, no destruction of or damage to the Improvements located on the Premises or any part thereof by fire or any other cause shall permit Tenant to terminate this Lease or shall relieve Tenant from its obligation to pay the full Rental under this Lease or from any of its other obligations under this Lease, and, except as otherwise expressly set forth herein, Tenant waives any rights now or hereafter conferred upon it by statute or otherwise to quit or surrender this Lease or the Premises or any suspension, diminution, abatement or reduction of Rental on account of any such destruction or damage.

ARTICLE 18 **LEASEHOLD FINANCING**

18.1 Non-Subordination. Except for the State Loan Documents, the fee estate in the Property and Landlord's interest under this Lease shall not be subordinate to, and Landlord shall not be required to subject its fee estate and interest in the Premises or this Lease, to the lien of any financing or mortgage sought or obtained by Tenant, including, without limitation, any Leasehold Mortgage (as defined below).

18.2 Tenant's Right to Encumber. Provided that no Event of Default by Tenant is outstanding and no event which, with the giving of notice or passage of time or both would constitute an Event of Default by Tenant under this Lease, Tenant is hereby given the right (exercisable at any time and from time to time) by Landlord, in addition to any other rights herein granted, without Landlord's prior written consent, approval or authorization, to hypothecate, pledge, encumber or mortgage its interest in this Lease, the leasehold estate in the Premises created hereby, or any part or parts thereof or interest therein, and/or its interest in any sublease(s), under one or more leasehold mortgage(s) in favor of a bona fide lender for value ("Leasehold Mortgage") and to assign such interest in this Lease, the leasehold estate in the Premises created hereby, or any part or parts thereof or interest therein, and/or in any sublease(s), as collateral security for such Leasehold Mortgage(s), upon the condition that (i) Tenant shall have no power or authority whatsoever to encumber Landlord's fee interest in the Property in any manner, (ii) all rights acquired under such Leasehold Mortgage(s) shall, except as expressly provided in this Article 18, be subject to each and all of the covenants, conditions and restrictions set forth in this Lease, and to all rights and interests of Landlord herein, (iii) no Leasehold Mortgage shall encumber any interest in real property other than Tenant's interest in this Lease, the leasehold estate in the Premises created hereby, or any part or parts thereof or interest therein, and/or its interest in any sublease(s), and (iv) the loan documents evidencing or securing such Leasehold Mortgage shall expressly provide that all notices of default thereunder must be delivered concurrently to Landlord and Tenant and that Landlord shall have the right, but not the obligation, to cure any default thereunder if Tenant fails to do so within the time period permitted for cure thereof by Tenant. None of the covenants, conditions or restrictions set forth in this Lease, or any of the rights and interests of Landlord herein, is or shall be waived by Landlord by reason of the right given to Tenant to mortgage such interest in this Lease, except as expressly provided herein. The holder of any Leasehold Mortgage upon the leasehold estate created by this Lease, and/or in Tenant's interest and estate in any Improvements, shall be referred to herein as the "Leasehold Mortgagee" and shall be entitled to the rights and benefits as provided herein.

18.3 Notices.

(a) Provided that Leasehold Mortgagee shall have notified Landlord in writing of its status as a Leasehold Mortgagee and its name and address and provided to Landlord a true and complete copy of the loan documents evidencing or securing the Leasehold Mortgage, Landlord thereafter shall endeavor to give to such Leasehold Mortgagee a copy of each notice of default at the same time as any such notice shall be given by Landlord to Tenant, such copy to be addressed to Leasehold Mortgagee at the address last furnished to Landlord as hereinabove provided. On recording any Leasehold Mortgage, Tenant, at its expense, shall cause to be recorded in the Office of the County Recorder, Orange County, California a written request executed and acknowledged by Landlord for a copy of all notices of default and notices of sale under such Leasehold Mortgage as provided by Applicable Laws then in effect. Inclusion in the body of the recorded Leasehold Mortgage itself of a request having such effect shall constitute compliance with this provision.

(b) Notwithstanding anything to the contrary in this Article 18, Landlord shall not serve a notice of cancellation or termination upon Tenant unless a copy of any prior notice of default shall have been sent to Leasehold Mortgagee at the address last furnished to Landlord as hereinabove provided and the time as hereinafter specified for the curing of such default shall have expired without the same having been cured, and no such notice of default or notice of cancellation or termination shall be effective as to such Leasehold Mortgagee not receiving notice thereof. Landlord agrees to notify Leasehold Mortgagee in writing of the failure of Tenant to cure a default within any applicable grace period and of the curing of any default by Tenant. The performance by Leasehold Mortgagee of any condition or agreement on the part of Tenant to be performed hereunder will be deemed to have been performed with the same force and effect as though performed by Tenant.

18.4 Right to Cure. Landlord will accept performance by Leasehold Mortgagee within the following periods of any obligation to be performed by Tenant hereunder, with the same force and effect as though timely performed by Tenant:

(a) as to any Rental and other sums payable hereunder, within ten (10) business days after written notice from Landlord that Tenant has not cured such default within the period provided in Article 19;

(b) as to all other defaults, within thirty (30) days after the last day that Tenant is given to remedy or cause to be remedied the defaults complained of, or, if within such period such default cannot be cured, to commence to so cure within such period and diligently and continuously proceed therewith to completion; and

(c) as to any default with respect to which Leasehold Mortgagee is without the legal power to cure by payment or performance, Leasehold Mortgagee shall not be obligated to cure such default and shall have thirty (30) days after receipt of written notice from Landlord of such default within which to give Landlord written notice that Leasehold Mortgagee or a wholly owned subsidiary or Affiliate of Leasehold Mortgagee elects to become the tenant under this Lease in the place and stead of Tenant upon all the terms, covenants and conditions provided in this Lease.

18.5 Exercise of Remedies. Landlord shall not exercise its right to terminate this Lease by reason of an Event of Default by Tenant hereunder if during the time that Leasehold Mortgagee shall require to complete its remedies under its Leasehold Mortgage; provided, however:

(a) that Leasehold Mortgagee proceeds, promptly and with due diligence, to exercise the remedies under its Leasehold Mortgage and thereafter prosecutes and completes the same with all due diligence and in those instances in which any Leasehold Mortgagee is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Tenant from commencing or prosecuting foreclosure or

other appropriate proceedings in the nature thereof, the time herein allowed any Leasehold Mortgagee to prosecute such foreclosure or other proceeding shall be extended for the period of such prohibition; and

(b) that Leasehold Mortgagee shall pay to Landlord the Rental and all other charges required to be paid by Tenant hereunder which have accrued and those which shall become due and payable during said period.

Upon the completion of any foreclosure proceedings or acquisition of Tenant's interest in this Lease by Leasehold Mortgagee, such Leasehold Mortgagee, any purchaser at a foreclosure sale or their permitted successors or assigns immediately commence and thereafter diligently prosecute to completion cure of all defaults by Tenant other than those that cannot be cured, which non-curable default shall be deemed waived by Landlord as to such Leasehold Mortgagee only.

18.6 New Lease. If (x) Tenant, as debtor in possession, or a trustee in bankruptcy for Tenant, rejects this Lease in connection with any proceeding involving Tenant under the United States Bankruptcy Code or any similar state or federal statute for the relief of debtors, or (y) this Lease is otherwise cancelled or terminated by reason of an Event of Default by Tenant, and the Leasehold Mortgagee has previously cured any and all Rental and other sums in default by Tenant hereunder, in each case within (10) business days after written notice from Landlord to such Leasehold Mortgagee that Tenant has not cured such default within the period provided in Article 19, then in the case of either clause (x) or clause (y), Leasehold Mortgagee shall have the right to notify Landlord in writing, within thirty (30) days after receipt by Leasehold Mortgagee of such notice of rejection, cancellation or termination, as applicable, that (i) Leasehold Mortgagee, or any designee or nominee which Leasehold Mortgagee may designate or name in such notice (provided such designee or nominee is approved by Landlord as a transferee to the same extent as of such designee or nominee were taking an Assignment pursuant to Section 15.1 hereof) (hereinafter called the "approved nominee"), elects to lease the Premises from the date of rejection, cancellation or termination, as applicable, of this Lease for the remainder of the Term of this Lease, at the Rental and other charges herein reserved and otherwise upon the same terms, covenants and conditions as are herein set forth, with the same relative priority in time and in right as this Lease (to the extent possible) and having the benefit of and vesting in Leasehold Mortgagee, or the approved nominee, of all the rights, title, interest, powers and privileges of the Tenant hereunder and imposing on such Leasehold Mortgagee, or the approved nominee, all covenants, considerations and obligations of the Tenant hereunder (the "New Lease"), and (ii) Leasehold Mortgagee or the approved nominee further obligates itself to (and in fact does) within ten (10) days after delivery to Landlord of such election:

(a) cure all existing defaults of Tenant under this Lease, or with respect to any default not capable of being cured within such ten (10) day period, or which cannot be cured without entry into possession, proceed and effect cure with due diligence following delivery of possession;

(b) pay to Landlord all Rental and other sums due under this Lease up to and including the date of commencement of the term of such New Lease less any net rental income received by Landlord for such period; and

(c) pay to Landlord all expenses and reasonable attorneys' fees incurred by Landlord in connection with any such default and the preparation, execution and delivery of such New Lease.

18.7 New Lease Terms. After any rejection, cancellation or termination, as applicable, of this Lease and upon compliance with the provisions of Section 18.6 by Leasehold Mortgagee, or the approved nominee, within such time, Landlord shall thereupon execute and deliver such New Lease to Leasehold Mortgagee or the approved nominee, having the same relative priority in time and right as this Lease (to the extent possible) and having the benefit of all of the right, title, interest, powers and privileges of Tenant hereunder in and to the Premises and imposing on such Leasehold Mortgagee, or the approved nominee, all covenants, considerations and obligations of the Tenant hereunder.

18.8 Title to New Improvements. Upon the execution and delivery of the New Lease, title to all New Improvements on the Premises, shall automatically vest in Leasehold Mortgagee or the approved nominee until the

expiration or earlier termination of the New Lease, subject to Landlord's reversionary rights to the Improvements upon the expiration of the Term of the Lease.

18.9 No Modifications. Anything herein contained to the contrary notwithstanding, Landlord and Tenant mutually agree that so long as there exists an unpaid Leasehold Mortgage on the leasehold estate of Tenant which Landlord has been notified of in accordance with the provisions of this Article 18, this Lease shall not be modified, amended or altered in any material respect and Landlord shall not accept a voluntary surrender of the Premises or a cancellation of this Lease (provided Leasehold Mortgagee remedies any default and keeps this Lease current, all as provided above) prior to the expiration or sooner termination thereof, without the prior written consent of Leasehold Mortgagee.

18.10 No Merger. So long as any debt secured by a Leasehold Mortgage in compliance with the provisions of this Article 18 shall remain unpaid, unless Leasehold Mortgagee shall otherwise consent in writing, the fee title to the Premises and the leasehold estate in the Premises shall not merge but shall always be kept separate estates, notwithstanding the union of such estates either in Landlord or in Tenant or in a third party by purchase or otherwise.

