

ARTICLE VIII
Affordable Housing

The Developer will provide a minimum of 15% of the aggregate residential units in the Project (rounded upward for any fraction) that will qualify as Affordable Housing through the Land Trust (i.e., if 137 total residential units are constructed, 21 of such units shall be affordable housing units). It is contemplated that the Land Trust (or in the Town's discretion such other entity as the Town shall from time to time designate) will take title to one-third of the Affordable Housing units within 60 days after Substantial Completion of the Project, an additional one-third of the units 12 months later, and the remainder of the units within 24 months after Substantial Completion of the Project. Pending delivery of Affordable Housing units to the Land Trust, the Developer may lease such units at fair market rates until such units are delivered to and accepted by the Land Trust. In the event the Land Trust or such other entity as designated from time to time by the Town has not purchased all of the Affordable Housing units from the Developer on or before the date that is thirty (30) months after Substantial Completion of the Project, Developer shall be entitled to sell such remaining unit(s) at market rates and the Town agrees to cooperate with Developer to amend the Lease, the Lot 5 Condominium Declaration and such other agreements to which the Town is a party (or has approval rights regarding amendments) so that said unit(s) is no longer restricted for use as an Affordable Housing unit. The Lot 5 Condominium Declaration shall contain restrictions requiring compliance with the provisions of this Article VIII. Developer understands that it is the Town's Policy that as a condition to approving the rezoning of property to permit higher density residential development, including condominiums, such condominium or other residential project must have not less than fifteen (15) percent of the units as Affordable Housing units. Such policy further contemplates that the developer of the residential project will provide assurances that the common expense assessment for each Affordable Housing unit will remain affordable so long as such units are treated as Affordable Housing units. At the time of this Agreement, the Town has not established a specific required methodology as to how common expense assessments are to be determined in order to meet the affordability policy. Developer recognizes the need to create a methodology in order to ensure that common expense assessments applicable to Affordable Housing units will be affordable and supports the Town's objective in this regard. Accordingly, to this end Developer agrees, at its option, to either (i) to incorporate into the Lot 5 Condominium Declaration such specific methodology for ensuring the affordability of common expense assessments as may be adopted by the Town Council as a formal policy uniformly applicable to all new residential developments that require rezoning to permit higher density, including condominium projects, or (ii) include in the Lot 5 Condominium Declaration a formula for allocating common expenses of the association that will result in the common expense assessments for each Affordable Housing unit for the twelve (12) month period after the date of the first conveyance of a leasehold condominium being in an amount not to exceed 1.5% of the selling price of the applicable Affordable Housing unit and that any subsequent increases in such common expense assessments as to the Affordable Housing units shall not increase in any one year by more than the greater of (a) the increase in the Consumer Price Index for the prior year, or (b) the percentage increase in the median household income for the standard metropolitan statistical area in which Chapel Hill is located as determined from time-to-time by the Department of Housing & Urban Development; provided further, however, an equitable adjustment shall be made under this option (ii) to the amounts of the common expense assessments for Affordable Housing units to reflect any utility charges (water, sewer, heating, air-conditioning and electrical) that are master

metered and are to be included in the common expense assessment without regard to the 1 1/2% limitation initially or the limitations on subsequent increases. Additionally, the Developer agrees to provide a fund of up to \$25,000 to be used by the Town to commission a study as to the most appropriate, effective and fair means of ensuring the on-going affordability of Affordable Housing including the affordability of common expense assessments. The Town will provide reasonable assistance to the Developer, upon the Developer's request, in identifying and securing below rate financing and economic grants in an effort to reduce the cross-subsidation of the affordable housing components of the Project so long as the same do not impact the Town's credit rating or require significant investment of Town funds or other resources. The parties agree that any grants secured in connection with the Project will be allocated to the party who, during the term of the Lease, ultimately controls the improvements for which the grant is made.

To the extent required or desired by the Town, parking spaces for the Affordable Housing units shall be obtained or constructed (as applicable) and paid for by the Town (the "Affordable Housing Spaces"). The Developer shall have no obligation to provide or to construct the Affordable Housing Spaces nor shall Developer be obligated to locate any of the Affordable Housing Spaces in the Private Parking Unit.

ARTICLE IX

Development of Public Improvements

9.1 Public Space. The Public Space will consist of the "lower mall" (the open southwest corner area along West Franklin Street and Church Street) and the "upper mall" (the open south-central area located in the middle of the Building). The Public Space will be subject to substantially similar restrictions and managed in a manner as the existing public space at the Old Post Office in downtown Chapel Hill located in the northwestern quadrant of the intersection of Henderson Street and East Franklin Street. The