18.11 Modifications Requested by Lender. From time to time during the Term, Landlord shall consider, in its reasonable discretion, proposed modifications to this Lease reasonably requested by an Leasehold Mortgagee(s); provided, such changes shall not: (a) materially decrease Landlord's rights or Tenant's obligations under this Lease, (b) materially increase any of Landlord's obligations hereunder; (c) affect the Rental to be paid hereunder; or (d) affect the use restrictions and Required Operations set forth in this Lease in any material respect.

18.12 Estoppel Certificate. Landlord agrees for the benefit of any Leasehold Mortgagee or as otherwise requested by Tenant from time to time, upon not less than twenty (20) days' prior notice from Tenant or from Leasehold Mortgagee, to deliver a certificate to Tenant or to Leasehold Mortgagee stating that this Lease is unmodified (or, if there have been modifications, setting them forth) and in full force and effect, the dates to which Rental and other charges have been paid, and that to Landlord's actual knowledge, either Tenant is not in default in the performance of any of the terms or provisions of this Lease or, if there are defaults, specifying the nature thereof with sufficient particularity that Tenant and Leasehold Mortgagee will know the nature of the acts which must be performed and the amounts of the payments which must be made to cure any such default, and such other matters as may be reasonably requested by Tenant or Leasehold Mortgagee, it being agreed that any such certificate delivered pursuant to this Section 18.13 may be relied upon by any prospective assignee of Tenant's interest in this Lease or by any Leasehold Mortgagee or prospective Leasehold Mortgagee.

18.13 Foreclosure. Landlord's consent shall in no event be required for a Leasehold Mortgagee to foreclose on its interest in the Lease. No Leasehold Mortgagee shall be liable to perform Tenant's obligations under this Lease until the Leasehold Mortgagee acquires Tenant's rights by foreclosure or by transfer in lieu of foreclosure. After acquiring Tenant's rights by foreclosure or by transfer in lieu of foreclosure, any Leasehold Mortgagee shall, subject to the provisions of this Article 18, be liable to perform Tenant's obligations under this Lease only until the Leasehold Mortgagee transfers or assigns the leasehold estate as permitted in this Lease. The Leasehold Mortgagee shall be required to cure Tenant's curable defaults under this Lease occurring before acquisition of Tenant's rights by foreclosure, transfer in lieu of foreclosure, assignment or transfer after such acquisition of Tenant's rights as contemplated in this Section. Except as expressly otherwise provided elsewhere herein, no Leasehold Mortgagee shall acquire greater rights or interest than Tenant has under this Lease.

18.14 Multiple Mortgages. If at any time there shall be more than one Leasehold Mortgage, the holder of the Leasehold Mortgage prior in line shall be vested with the rights under this Article 18 (other than the provisions for receipt of notices as provided herein and the right to request a New Lease as provided below) to the exclusion of the holder of any junior Leasehold Mortgage; provided, however, that if the holder of a first lien Leasehold Mortgage shall fail or refuse to exercise the rights set forth in this Article 18, each holder of a Leasehold Mortgage in the order of the priority of their respective liens shall have the right to exercise such rights and provided further, however, that with respect to the right of the holder of the Leasehold Mortgage under Section 18.6 hereof to

request a New Lease, such right may be exercised by the holder of any junior Leasehold Mortgage within the thirty (30) day period specified in Section 18.6 and conditioned only on the holder of a prior Leasehold Mortgage failing to exercise such right within such thirty (30) day period.

18.15 Payment by Landlord. If Tenant fails to make any payments due under any Leasehold Mortgage, and if Landlord pays any such amounts, including, without limitation, all penalties and interest that may have been added thereto by reason of such default, any amounts so paid by Landlord shall be immediately due and payable by Tenant as Rental hereunder, together with interest thereon at the Interest Rate. Any such payment by Landlord shall not be deemed to be a waiver of any rights of Landlord under this Lease or otherwise.

ARTICLE 19
DEFAULTS BY TENANT; REMEDIES

19.1 Events of Default. The occurrence of any of the following shall constitute an “Event of Default” by Tenant:

(a) Any failure by Tenant to pay any installment of Annual Rent when due or any failure of Tenant to pay any Additional Rent or any other Rental or other payment required to be made by Tenant hereunder, where such failure continues beyond for five (5) business days after written notice thereof by Landlord to Tenant;

(b) A failure by Tenant to observe and perform any provision of this Lease to be observed or performed by Tenant (other than those specified in subsection (a), (g), (h), (i), and (j) of this Section 19.1), where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of such default is such that the same cannot reasonably be cured within such thirty (30) day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion; or

(c) Tenant or any Guarantor (at any time prior to the occurrence of the Guaranty Termination Date) shall:

(1) admit in writing its inability to pay its debts generally as they become due,

(2) file a petition in bankruptcy or a petition to take advantage of any insolvency act,

(3) make an assignment for the benefit of its creditors,

(4) consent to the appointment of a receiver of itself or of the whole or any substantial part of its property, or

(5) file a petition or answer seeking reorganization or arrangement under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof;

(d) Tenant or any Guarantor (at any time prior to the occurrence of the Guaranty Termination Date) shall be adjudicated as bankrupt or a court of competent jurisdiction shall enter an order or decree appointing, without the consent of Tenant or such Guarantor, as applicable, a receiver of Tenant or such Guarantor, as applicable, or of the whole or substantially all of its property, or approving a petition filed against it seeking reorganization or arrangement of Lessee under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof, and such judgment, order or decree shall not be vacated or set aside or stayed within sixty (60) days from the date of the entry thereof;

(e) Lessee or any Guarantor (at any time prior to the occurrence of the Guaranty Termination Date) shall be liquidated or dissolved, or shall begin proceedings toward such liquidation or dissolution, or shall, in any manner, permit the sale or divestiture of substantially all its assets;

(f) the estate or interest of Tenant in the Premises or any part(s) thereof shall be levied upon or attached in any proceeding and the same shall not be vacated or discharged within the later of ninety (90) days after commencement thereof;

(g) an Assignment of Tenant's interest under this Lease occurs without Landlord's consent in violation of the provisions of Article 15 hereof;

(h) the occurrence of any "Event of Default" by Tenant under any of the State Loan Documents to which Tenant is a party;

(i) the occurrence of any "Event of Default" by Landlord under any of the State Loan Documents to which Tenant is a party, which is principally and primarily attributable to any act or omission by Tenant; or

(j) any default shall occur under the Guaranty at any time prior to the Guaranty Termination Date.

Notwithstanding anything to the contrary contained in this Lease regarding notice and cure periods, any notice and cure periods provided for herein shall be in lieu of, and not in addition to, any applicable time periods prescribed by any Applicable Laws as a condition precedent to the commencement of legal action against Tenant for possession of the Premises.

19.2 Landlord's Right to Cure Tenant's Default. Without in anyway limiting Landlord's other rights and remedies hereunder or at law and/or in equity, upon the occurrence of an Event of Default by Tenant, or before the expiration of any notice or cure period hereunder in the event of emergency, Landlord, at its option (but without any obligation), may elect to cure any Tenant default under this Lease or under any Loan Document, and any amount so paid and the reasonable cost of any such cure, plus interest on such sums at the Interest Rate, shall be deemed to be Additional Rent immediately payable by Tenant to Landlord upon demand. No such payment or performance by Landlord shall constitute a waiver of any default by Tenant or of any remedy for such default or render Landlord liable for any loss or damage resulting from any such payment or performance. Landlord, or Landlord's authorized representative, may enter the Property for such purpose and take all such action as may be necessary therefor and such entry shall not constitute or be deemed to be an eviction of Tenant.

19.3 Receiver. Upon the occurrence of an Event of Default, and upon commencement of proceedings to enforce the rights of Landlord hereunder or at law and/or in equity, Landlord shall be entitled, as a matter of right, to the appointment of a receiver or receivers acceptable to Landlord of the Premises and Property of the revenues, earnings, income, products and profits thereof, pending the outcome of such proceedings, with such powers as the court making such appointment shall confer.

19.4 Waiver. If Landlord initiates judicial proceedings or if this Lease is terminated by Landlord pursuant to this Article 19, Tenant waives, to the extent permitted by Applicable Law, (i) any right of redemption, re entry or repossession; and (ii) the benefit of any Applicable Law now or hereafter in force exempting property from liability for rent or for debt.

19.5 Rights of Landlord. Following an Event of Default by Tenant, then in addition to any other remedies available to Landlord at law or in equity, Landlord shall, subject to the terms and provisions of Article 18, have the immediate option to terminate this Lease and all rights of Tenant hereunder by giving written notice to Tenant of such intention to terminate. In the event that Landlord shall elect to so terminate this Lease, then Landlord may recover from Tenant:

(a) The worth at the time of award of any unpaid Rental which had been earned at the time of such termination; plus

(b) The worth at the time of award of the amount by which the unpaid Rental which would have been earned after termination until the time of award exceeds the amount of such Rental loss Tenant proves could have been reasonably avoided; plus

(c) The worth at the time of award of the amount by which the unpaid Rental for the balance of the Lease Term after the time of award exceeds the amount of such Rental loss that Tenant proves could be reasonably avoided; plus

(d) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of events would be likely to result therefrom including, without limitation, all costs and expenses incurred by Landlord in (i) retaking possession of the Premises, including reasonable attorney's fees, (ii) maintaining or preserving the Premises, (iii) preparing the Premises for a new tenant, including repairs or alterations to the Premises, and (iv) leasing commissions; plus

(e) Such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by Applicable Laws.

As used in subsections (a) and (b) above, the "worth at the time of award" is computed by allowing interest at the Interest Rate. As used in subsection (c) above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

19.6 Landlord's Right of Re-entry. Following an Event of Default by Tenant, Landlord shall also have the right, with or without terminating this Lease, to re-enter the Premises pursuant to legal proceedings and eject all parties in possession therefrom following issuance of an order of a court of competent jurisdiction allowing such entry and ejection. Without terminating this Lease and with or without re-entering the Premises, Landlord may, at any time and from time to time following an Event of Default, either recover all Rental provided for hereunder as it becomes due or re-let the Premises, or any part or parts thereof, for the account of Tenant, or otherwise, receive and collect the rents therefor, applying the same first to the payment of such expenses as Landlord may have paid, assumed or incurred in recovering possession of the Premises, including reasonable costs, expenses and attorneys' fees, and for placing the same in good order and condition, or preparing or altering the same for re-letting, and all other expenses, commissions and charges paid, assumed or incurred by Landlord in or in connection with re-letting the Premises, and then to the fulfillment of the covenants of Tenant to be performed under this Lease. In addition to the foregoing, Landlord shall have the remedies provided under California Civil Code Section 1951.4, as the same may be modified or replaced hereafter (Landlord may continue this Lease in effect after Tenant's breach and abandonment and recover Rental as it becomes due, if Tenant has the right to sublet or assign subject only to reasonable limitation).

19.7 No Automatic Termination. No reentry or taking possession of the Leased Premises by Landlord pursuant to Section 19.6 shall be construed as an election to terminate this Lease or Tenant's liability for the payment of Rental or other charges due or accruing hereunder, or as an acceptance of Tenant's surrender of the Premises, unless a written notice of such intention is given to Tenant or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any reletting without termination by Landlord because of any default by Tenant, Landlord may at any time after such reletting elect to terminate this Lease for any such default.

19.8 Personal Property. Upon the occurrence of an Event of Default, all of Tenant's merchandise and Personal Property shall remain on the Premises and, continuing during the length of said Event of Default, Landlord shall have the right to take exclusive possession of same and to use the same free of rent or charge until all defaults have been cured or, at its option, to require Tenant to remove the same forthwith.

19.9 No Waiver. The waiver by Landlord of any breach of any term, covenant or condition contained in this Lease shall not be deemed a waiver of such term, covenant or condition of any subsequent breach thereof, or of any other term, covenant or condition contained in this Lease. Landlord's subsequent acceptance of partial Rental or performance by Tenant shall not be deemed to be an accord and satisfaction or a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease or of any right of Landlord to a forfeiture of this Lease by reason of such breach, regardless of Landlord's knowledge of such preceding breach at the time of Landlord's acceptance. No term, covenant or condition of this Lease shall be deemed to have been waived by Landlord unless such waiver is in writing and signed by Landlord.

19.10 Non-Recourse Ground Lease. Notwithstanding anything to the contrary contained in this Lease, including without limiting the remedies of Landlord contained in this Article 19, except as otherwise provided in Section 19.11 below, if at any time after the occurrence of the Guaranty Termination Date, Tenant shall fail to perform or pay any covenant or obligation on its part to be performed or paid hereunder, and as a consequence thereof, Landlord or its successors and assigns shall obtain a money judgment against Tenant, Landlord agrees to look solely to the interest of Tenant in the Property, Improvements and/or the Personal Property for the satisfaction of such judgment, and if such interest is insufficient to satisfy the judgment amount, Landlord shall have no right of action nor shall Tenant be liable for any such insufficiency.

19.11 No Release. Notwithstanding the foregoing provisions of Section 19.8, Tenant shall be fully liable to Landlord for damages suffered by Landlord, to the extent provided by law for the following: (i) for proceeds paid under any insurance policies by reason of damage, loss or destruction to all or any portion of the Premises or Property, to the full extent of such proceeds are not applied in accordance with the terms and provisions of the Lease, (ii) for proceeds or awards resulting from the condemnation or other taking in lieu of condemnation of all or any portion of the Property, to the full extent of such proceeds or awards are not applied in accordance with the terms and provisions of the Lease, (iii) for all tenant security deposits or other refundable deposits paid to or held by Tenant or any other Person in connection with subleases of all or any portion of the Property which are not applied in accordance with the terms of the applicable sublease or other agreement, but only to the extent Landlord has agreed to assume responsibility for such security deposits, (iv) for waste committed on the Property, damage to the Property as a result of the intentional misconduct or gross negligence of Tenant or any of its principals, officers, general partners or members, or any agent or employee of any such person, or any removal of all or any portion of the Property in violation of the terms of the Lease, to the full extent of the losses or damages incurred by Landlord on account of such occurrence, (v) for all obligations and indemnities of Tenant under Section 6.4 relating to Hazardous Substances, (vi) for failure to pay or remove any mechanic's liens, materialmen's liens or other liens created by or through Tenant, to the full extent of the amount claimed by any such lien claimant or (vii) for intentional fraud, intentional misrepresentation or intentional failure to disclose a material fact in the written materials and/or information provided to the State or Landlord or any of its/their Affiliates by or on behalf of Tenant, Guarantors or any of its or their Affiliates, principals, officers, general partners or members, or any agent, employee or other person authorized or apparently authorized to make statements, representations or disclosures on behalf of Tenant, Guarantors or any of its or their Affiliates, principals, officers, general partners or members in connection with this Lease and the transactions contemplated hereby.

19.12 Tenant's Waiver of Defenses. Tenant hereby waives any and all right, as against Landlord, to assert any claim against Landlord or counter-claim or defense in any action brought by Landlord, whether at law or in equity, on the basis of any asserted invalidity in the legal formation or authority of the Landlord as a joint powers authority, the invalidity or illegality of the purchase of the Property from the State by Landlord, or in the invalidity or illegality of this Lease; provided, however, that Tenant reserves all of its rights and remedies at law or in equity in the event this Lease is found to be invalid, illegal or unenforceable against Landlord through no action or claim made by Tenant.

ARTICLE 20

DEFAULTS BY LANDLORD; REMEDIES

20.1 Defaults. If Landlord shall neglect or fail to perform or observe any of the terms, covenants or conditions contained in this Lease on its part to be performed or observed and/or defaults in its obligations under the

State Loan Documents (subject to the provisions of Section 28.2 hereof), within thirty (30) days after written notice of default or, when more than thirty (30) days shall be required because of the nature of the default, if Landlord shall fail to proceed diligently to cure such default after written notice thereof, then Landlord shall be liable to Tenant for any and all damages sustained by Tenant as a result of Landlord's breach, and Tenant shall have the right to pursue any other remedies available at law and in equity.

20.2 Non-Recourse Ground Lease. Notwithstanding anything to the contrary contained in this Lease, including without limitation the remedies of Tenant contained in this Article 20, if Landlord shall fail to perform or pay any covenant or obligation on its part to be performed or paid hereunder, and as a consequence thereof, Tenant or its successors and assigns shall obtain a money judgment against Landlord, Tenant agrees to look solely to the interest of Landlord in the Property, the Improvements, the Personal Property, the Trademarks and/or the Intangible Rights for the satisfaction of such judgment, and if such interest is insufficient to satisfy the judgment amount, Tenant shall have no right of action nor shall Landlord be liable for any such insufficiency.

ARTICLE 21 **CONDEMNATION**

21.1 Definitions. Whenever used in this Section, the following words shall have the following respective meanings:

(a) "Condemnation" or "condemnation proceedings" shall mean any action or proceeding brought by competent authority for the purpose of any taking of the Premises or any part thereof as a result of the exercise of the power of eminent domain, including a voluntary sale to such authority either under threat of or in lieu of condemnation or while such action or proceeding is pending.

(b) "Taking" shall mean the event of (i) vesting of title or (ii) the obtaining of possession, whether by agreement or court order, to the Premises or any part thereof in such competent authority pursuant to condemnation.

(c) "Vesting Date" shall mean the date of the Taking.

21.2 Total Taking. In case of a Taking of all of the Premises, this Lease shall terminate as of the Vesting Date and the Rental under this Lease shall abate as of, and be apportioned to the date of termination.

21.3 Partial Taking. In case of a Taking of less than all of the Premises (other than for a temporary use), Landlord and Tenant shall mutually determine, within sixty (60) days after the Vesting Date, whether the remaining portion of the Premises after "Restoration" (as hereinafter defined) can economically and feasibly be used by Tenant and if the parties cannot mutually agree, then the same shall be submitted to arbitration pursuant to Article 27 hereof.

If it is determined by the parties or pursuant to Article 27 hereof that the remaining portion of the Premises cannot be economically and feasibly used by Tenant, Tenant may, at its option, terminate this Lease by delivery of written notice to Landlord within thirty (30) days after such determination. Upon any such termination, the Rental shall be apportioned to the date of termination, which date, for purposes of apportioning rental, shall be determined by mutual agreement of the parties, but in no event later than sixty (60) days after the Vesting Date.

If Tenant is entitled to and elects to not terminate this Lease within the period aforementioned, or it is determined by the parties or pursuant to Article 27 hereof that the remaining portion of the Premises can be economically and feasibly used by Tenant, this Lease shall continue in full force and effect as to the remaining portion of the Premises subject to a reduction in the Annual Rent in a matter that is fair, just and equitable to both Landlord and Tenant based upon the degree, if any, to which Tenant's use of and revenue from the Premises is impaired by reason of such partial Taking.

21.4 Allocation of Award; Total Taking. If this Lease shall terminate pursuant to the provisions of Section 21.2 or 21.3, the total award in the condemnation proceedings, including damages, and interest shall be apportioned as follows:

(a) Tenant shall be entitled to the value of the leasehold estate in the Property and the leasehold estate in the Existing Improvements, plus the value of any and all New Improvements, including without limitation the value of any Alterations made by Tenant (excluding the value of Landlord's reversionary interest in the New Improvements and Alterations); and

(b) Landlord shall be entitled to the value of the Land and Existing Improvements as encumbered by this Lease (excluding the value of Tenant's leasehold estate in the Land and Existing Improvements), plus the value of Landlord's reversionary interest in any New Improvements and Alterations.

21.5 Allocation of Award; Partial Taking. If this Lease shall not terminate as provided in Section 21.3, Tenant, at its expense, shall commence and proceed with reasonable diligence to repair or reconstruct the remaining Improvements to a complete architectural unit or units. All such repair, reconstruction and work shall hereinafter in this Section be referred to as "Restoration."

The total award in the condemnation proceedings, in the event of such partial taking, shall be apportioned and paid, to the extent available, in the following order of priority:

(a) First, Tenant shall first be entitled to an amount equal to the cost of Restoration, which Restoration shall be subject to Landlord's reasonable approval; and

(b) Second, Tenant shall be entitled to the value of the leasehold estate in the Property and the leasehold interest in the Existing Improvements, plus the value of any and all New Improvements, including without limitation, the value of any Alterations made by Tenant (excluding the value of Landlord's reversionary interest in the New Improvements and Alterations), and Landlord shall be entitled to the value of the Land and Existing Improvements as encumbered by this Lease (excluding the value of Tenant's leasehold estate in the Land and Existing Improvements), plus the value of Landlord's reversionary interest in any New Improvements and Alterations.

21.6 Temporary Taking. In the event of a Taking of all or any portion of the Premises for temporary use, the foregoing provisions of this Article shall be inapplicable thereto, this Lease shall continue in full force and effect without reduction or abatement of Rental, and Tenant, alone, shall be entitled to make claim for, recover and retain any award recoverable in respect of such temporary use whether in the form of Rental or otherwise. If the award is made in a lump sum covering a period beyond the expiration of the Lease Term, Landlord also shall be entitled to make claim for and participate in the award proportionately.

If any portion of the award for such temporary use is intended to cover the cost of Restoration of the Improvements located on the Premises to the condition they were in prior to such temporary use or to make repairs occasioned by or resulting from such temporary use, such portion shall be used by Tenant to cover the cost of such Restoration and repair, and any balance remaining shall belong to and be paid to Tenant.

21.7 Business Goodwill. Each of Landlord and Tenant retains all rights available to it to pursue against any condemning authority for business losses, including loss of business goodwill, resulting from any condemnation. Any payment for such business losses to Landlord or Tenant, as applicable, shall be to the party awarded and paid the same alone and shall not be allocated to the other party in any portion or used for Restoration.

21.8 Settlement. Landlord shall not make any settlement with the condemning authority or convey any portion of the Premises to such authority in lieu of condemnation or consent to any Taking without the consent of Tenant, which consent shall not be unreasonably withheld.

21.9 State Loan Documents Control; Article Controls. Notwithstanding anything to the contrary herein, the provisions hereof are subject to the rights of the State under the State Loan Documents. In addition, Landlord and Tenant agree that Tenant's rights now or hereafter conferred upon it by statute otherwise to quit or surrender this Lease or the Premises or any suspension, diminution, abatement or reduction of Rental on account of any Taking shall be governed by this Article 21.

ARTICLE 22 **ATTORNEY FEES**

If either Landlord or Tenant institutes any action or proceeding against the other relating to the provisions of this Lease or any default hereunder, the non-prevailing party in such action or proceeding shall reimburse the prevailing party for the reasonable expenses of attorney fees and all costs and disbursements incurred therein by the prevailing party, including, without limitation, any such fees, costs or disbursements incurred on any appeal from such action or proceeding. Subject to the provisions of any Applicable Law, the prevailing party shall recover all such fees, costs or disbursements as costs taxable by the court or arbiter in the action or proceeding itself without the necessity for a cross-action by the prevailing party.

ARTICLE 23 **MORTGAGE; SUBORDINATION; ATTORNMENT**

As used in this Lease, all references to a "mortgage" shall be deemed to include a deed of trust, and all references to the "holder" of a mortgage or to a "mortgagee" shall be deemed to include the beneficiary and/or trustee under a deed of trust. In addition to the deed of trust in favor of the State pursuant to the State Loan Documents, at any time following the occurrence of the Guaranty Termination Date, and without the consent of Tenant, Lessor may, from time to time, directly or indirectly, create or otherwise cause to exist any other mortgage upon the Property or any part(s) or portion(s) thereof or interests therein. In such event, upon written request of Landlord, or a mortgagee of Landlord, Tenant will subordinate, pursuant to such document(s) as the mortgagee may require, its rights hereunder to the lien of any mortgage, deed of trust or to any covenants, conditions and restrictions or any amendments thereto, and to all advances made or hereafter to be made upon the security thereof, provided that the mortgagee shall enter into a non-disturbance agreement in a form reasonably acceptable to Tenant and upon customary terms and conditions providing that Tenant's rights under the Lease shall not be disturbed, affected or impaired, nor will the Lease be terminated or affected, as a result of the foreclosure of such mortgage or deed of trust or any other action taken pursuant to such mortgage or deed of trust.

In the event any proceedings are brought for foreclosure, or in the event of the exercise of the power of sale under any mortgage or deed of trust made by Landlord covering the Premises, Tenant shall attorn to the purchaser upon any such foreclosure, sale or lease termination and recognize such purchaser as landlord under this Lease, provided that the purchaser shall acquire and accept the Premises subject to this Lease. Tenant shall execute and deliver to Landlord such document(s) to confirm Tenant's agreement to so attorn within twenty (20) days following written request therefor, which shall be in a form reasonably acceptable to Tenant.

Tenant agrees at any time and from time to time and within twenty (20) days after written request from Landlord, to execute, acknowledge and deliver to Landlord or any mortgagee of Landlord an estoppel certificate in a commercially reasonable form, (a) certifying that this Lease represents the entire agreement between Landlord and Tenant, and is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the dates to which the Rental and other charges are paid in advance, if any; (b) certifying the commencement and termination dates of the Lease Term; (c) certifying that there has been no assignment or other transfer by Tenant of this Lease, or any interest therein; (d) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder and that Tenant has no right of offset, counterclaim or deduction against Rental, or specifying such defaults if any are claimed together with the amount of any offset, counterclaim or deduction alleged by Tenant; and (e) certifying or acknowledging such other matters as Landlord may reasonably request. Tenant's failure to deliver such statement within such time shall be conclusive and binding upon Tenant that this Lease is in full force and effect, without modification except as may be represented by Landlord, that there are no uncured defaults in Landlord's performance and that Tenant has no right of offset, counterclaim or deduction against Rental and that no more than one month's Rental has been paid in advance, it being understood, however, that such presumed certification shall

not relieve Tenant from its obligations under this paragraph. It is intended that any such statement delivered pursuant to this Section may be relied upon by any prospective purchaser or mortgagee of Landlord's interest in the Premises or as Landlord under this Lease. If any such certification by Tenant shall allege nonperformance by Landlord, the nature and extent of such nonperformance shall, insofar as actually known by Tenant, be summarized therein.

Notwithstanding anything to the contrary in this Lease, unless the Guaranty Termination Date has occurred, and for so long as no Event of Default by Tenant shall have occurred and be continuing hereunder, Landlord will not modify any of the State Loan Document to which Landlord is a party with the State without Tenant's prior written approval, which approval shall not be unreasonably withheld.

ARTICLE 24
NOTICES

24.1 Notices. All notices, approvals, requests, demands and other communications submitted or required to be given under this Lease shall be in writing and shall be deemed duly served or given when actually delivered or refused, if personally delivered (including delivery by Federal Express, express mail or other similar overnight courier service which confirms delivery in writing), or sent by certified mail, postage prepaid, return receipt requested. Such notices shall be addressed to the parties as set forth below:

To Landlord:	Orange County Fairgrounds Authority 77 Fair Drive Costa Mesa, California 92626 Attention: Executive Director
With a copy to:	Kimberly Hall Barlow, City Attorney Jones & Mayer 3777 N. Harbor Blvd. Fullerton, California 92835
To Tenant:	c/o Facilities Management West, Inc. 190 Newport Center Drive Newport Beach, California 92660 Attention: Mr. Guy Lemmon
With a copy to:	Richard E. Stinehart, Esq. Allen Matkins Leck Gamble Mallory & Natsis LLP 1900 Main Street, 5th Floor Irvine, California 92614

Either party may change such address by providing written notice to the other by certified mail, return receipt requested. The foregoing method of service shall be exclusive and Tenant hereby waives, to the fullest extent permitted under Applicable Laws, the right to any other method of service required by any Applicable Law now or hereafter in force. Whenever a party is served with a notice both personally and by mail, such party's time to perform any covenant, cure any default, or make any response shall not be extended by operation of law because of such service by mail beyond the time period prescribed in such notice.

ARTICLE 25
MISCELLANEOUS

25.1 Relationship of the Parties. Nothing contained in this Lease shall be deemed or construed as creating a partnership, joint venture, principal-agent, or employer-employee relationship between Landlord and any other Person (including, without limitation, Tenant) or as causing Landlord to be responsible in any way for the debts or obligations of such other Person.

25.2 Severability. It is agreed that, if any provision of this Lease shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect. It is the intention of the parties hereto that, if any provision of this Lease is capable of two (2) constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

25.3 Warranty of Authority. If Tenant is an entity, the person or persons executing this Lease on behalf of Tenant represent, covenant and warrant to Landlord as of the date Tenant executes and delivers this Lease that: (a) Tenant is duly constituted and in good standing and qualified to do business in the state where the Premises are located, (b) Tenant has paid all applicable taxes, (c) Tenant will file when due all forms, reports, fees and other documents necessary to comply with Applicable Laws, and (d) the signatories signing on behalf of Tenant have the requisite authority to bind Tenant.

25.4 Entire Agreement. It is understood that there are no oral or written agreements or representations between the parties hereto affecting this Lease, and that this Lease supersedes and cancels any and all previous negotiations, arrangements, representations, brochures, displays, projections, estimates, agreements and understandings, if any, made by or between Landlord and Tenant with respect to the subject matter thereof, and none shall be used to interpret, construe, supplement or contradict this Lease. This Lease, and all amendments thereto, is and shall be considered to be the only agreement between the parties hereto and their representatives and agents. All negotiations and oral agreements acceptable to both parties have been merged into and are included in this Lease. There are no other representations, covenants or warranties between the parties and all reliance with respect to representations is solely upon the express representations, covenants and warranties contained in this Lease. The parties agree that any deletion of language from this Lease prior to its mutual execution by Landlord and Tenant shall not be construed to have any particular meaning or to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse, obverse or opposite of the deleted language.

25.5 Governing Law. The laws of the state where the Premises are located shall govern the validity, performance and enforcement of this Lease.

25.6 Waiver or Consent Limitation. A waiver of any given breach or default shall not be a waiver of any other breach or default. Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent similar act by Tenant.

25.7 Force Majeure. The occurrence of any of the following events shall excuse such obligations of Landlord or Tenant as are thereby rendered impossible or reasonably impracticable for so long as such event continues: strikes; lockouts; labor disputes; acts of God; inability to obtain labor, materials or reasonable substitutes therefor; governmental restrictions, regulations or controls; judicial orders; enemy or hostile governmental action; civil commotion; fire or other casualty; and other causes beyond the reasonable control of the party obligated to perform (excluding financial inability or hardship). Notwithstanding the foregoing, the occurrence of such events shall not excuse Tenant's obligations to pay Annual Rent and Additional Rent or excuse such obligations as this Lease may otherwise impose on the party to obey, remedy or avoid such event.

25.8 Amendments. To be effective and binding on Landlord and Tenant, any amendment, modification, addition or deletion to the provisions of this Lease must be made in writing and executed by both parties in the same manner as this Lease.

25.9 Time of Essence. Time is of the essence in the performance of all covenants and conditions in this Lease for which time is a factor.

25.10 Rate of Interest. The rate of interest to be charged under the provisions of this Lease (the “Interest Rate”), unless expressly stated otherwise, shall be four percent (4%) above the annualized rate of interest publicly announced from time to time by Bank of America National Trust and Savings Association in San Francisco, California (or its successor), as its “reference rate” (the “Prime Rate”), but not less than ten percent (10%) per annum, and such interest shall be computed on the basis of monthly compounding with actual days elapsed compared to a 360-day year; provided, however, in no event shall the Interest Rate exceed the maximum lawful rate of interest in the state in which the Premises are located.

25.11 Nonmerger of Fee and Leasehold Estates. If under any circumstances both Landlord’s and Tenant’s estates in the Premises, or any portions thereof, become vested in the same owner, this Lease nevertheless shall not be extinguished by application of the doctrine of merger except at the express election of the owner and with the express written consent of the beneficiary or beneficiaries under all trust deeds affecting the Premises and Tenant’s leasehold estate.

25.12 Captions. The captions of the Articles and Sections of this Lease are for convenience only, are not operative parts of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.

25.13 Successors and Assigns. The parties hereto agree that all the provisions of this Lease are to be construed as covenants and agreements and, except as otherwise specified, that said provisions shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, and permitted successors and assigns.

25.14 Consent of Landlord and Tenant. Wherever in this Lease consent or approval is required, such consent or approval shall be given in writing and shall not be unreasonably withheld, unless otherwise expressly provided; provided, however, that Tenant acknowledges that, for so long as Landlord is a Governmental Agency, any consent or approval required of Landlord under this Lease, may require Landlord to first follow normal governmental processes, including, to the extent applicable, public notice and a public hearing. Tenant further understands that in no event may Landlord consent to any action that is inconsistent with the General Plan, as it may be amended from time to time in accordance with the provisions of the Ballot Measure.

25.15 Memorandum of Lease and Leasehold Title Policy.

(a) Neither Tenant nor Landlord shall record this Lease. However, Landlord and Tenant agree to execute and cause to be recorded in the Official Records, a memorandum of this Lease (“Memorandum”) in substantially the form attached hereto as Exhibit “J” concurrently with the Commencement Date. Tenant covenants and agrees, both on its own behalf and on behalf of its successors and assigns to execute and deliver to Landlord a quitclaim deed or other recordable instrument sufficient to remove such Memorandum or other encumbrance created by this Lease from record title to Property upon the expiration or sooner termination of this Lease, and Tenant hereby appoints and constitutes Landlord as its attorney-in-fact, which power shall be coupled with an interest and shall not be revocable or terminable, to execute and deliver and to record such quitclaim deed or other instrument in the name of Tenant upon the expiration or termination of this Lease. Tenant shall pay all costs and expenses of recording any memoranda, quitclaim deeds and other recordable instruments recorded pursuant to this Section 25.15(a)

(b) Landlord shall pay for the cost of a standard CLTA leasehold title policy of title insurance (the “Tenant’s Title Policy”) to be issued to Tenant by Fidelity National Title Company (the “Title Company”) upon the recordation of the Memorandum, which title policy shall be subject to the standard preprinted exceptions set forth in such policy, this Lease and all other matters set forth in the CLTA owner’s policy of title insurance issued by Title Company to Landlord in connection with its acquisition of the Property from the Sellers pursuant to the Purchase Agreement. It shall be a condition precedent to Tenant’s obligations under this Lease (which Tenant may waive in its sole and absolute discretion) that the Title Company is unconditionally committed to issue the Tenant’s Title Policy to Tenant effective as of the Commencement Date in a liability amount not to exceed \$75,000,000, and

subject only to the standard preprinted exceptions in such policy and those Schedule B exceptions items set forth in the standard CLTA owner's policy of title insurance obtained by Landlord pursuant to the Purchase Agreement, together with any additional exceptions to title created or suffered by, through or under Tenant.

25.16 Brokers. Landlord and Tenant each represents and warrants to the other that they have not had any dealings with any real estate broker, finder or intermediary with respect to this Lease. Subject to the foregoing, Tenant agrees to indemnify and hold Landlord harmless from any Losses in connection with a claim by any Person for a real estate broker's commission, finder's fee or other compensation based upon any statement, representation or agreement of Tenant, and Landlord agrees to indemnify and hold Tenant harmless from any such Losses based upon any statement, representation or agreement of Landlord.

25.17 Guaranty. Concurrently with the execution of this Lease, Tenant shall provide Landlord with a guarantee ("Guaranty") from Facilities Management West, Inc., a California corporation, Kenneth E. Fait, an individual and David Pyle, an individual (collectively, "Guarantor"), in the form attached hereto as Exhibit "K".

25.18 Purchase Agreement. If the double-escrow requirements set forth in the Purchase Agreement are triggered, Tenant agrees to cooperate with Landlord, but in no event shall Tenant incur in cost, liability or obligations in connection with same, except that Tenant shall execute any necessary documents to effective the double-escrow transaction so that Landlord will be the owner of the Property and Tenant will be the Ground Lessee under a lease identical to this Lease at the closing of such any such double Escrow.

25.19 Offer to Buyer. Tenant shall have the right, at any time during the term of this Lease, to make an offer to buy the Property from Landlord, which Landlord shall have the right to accept or reject in its sole and absolute discretion. Landlord agrees to provide notice to Tenant of any intended sale of the Property by Landlord during the Term of this Lease. In no event however shall the foregoing provisions of this Section 25.19 be deemed or construed to grant to Tenant any right of first offer, right of first refusal, option to purchase or other preemptive rights to purchase the Property.

25.20 Waiver of Certain Statutory Provisions. Without in anyway limiting the generality of any other waivers of Tenant set forth in this Lease, Tenant hereby expressly waives the following:

(a) The provisions of California Civil Code Sections 1932(2) and 1933(4) and any present or future laws or case decisions to the same effect;

(b) Any right of redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 or 1179 or California Civil Code Section 3275, and under any present or future statutes or case decisions to the same effect, in the event Tenant is evicted or Landlord takes possession of the Premises by reason of any Event of Default by Tenant hereunder; and

(c) In the event of any Taking, the provisions of California Code of Civil Procedure Section 1265.130 that would otherwise allow Tenant to petition the Superior Court to terminate this Lease.

25.21 Administrative Expenses. In addition to any other provisions of this Lease that specifically require Tenant to reimburse, pay or indemnify against Landlord's reasonable attorneys' fees and other costs, Tenant shall pay, as Additional Rent, all reasonable out-of-pocket third party costs and expenses (including, without limitation, reasonable attorneys' fees and costs) incurred by Landlord in connection with (a) responding to requests by Tenant for any matters over which Landlord has review, consent or approval rights, (b) any revisions, extensions, renewals or "workouts" of this Lease, (c) the enforcement or satisfaction by Landlord of any Tenant's obligations under this Lease, including preparation of notices of an Event of Default and the collection of past due Rental, and (d) any legal challenges to the approval or validity of this Lease.

ARTICLE 26
CONFIRMATION ENTITLEMENTS

Subject to compliance with all Applicable Laws, if Landlord, the City or City Finance Authority or any other City-related entity adopts any land use or other regulatory program which materially increases the cost of operation of the Property, materially decreases the revenues which can be realized from the operations on the Property, or materially impairs Tenant's ability to make improvements to the Property which are consistent with the specified permitted, ancillary and complementary uses of the General Plan, the Ballot Measure or any adopted master plan or specific plan (collectively, "Future Regulations"), or adopt any taxes, charges, fees or assessments which are not applicable to all non-exempt businesses or commercial property in the City, which are within the jurisdiction of the City of Costa Mesa, and which are not being assessed as of the Commencement Date ("Future Taxes"), Tenant shall have the rights described below. Tenant shall be allowed to offset its Annual Rent on a dollar-for-dollar basis for any costs or lost revenues resulting from Future Regulations or Future Taxes which are not City wide but are principally and primarily targeted to or at the Property (except that in no event shall any offset be permitted with respect to the Annual Rent which is to be paid to the State to cover the Debt Service due under the Note). Future Regulations do not include any such changes which are necessary to protect the public health and safety, or if such changes are required to comply with changes in Applicable Laws adopted after the Commencement Date. At Tenant's request, Landlord shall cooperate in processing a master plan or specific plan for the Property, to convert the Property from a legal non-conforming use to a fully conforming use, subject to City's reasonable legislative discretion and compliance with all Applicable Laws.

ARTICLE 27
ARBITRATION OF DISPUTES

ANY DISPUTE, CONTROVERSY OR OTHER CLAIM THAT ARISES OUT OF, OR RELATES IN ANY WAY TO, THIS LEASE, WHETHER BASED ON CONTRACT, TORT, STATUTE OR OTHER LEGAL OR EQUITABLE THEORY, INCLUDING WITHOUT LIMITATION, THE BREACH OR INTERPRETATION THEREOF, SHALL BE SETTLED BY FINAL AND BINDING ARBITRATION BEFORE JAMS, LOCATED AT SUCH OFFICE AS IS DETERMINED BY JAMS (OR ANY SUCCESSOR ADDRESS), IN ACCORDANCE WITH THE USUAL AND THEN-EXISTING COMMERCIAL RULES OR OTHER COMPARABLE RULES AND PROCEDURES OF JAMS, SUBJECT TO THE FOLLOWING PROVISIONS:

(A) THE PARTY SEEKING ARBITRATION SHALL DELIVER A WRITTEN NOTICE OF DEMAND TO RESOLVE DISPUTE (THE "DEMAND") TO THE OTHER PARTY AND TO THE JAMS. THE DEMAND SHALL INCLUDE A BRIEF STATEMENT OF SUCH PARTY'S CLAIM, THE AMOUNT THEREOF, AND THE NAME OF THE PROPOSED RETIRED JUDGE FROM JAMS TO DECIDE THE DISPUTE ("ARBITRATOR"). WITHIN TEN (10) DAYS AFTER THE EFFECTIVE DATE OF THE DEMAND, THE OTHER PARTY AGAINST WHOM A DEMAND IS MADE SHALL DELIVER A WRITTEN RESPONSE TO THE DEMANDING PARTY AND JAMS. SUCH RESPONSE SHALL INCLUDE A SHORT AND PLAIN STATEMENT OF THE NON-DEMANDING PARTY'S DEFENSES TO THE CLAIM AND SHALL ALSO STATE WHETHER SUCH PARTY AGREES TO THE ARBITRATOR CHOSEN BY THE DEMANDING PARTY. IN THE EVENT THE PARTIES CANNOT AGREE UPON AN ARBITRATOR, THEN JAMS SHALL SELECT AND NAME A SINGLE ARBITRATOR TO CONDUCT THE HEARINGS.

(B) IF THE JAMS IS NO LONGER IN BUSINESS AND THERE IS NO COMPARABLE SUCCESSOR, THEN THE PARTIES SHALL AGREE UPON ANOTHER ARBITRATOR. IF THE PARTIES CANNOT AGREE UPON ANOTHER ARBITRATOR, THEN A SINGLE NEUTRAL ARBITRATOR SHALL BE APPOINTED PURSUANT TO SECTION 1281.6 OF THE CALIFORNIA CODE OF CIVIL PROCEDURE.

(C) IF THE CLAIM OR DISPUTE EQUALS OR EXCEEDS THE SUM OF TEN THOUSAND DOLLARS (\$10,000,00), THEN THE PARTIES SHALL BE ENTITLED TO FULL RIGHTS OF DISCOVERY AS SET FORTH IN THE CALIFORNIA CODE OF CIVIL PROCEDURE (INCLUDING, WITHOUT LIMITATION, C.C.P. § 1283.05) FOR CIVIL ACTIONS TRIED IN THE SUPERIOR COURTS OF THE STATE OF CALIFORNIA, SUBJECT TO SUCH ORDERS AS MAY BE MADE BY JAMS. IF THE DISPUTE BETWEEN THE PARTIES IS LESS THAN TEN THOUSAND

DOLLARS (\$10,000,00), THEN THERE SHALL BE NO RIGHT TO DISCOVERY EXCEPT BY STIPULATION OF THE PARTIES OR PURSUANT TO THE DISCRETION OF JAMS. IF THE PARTIES CANNOT AGREE AS TO THE AMOUNT IN ISSUE, JAMS SHALL HOLD A PRELIMINARY HEARING FOR THE PURPOSE OF DETERMINING WHETHER THE AMOUNT IN ISSUE EQUALS OR EXCEEDS TEN THOUSAND DOLLARS (\$10,000,00).

(D) THE ARBITRATOR'S POWERS SHALL BE LIMITED AS FOLLOWS: THE ARBITRATOR SHALL FOLLOW THE SUBSTANTIVE LAWS OF THE STATE OF CALIFORNIA, INCLUDING RULES OF EVIDENCE. THE ARBITRATOR SHALL NOT CONSIDER ANYTHING OUTSIDE THE RECORD UNLESS NOTICE IS GIVEN TO ALL PARTIES WITH THE OPPORTUNITY TO RESPOND TO SUCH MATTERS. THE ARBITRATOR SHALL HAVE NO POWER TO MODIFY ANY OF THE PROVISIONS OF THE AGREEMENT AND THE ARBITRATOR'S JURISDICTION IS LIMITED ACCORDINGLY. THE ARBITRATOR SHALL PREPARE AND SERVE A WRITTEN DECISION WHICH DETERMINES THE DISPUTE, CONTROVERSY, OR CLAIM AND WHICH DESIGNATES THE PARTY AGAINST WHOSE POSITION THE DECISION IS RENDERED. JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.

(E) THE COSTS OF THE RESOLUTION SHALL BE DIVIDED EQUALLY AMONG THE PARTIES INVOLVED IN SUCH DISPUTE; PROVIDED, HOWEVER, THAT THE ARBITRATOR SHALL AWARD THE PREVAILING PARTY (AS DEFINED BELOW) ACTUAL ATTORNEYS' FEES, EXPERT AND NON-EXPERT WITNESS COSTS AND EXPENSES AND ANY OTHER COSTS AND EXPENSES INCURRED IN CONNECTION WITH THE ARBITRATION. THE PREVAILING PARTY SHALL BE DEEMED THE PARTY THAT THE ARBITRATOR DETERMINES IS THE PREVAILING PARTY IN THE DISPUTE.

(F) TO THE EXTENT POSSIBLE, THE ARBITRATION HEARINGS SHALL BE CONDUCTED ON CONSECUTIVE DAYS, EXCLUDING SATURDAYS, SUNDAYS AND HOLIDAYS, UNTIL THE COMPLETION OF THE CASE.

(G) IN CONNECTION WITH ANY ARBITRATION PROCEEDINGS COMMENCED HEREUNDER, THE ARBITRATOR AND/OR ANY PARTY SHALL HAVE THE RIGHT TO JOIN ANY THIRD PARTIES IN SUCH PROCEEDINGS IN ORDER TO RESOLVE ANY OTHER DISPUTES, THE FACTS OF WHICH ARE RELATED TO THE MATTERS SUBMITTED FOR ARBITRATION HEREUNDER.

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

THE UNDERSIGNED HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION.

Landlord's Initials

Tenant's Initials

ARTICLE 28
ADDITIONAL PROVISIONS

28.1 Landlord as Joint Powers Authority. Tenant acknowledges as follows:

(a) As of the Effective Date, Landlord is a joint powers authority formed under the laws of the State of California by and among the Costa Mesa Public Finance Authority (the "Public Finance Authority") and the City;

(b) So long as Landlord exists as a joint powers authority, (i) the legal existence and authority of Landlord is and shall remain separate and distinct from each of the City and the Public Finance Authority, (ii) Landlord has no authority to bind or otherwise act for or on behalf of either the City or the Public Finance Authority, and (iii) no consents, approvals, disapprovals or other actions taken or omitted to be taken by Landlord under this Lease or in connection with the Premises shall in any way bind either the City or the Public Finance Authority, nor shall any duties, obligations, commitments or other agreements imposed upon Landlord hereunder be deemed or construed to be the duties, obligations, commitments or other agreements of either the City and the Public Finance Authority; and

(c) Without limiting the foregoing, all jurisdictional powers and authorities (including discretionary approvals) vested with the City under Applicable Laws relating to the Property, including, without limitation, those relating to the use or operation of the Premises shall, at all times, be exercisable by the City without regard to any duties, covenants or obligations imposed upon Landlord, including, without limitation, any obligation of Landlord to not unreasonably withhold any consent or approval of Landlord under this Lease.

28.2 Covenants with Respect to State Loan Obligations.

(a) Subject to Landlord's obligation to cause the component of the Annual Rental installments equal to the Debt Service to be paid over to the State as provided in Section 4.4 hereof, Tenant hereby covenants and agrees, at its sole cost and expense and for the express benefit of Landlord, to timely pay, perform and observe all obligations of Tenant under the State Note and other State Loan Documents to which Tenant is a party.

(b) Tenant acknowledges that the deed of trust and security agreement to which Landlord is a party pursuant to the State Loan Documents (collectively, the "Landlord Loan Documents") impose certain additional obligations on Landlord to comply with and/or observe, or to cause to be complied with and/or observed, certain representations, covenants and warranties relating to the Premises, including, without limitation covenants relating to (i) the maintenance and repair of the Premises, (ii) any development or construction relating to the Premises, (iii) the procurement of insurance with respect to the Premises and (iv) compliance with all Applicable Laws (including Environmental Laws) relating to the Premises and the operation thereof. Tenant hereby further covenants and agrees, at its sole cost and expense and for the express benefit of Landlord, to timely pay, perform and observe all of the duties and obligations of Landlord under the Landlord Loan Documents that (A) are expressly imposed upon Tenant under this Lease or otherwise the obligation of Tenant under this Lease and/or (B) relate to the use, misuse, maintenance, repair, development, construction, insurance, leasing, subleasing, management, administration and/or operation of the Premises, Tenant's Personal Property, the Intangible Rights, the Contracts, the Leases and/or the Records.

(c) Landlord hereby covenants and agrees, at its sole cost and expense and for the express benefit of Tenant, to timely pay, perform and observe all of the duties and obligations of Landlord under the Landlord Loan Documents that are not the obligations of Tenant pursuant to Sections 28.2(a) and (b) above.

28.3 Landlord's Use Rights

(a) **[STILL UNDER NEGOTIATION -- Per Year Use Events.** Tenant hereby grants to Landlord the right to use (or the right of the City to use) a reasonable portion of the Premises for up to five (5) event days per year (plus set-up time as is reasonably required) at no rental charge, provided that all out-of-pocket costs, including any amounts due under the Food and Beverage Concessions Contract for such use, shall be the sole responsibility of Landlord. The uses described in the preceding sentence may be booked by Landlord up to twelve (12) months in advance. The parties recognize that the use described in this Section 28.3(a) are uses for events of the Landlord, the City or public events, and not events, such as concerts, shows or conventions, which would otherwise be in competition with Tenant's operations.]

(b) **[STILL UNDER NEGOTIATION -- Additional Use Rights.** Tenant further grants to Landlord the right to use (or the right of the City to use) a reasonable portion of the Premises from time to time on the same terms noted in Section 28.3(a) above, on available days not otherwise booked, which periods may be booked by Landlord no more than thirty (30) days in advance. The parties recognize that the use described in this Section 28.3(b) are uses for events of the Landlord, the City or public events, and not events, such as concerts, shows or conventions, which would otherwise be in competition with Tenant's operations.]

(c) Use of Certain Personal Property. Tenant shall further permit Landlord (or the City) to use certain items of Tenant's Personal Property, without charge, such as portable lighting standards and other items of equipment historically used by the City, upon reasonable request by Landlord when such items are not already being used by Tenant and such items are not necessary for Tenant's then anticipated current use of the Premises, subject to the parties' mutual agreement, and provided, that if such Tenant's Personal Property is damaged or destroyed as a result of Landlord's use thereof, Landlord shall be obligated to immediately reimburse Tenant for any and all reasonable costs and expenses Tenant may incur in connection with the repair or replacement of such Tenant's Personal Property.

(No Further Text on This Page)

IN WITNESS WHEREOF, the parties have caused this Lease to be executed and attested by their respective officers thereunto duly authorized.

“LANDLORD”

ORANGE COUNTY FAIRGROUNDS AUTHORITY, a joint powers authority formed under the laws of the State of California

By: _____
Name: _____
Its: _____

“TENANT”

OC FAIR AND EVENT CENTER, L.P., a California limited partnership

By: _____
Name: _____
Its: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF PARCEL

[To Be Supplied]

EXHIBIT "A-1"

TRADEMARKS

EXHIBIT "A-2"

PERSONAL PROPERTY

EXHIBIT "A-3"

CONTRACTS

EXHIBIT "A-4"

LEASES

EXHIBIT "B"

LIST OF RECIPROCAL EASEMENTS AND AGREEMENTS

EXHIBIT "C-1"

TRADEMARK LICENSE AGREEMENT

EXHIBIT "C-2"

FORM OF GENERAL ASSIGNMENT

GENERAL ASSIGNMENT AGREEMENT

THIS GENERAL ASSIGNMENT AGREEMENT ("Assignment"), is made as of the ____ day of _____, 20__, by and between _____, a _____ ("Assignor") and _____ ("Assignee").

W I T N E S S E T H:

A. Assignor, as "Landlord," and Assignee, as "Tenant," entered into that certain Ground Lease dated _____, 2010 (the "Ground Lease"), pursuant to which Landlord is leasing to Tenant that certain real property consisting of approximately 150 acres located in the City of Costa Mesa, County of Orange, State of California, described on Exhibit "A" attached hereto, together with all easements, rights-of-way, water rights, and other rights appurtenant (collectively, the "Property") upon and subject to the terms set forth therein. All capitalized terms used in this Assignment and not otherwise defined herein shall have the meanings given to such terms in the Ground Lease.

B. Pursuant to the Ground Lease, Assignor has agreed to transfer and assign to Assignee all of its right, title and interest in the Intangible Rights (excluding the Licensed Intangible Rights) more particularly described on Exhibit "B" attached hereto (the "Transferred Rights"), subject to the interests of Assignor and its successors and assigns in and to all such Transferred Rights as set forth in the Ground Lease. In order to evidence Assignor's transfer and assignment to Assignee, and Assignee's acceptance, of, all of Assignor's right, title and interest, in and to the Transferred Rights, Assignee and Assignor are executing this Assignment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Subject to Section 3 below, and to the interests of Assignor and its successors and assigns as set forth in the Ground Lease, Assignor hereby grants, assigns, transfers, conveys and delivers to Assignee all of Assignor's right, title, interest, benefits and privileges in and to Transferred Rights.

2. Assignee hereby accepts the grant, assignment, transfer, conveyance and delivery of the Transferred Rights set forth in Paragraph 1 hereof, effective as of the "Commencement Date" set forth in the Ground Lease, subject to the limitations set forth in Section 3 below and to the interests of Assignor and its successors and assigns as set forth in the Ground Lease.

3. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 4 BELOW, ASSIGNOR IS GRANTING, ASSIGNING, TRANSFERRING, CONVEYING AND DELIVERING TO ASSIGNEE ALL OF ITS RIGHT, TITLE AND INTEREST IN AND TO THE TRANSFERRED RIGHTS WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, OF ANY KIND. IN PARTICULAR, ASSIGNOR MAKES NO WARRANTY OF MERCHANTABILITY IN RESPECT TO ANY OF THE TRANSFERRED RIGHTS, AND THE TRANSFERRED RIGHTS ARE HEREBY GRANTED, ASSIGNED, TRANSFERRED, CONVEYED AND DELIVERED ON AN "AS IS, WHERE IS" CONDITION WITH ALL FAULTS AND DEFECTS. IN ADDITION, ASSIGNOR MAKES NO WARRANTY THAT THE TRANSFERRED RIGHTS ARE FIT FOR ANY PARTICULAR PURPOSE. ASSIGNEE ACKNOWLEDGES ITS INSPECTION OF AND SATISFACTION WITH THE TRANSFERRED RIGHTS AND WAIVES ALL CLAIMS, IF ANY, NOW OR HEREAFTER ARISING REGARDING THE QUALITY OR FITNESS OF THE TRANSFERRED RIGHTS.

4. Assignor hereby represents and warrants to Assignee that to the best of Assignor's knowledge Assignor has not assigned, sold, mortgaged, pledged or otherwise transferred all or any of Assignor's right, title or interest in or to any of the Transferred Rights to any party other than Assignee and except for any security interest therein granted to the State pursuant to the State Loan Documents.

5. Subject to the provisions of Article 15 of the Lease, this Assignment shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, heirs and legatees of the respective parties hereto.

6. In the event of the bringing of any action or suit by a party hereto against another party hereunder by reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other party arising out of this Assignment, then in that event the prevailing party shall be entitled to have and recover of and from the other party all costs and expenses of the action or suit, including reasonable attorneys' fees.

7. This Assignment shall be governed by, interpreted under, and enforced and construed in accordance with the laws of the State of California.

8. This Assignment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first hereinabove written.

"Assignor"

a _____

By: _____
Its: _____

"Assignee"

a _____

By: _____
Its: _____

[Add Exhibit A – Legal Description and Exhibit B – Description of Transferred Rights]

EXHIBIT "C-3"

FORM OF BILL OF SALE

BILL OF SALE

THIS BILL OF SALE ("Bill of Sale") is made this ____ day of _____, 20__ by _____, a _____ ("Landlord"), in favor of _____, a _____ ("Tenant").

W I T N E S S E T H:

A. Landlord, as "Landlord," and Tenant, as "Tenant," entered into that certain Ground Lease dated _____, 2010 (the "Ground Lease"), pursuant to which Landlord is leasing to Tenant that certain real property consisting of approximately 150 acres located in the City of Costa Mesa, County of Orange, State of California, described on Exhibit "A" attached hereto, together with all easements, rights-of-way, water rights, and other rights appurtenant (collectively, the "Property") upon and subject to the terms set forth therein. All capitalized terms used in this Bill of Sale and not otherwise defined herein shall have the meanings given to such terms in the Ground Lease.

B. Pursuant to the Ground Lease, Landlord has agreed to transfer and assign to Tenant all of its right, title and interest in the Personal Property more particularly described on Exhibit "B" attached hereto, subject to the interests of Landlord and its successors and assigns in and to all such Personal Property as set forth in the Ground Lease. In order to evidence Landlord's transfer and assignment to Tenant, and Tenant's acceptance, of, all of Landlord's right, title and interest, in and to the Personal Property, Landlord and Tenant are executing this Bill of Sale.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Subject to Section 3 below, and to the interests of Landlord and its successors and assigns as set forth in the Ground Lease, Landlord hereby grants, assigns, transfers, conveys and delivers to Tenant all of Landlord's right, title, interest, benefits and privileges in and to Personal Property.

2. Tenant hereby accepts the grant, assignment, transfer, conveyance and delivery of the Personal Property set forth in Paragraph 1 hereof, effective as of the "Commencement Date" set forth in the Ground Lease, subject to the limitations set forth in Section 3 below and to the interests of Landlord and its successors and assigns as set forth in the Ground Lease.

3. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 4 BELOW, LANDLORD IS GRANTING, ASSIGNING, TRANSFERRING, CONVEYING AND DELIVERING TO TENANT ALL OF ITS RIGHT, TITLE AND INTEREST IN AND TO THE PERSONAL PROPERTY WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, OF ANY KIND. IN PARTICULAR, LANDLORD MAKES NO WARRANTY OF MERCHANTABILITY IN RESPECT TO ANY OF THE PERSONAL PROPERTY, AND THE PERSONAL PROPERTY IS HEREBY GRANTED, ASSIGNED, TRANSFERRED, CONVEYED AND DELIVERED ON AN "AS IS, WHERE IS" CONDITION WITH ALL FAULTS AND DEFECTS. IN ADDITION, LANDLORD MAKES NO WARRANTY THAT THE PERSONAL PROPERTY ARE FIT FOR ANY PARTICULAR PURPOSE. TENANT ACKNOWLEDGES ITS INSPECTION OF AND SATISFACTION WITH THE PERSONAL PROPERTY AND WAIVES ALL CLAIMS, IF ANY, NOW OR HEREAFTER ARISING REGARDING THE QUALITY OR FITNESS OF THE PERSONAL PROPERTY.

3. Landlord hereby represents and warrants to Tenant that to the best of Landlord's knowledge Landlord has not assigned, sold, mortgaged, pledged or otherwise transferred all or any of Landlord's right, title or interest in or to any of the Personal Property to any party other than Tenant and except for any security interest therein granted to the State pursuant to the State Loan Documents.

4. Subject to the provisions of Article 15 of the Lease, this Bill of Sale shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, heirs and legatees of the respective parties hereto.

5. In the event of the bringing of any action or suit by a party hereto against another party hereunder by reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other party arising out of this Bill of Sale, then in that event the prevailing party shall be entitled to have and recover of and from the other party all costs and expenses of the action or suit, including reasonable attorneys' fees.

6. This Bill of Sale shall be governed by, interpreted under, and enforced and construed in accordance with the laws of the State of California.

7. This Bill of Sale may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first hereinabove written.

"Landlord"

a _____

By: _____
Its: _____

"Tenant"

a _____

By: _____
Its: _____

[Add Exhibit A – Legal Description and Exhibit B – Description of Personal Property]

EXHIBIT "C-4"

FORM OF ASSIGNMENT OF CONTRACTS

**ASSIGNMENT OF
CONTRACTS AND ASSUMPTION AGREEMENT**

THIS ASSIGNMENT OF CONTRACTS AND ASSUMPTION AGREEMENT ("Assignment"), is made as of the ____ day of _____, 20__ by and between _____, a _____ ("Assignor"), and _____, a _____ ("Assignee").

W I T N E S S E T H:

A. Assignor, as "Landlord," and Assignee, as "Tenant," entered into that certain Ground Lease dated _____, 2010 (the "Ground Lease"), pursuant to which Landlord is leasing to Tenant that certain real property consisting of approximately 150 acres located in the City of Costa Mesa, County of Orange, State of California, described on Exhibit "A" attached hereto, together with all easements, rights-of-way, water rights, and other rights appurtenant (collectively, the "Property") upon and subject to the terms set forth therein. All capitalized terms used in this Assignment and not otherwise defined herein shall have the meanings given to such terms in the Ground Lease.

B. Pursuant to the Ground Lease, Assignor has agreed to transfer and assign to Assignee all of its right, title and interest in the Contracts more particularly described on Exhibit "B" attached hereto. In order to evidence Assignor's transfer and assignment to Assignee, and Assignee's acceptance and assumption, of all of Assignor's right, title and interest, in and to the Contracts, Assignee and Assignor are executing this Assignment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Subject to Section 3 below, Assignor hereby grants, assigns, transfers, conveys and delivers to Assignee all of Assignor's right, title, interest, benefits and privileges in and to Contracts.

2. Assignee hereby accepts the grant, assignment, transfer, conveyance and delivery of the Contracts set forth in Paragraph 1 hereof, effective as of the "Commencement Date" set forth in the Ground Lease, subject to the limitations set forth in Section 3 below, and assumes all obligations of Assignor with respect to such Contracts.

3. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 4 BELOW, ASSIGNOR IS GRANTING, ASSIGNING, TRANSFERRING, CONVEYING AND DELIVERING TO ASSIGNEE ALL OF ITS RIGHT, TITLE AND INTEREST IN AND TO THE CONTRACTS WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, OF ANY KIND. IN PARTICULAR, THE CONTRACTS ARE HEREBY GRANTED, ASSIGNED, TRANSFERRED, CONVEYED AND DELIVERED ON AN "AS IS, WHERE IS" CONDITION WITH ALL FAULTS AND DEFECTS. ASSIGNEE ACKNOWLEDGES ITS INSPECTION OF AND SATISFACTION WITH THE CONTRACTS AND WAIVES ALL CLAIMS, IF ANY, NOW OR HEREAFTER ARISING REGARDING THE CONTRACTS.

4. Assignor hereby represents and warrants to Assignee that to the best of Assignor's knowledge Assignor has not assigned, sold, mortgaged, pledged or otherwise transferred all or any of Assignor's right, title or interest in or to any of the Contracts to any party other than Assignee and except for any security interest therein granted to the State pursuant to the State Loan Documents.

5. Subject to the provisions of Article 15 of the Lease, this Assignment shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, heirs and legatees of the respective parties hereto.

6. In the event of the bringing of any action or suit by a party hereto against another party hereunder by reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other party arising out of this Assignment, then in that event the prevailing party shall be entitled to have and recover of and from the other party all costs and expenses of the action or suit, including reasonable attorneys' fees.

7. This Assignment shall be governed by, interpreted under, and enforced and construed in accordance with the laws of the State of California.

8. This Assignment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

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

"Assignor"

_____,
a _____

By: _____
Its: _____

"Assignee"

_____,
a _____

By: _____
Its: _____

[Add Exhibit A – Legal Description and Exhibit B – Schedule of Contracts]

EXHIBIT "C-5"

FORM OF ASSIGNMENT OF LEASES

TENANT LEASE ASSIGNMENT

THIS TENANT LEASE ASSIGNMENT ("Assignment") is made this ____ day of _____, 20__ by and between _____, a _____ ("Assignor"), and _____, a _____ ("Assignee").

W I T N E S S E T H:

A. Assignor, as "Landlord," and Assignee, as "Tenant," entered into that certain Ground Lease dated _____, 2010 (the "Ground Lease"), pursuant to which Landlord is leasing to Tenant that certain real property consisting of approximately 150 acres located in the City of Costa Mesa, County of Orange, State of California, described on Exhibit "A" attached hereto, together with all easements, rights-of-way, water rights, and other rights appurtenant (collectively, the "Property") upon and subject to the terms set forth therein. All capitalized terms used in this Assignment and not otherwise defined herein shall have the meanings given to such terms in the Ground Lease.

B. Pursuant to the Ground Lease, Assignor has agreed to transfer and assign to Assignee all of its right, title and interest in the Leases more particularly described on Exhibit "B" attached hereto. In order to evidence Assignor's transfer and assignment to Assignee, and Assignee's acceptance and assumption, of all of Assignor's right, title and interest, in and to Leases, Assignee and Assignor are executing this Assignment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Subject to Section 3 below, Assignor hereby grants, assigns, transfers, conveys and delivers to Assignee all of Assignor's right, title, interest, benefits and privileges in and to Leases.

2. Assignee hereby accepts the grant, assignment, transfer, conveyance and delivery of the Leases set forth in Paragraph 1 hereof, effective as of the "Commencement Date" set forth in the Ground Lease, subject to the limitations set forth in Section 3 below, and assumes all obligations of Assignor with respect to such Leases.

3. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 4 BELOW, ASSIGNOR IS GRANTING, ASSIGNING, TRANSFERRING, CONVEYING AND DELIVERING TO ASSIGNEE ALL OF ITS RIGHT, TITLE AND INTEREST IN AND TO THE LEASES WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, OF ANY KIND. IN PARTICULAR, THE LEASES ARE HEREBY GRANTED, ASSIGNED, TRANSFERRED, CONVEYED AND DELIVERED ON AN "AS IS, WHERE IS" CONDITION WITH ALL FAULTS AND DEFECTS. ASSIGNEE ACKNOWLEDGES ITS INSPECTION OF AND SATISFACTION WITH THE LEASES AND WAIVES ALL CLAIMS, IF ANY, NOW OR HEREAFTER ARISING REGARDING THE LEASES.

4. Assignor hereby represents and warrants to Assignee that to the best of Assignor's knowledge Assignor has not assigned, sold, mortgaged, pledged or otherwise transferred all or any of Assignor's right, title or interest in or to any of the Leases to any party other than Assignee and except for any security interest therein granted to the State pursuant to the State Loan Documents.

5. Subject to the provisions of Article 15 of the Lease, this Assignment shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, heirs and legatees of the respective parties hereto.

6. In the event of the bringing of any action or suit by a party hereto against another party hereunder by reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other party arising out of this Assignment, then in that event the prevailing party shall be entitled to have and recover of and from the other party all costs and expenses of the action or suit, including reasonable attorneys' fees.

7. This Assignment shall be governed by, interpreted under, and enforced and construed in accordance with the laws of the State of California.

8. This Assignment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, Assignor and Assignee have executed and delivered this Assignment as of the day and year first written above.

"Assignor"

_____,
a _____

By: _____
Its: _____

"Assignee"

_____,
a _____

By: _____
Its: _____

[Add Exhibit A – Legal Description and Exhibit B – Schedule of Leases]

EXHIBIT "D"

ANNUAL DEBT SERVICE AMOUNTS

EXHIBIT "E"

ADDITIONAL SPONSOR FEE CALCULATION

1. Initial Calculation.

(a) Subject to the terms and conditions set forth herein, in addition to the Annual Rent and Additional Rent paid by Tenant to Landlord under the Lease, Tenant agrees to pay to Landlord at the time set forth below, an amount equal to five percent (5%) of the "Net Revenues" (defined below) actually received and collected from all event and product sponsorships obtained in connection with the operation of the Property and all building and naming rights obtained in connection with the operation of the Property ("Sponsor Fee"). The Sponsor Fee shall be paid by Tenant pursuant to the terms of this Exhibit "E"; provided that in no event shall the Sponsor Fee paid in any year exceed the following annual amounts:

<u>Months</u>	<u>Total Annual Maximum Sponsor Fee</u>
1 – 60	\$50,000.00
61 – 240	\$75,000.00
241 – 420	\$100,000.00
421 – 660	\$200,000.00

(b) After the Commencement Date, on or before the fifteenth (15th) day following the first day of each calendar quarter, Tenant agrees to (i) deliver a preliminary statement ("Preliminary Statement") to Landlord setting forth the amount of the Sponsor Fee and the Net Revenues on which the determination of the Sponsor Fee is based. Such Preliminary Statement shall include the payment of the Sponsor Fee due to Landlord for such calendar quarter (subject to the annual maximum payment described above).

(c) Tenant shall keep or cause to be kept, for at least one year after each calendar year plus any additional time as may be required to complete the resolution of any disputes that may remain as to the Sponsor Fee or any calculations on which the Sponsor Fee is based, true and accurate books and records showing all sums on which the determination of Net Revenues are based and Net Revenues shall be determined on a cash basis.

(d) As used in this Exhibit "E", the term "Net Revenues" shall mean all amounts actually received and paid to Tenant as an event and/or product sponsorship fee and/or as a building and/or naming right fee with respect to the operations at the Property including any such amounts received as part of a Planned Signage Program (as defined in Section 13.1 of the Lease) less any and all third-party costs and expenses incurred by Tenant in realizing the revenues for the aforementioned activities; provided that in no event shall the "Net Revenues" include (1) any amounts paid as an event and/or product sponsorship fee and/or a building and/or naming right fee to the extent used exclusively for any non-profit events and/or non-profit groups that are utilizing the Property; and (2) any rental amounts paid to Tenant for the use of all or a portion of the Premises and/or for services provided at the Premises, other than marketing and advertising services.

2. Calendar Year End Statement. On or before the thirtieth (30th) day following each calendar year, Tenant shall either pay in full to Landlord the Maximum Sponsor Fee set forth for that year or shall deliver a final statement for the prior calendar year showing the total Revenues used to calculate the Sponsor Fee for the prior calendar year (subject to the maximum amount set forth above), the amount previously paid by Tenant for the Sponsor Fee for the prior calendar year and any remaining amounts owed by Tenant for the Sponsor Fee for the prior calendar year (subject to the maximum amount set forth above). Any Sponsor Fees owing to Landlord shall be tendered with the year end statement.

3. Partial Year. The total Annual Maximum Sponsor Fee set forth above for any calendar year that is less than one year shall be prorated based upon the actual number of days in the period

EXHIBIT "F"

INDEPENDENT COLLECTION AGENT INSTRUCTIONS

EXHIBIT "G"

LANDLORD/CITY BILLBOARD/ELECTRONIC READER BOARD USAGE RIGHTS

EXHIBIT "H"

REQUIRED OPERATIONS

NOTE: THIS EXHIBIT AND ITS ATTACHMENTS ARE STILL UNDER REVIEW AND NEGOTIATION

- Annual Fair (minimum of 24 consecutive days in July/August of each calendar year) of the type described in Attachment 1 to this Exhibit. In addition to other historical and traditional Fair events, Tenant shall continue to include in the Fair the annual livestock auction and show featuring Orange County schools' agricultural programs and 4-H groups in substantially the form in which it has historically been operated subject to revision upon reasonable approval of the JPA.
- Centennial Farm shall be preserved as a park-like use and the current community services shall be preserved at least at the current levels of operation, at Tenant's sole cost and expense to the extent not funded by the Centennial Farm Foundation.
- Youth Expo shall be preserved, funded and operated at least at the 2010 levels for education, recreation, cultural and social development for children and youth.
- The existing approximately 7.5 acre equestrian center shall be maintained on the Property (any material change in size or use shall be approved by Landlord, which shall not be unreasonably withheld). Subject to the terms of the existing lease with Equestrian Services II ("Equestrian Center Lease"), but regardless of when or whether the Equestrian Center Lease expires, and notwithstanding anything in the Equestrian Center Lease, Tenant shall not increase the lease or rental rate for the equestrian center beyond its current rate, plus reasonable CPI increases, for a period of eighteen (18) months after the Commencement Date. Tenant shall also maintain community programming specific to the equestrian center at the levels of operation (subject to changes approved by Landlord in its reasonable discretion). During the Term of the Lease, Landlord and Tenant shall discuss the possibility of expanding the existing equestrian center, though Tenant shall have no obligation to agree to any expansion. Landlord acknowledges that Tenant may engage an independent operator to operate the equestrian center.
- The existing civic center reciprocal use agreements for reciprocal parking and other reciprocal uses with third parties (including, without limitation, Orange Coast Community College, Newport-Mesa Unified School District, Costa Mesa School District, County of Orange, and Costa Mesa Police Department) (collectively, the "Reciprocal Easements and Agreements") shall be maintained unless Tenant negotiates an alternative reciprocal agreement with such third party. Tenant will notify Landlord in writing as to any changes, modifications or replacement made to the Reciprocal Easement and Agreements. The existing Reciprocal Easements and Agreement are more particularly described on Exhibit "B" attached to the Lease.
- Except for a termination pursuant to the terms of the agreement between the 32nd District Agricultural Association and Tel Phil Enterprises, Inc., Tenant agrees that for a period of eighteen (18) months following the Commencement Date, Tenant will allow _____ ("Tel Phil") to operate the marketplace operations on the Property in accordance with the current operations and the terms and provisions of [**Describe Tel Phil Agreement**] (the "Marketplace Operating Contract"), provided, this will not preclude Tenant from exercising any termination rights under the Marketplace Operating Contract to ensure that it will terminate at the end of such eighteen (18) month period, or from exercising any termination rights or other remedies under the Marketplace Operating Contract if Tel Phil fails to comply with the terms and provisions of the Marketplace Operating Contract. After the initial eighteen (18) month period described above, Tenant shall maintain a marketplace substantially similar in scope to the operation existing on the Commencement Date, involving retail, not resale, operations; provided that a significant change in the type of marketplace operation or a decrease in the number of days of marketplace operations shall require the approval of Landlord, which approval shall not be unreasonably withheld.

- **[STILL UNDER NEGOTIATION BY TENANT** --- Tenant shall continue to allow use of the Premises by existing and similar Community, Educational and Non-profit groups (which may change from time to time) as set forth in Attachment 2 to this Exhibit (“Community Uses”), subject to reasonable scheduling and insurance requirements. Tenant and Landlord shall jointly develop a non-profit events policy to ensure that all eligible Community, Educational and Non-Profit groups are provided fair access to use of the Premises consistent with Tenant’s operations.]

Attachment 1 to Exhibit H

A fair is defined as an event that occurs for a specific time period, not continually or year round, and involves the following components:

- Competitions and exhibits that recognize and celebrate the accomplishments of the ordinary citizen;
- Exhibits, attractions and activities that reflect the interests and unique qualities of the region;
- Commercial exhibits and retail opportunities;
- Food & beverage concessions and offerings;
- Entertainment, attractions, and special events within the fair;
- Carnival rides and attractions;
- Exhibits, competitions and education activities that focus on agricultural themes.

The purpose of the Orange County Fair is to celebrate

- the agricultural history of Orange County;
- the economy and lifestyle of the county's communities;
- the interests of the diverse population of Orange County;
- the County's varied educational, entertainment and recreational interests;
- the accomplishments of Orange County citizens of all ages.

EXHIBIT "I"

LIST OF DEFERRED MAINTENANCE

EXHIBIT "J"

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

(Space Above For Recorder's Use)

MEMORANDUM OF GROUND LEASE

THIS MEMORANDUM OF GROUND LEASE ("Memorandum") is entered into as of the ____ day of _____, 2010, between ORANGE COUNTY FAIRGROUNDS AUTHORITY, a joint powers authority formed under the laws of the State of California ("Landlord"), and O.C. FAIR AND EVENT CENTER, L.P., a California limited liability company ("Tenant").

RECITALS

A. Landlord is the owner of that certain real property consisting of approximately 150 acres located in the City of Costa Mesa, County of Orange, State of California, described on Exhibit "A" attached hereto (the "Parcel").

B. Landlord has leased to Tenant the Parcel upon the terms and conditions more particularly described in that certain Ground Lease dated _____ (the "Lease").

NOW, THEREFORE, for valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. TERM. Landlord has leased to Tenant a Parcel under the terms and conditions set forth in the Lease, for a term of fifty-five (55) years.

2. INCORPORATION AND CONFLICTS. All of the terms and conditions of the Lease are incorporated herein by reference as though set forth fully herein. In the event of any conflict between the terms hereof and of the Lease, the Lease shall prevail.

3. QUITCLAIM/TERMINATION. Tenant covenants and agrees, both on its own behalf and on behalf of its successors and assigns to execute a quitclaim deed or other recordable instrument sufficient to remove this Memorandum from record title to the Parcel upon the expiration or sooner termination of the Lease and appoints and constitutes Landlord as its attorney-in-fact, which power shall be coupled with an interest and shall not be revocable or terminable, to execute and deliver and to record such quitclaim deed or other instrument in the name of Tenant upon the expiration or termination of the term of the Lease.

4. COUNTERPARTS. This Memorandum may be executed in counterparts, each of which shall be deemed and original, and all of which shall constitute one instrument.

SIGNATURE PAGE FOLLOWS

EXHIBIT "J"

IN WITNESS WHEREOF, this Memorandum of Lease is executed as of the date first above written.

"LANDLORD"

ORANGE COUNTY FAIRGROUNDS AUTHORITY,
a joint powers authority formed under the laws of the
State of California

By: _____
Print Name: _____
Print Title: _____

"TENANT"

OC FAIR AND EVENT CENTER, L.P., a California limited
partnership

By: _____
Name: _____
Its: _____

EXHIBIT "K"
FORM OF GUARANTY

SCHEDULE "1"

LIST OF EXCLUDED PERSONAL PROPERTY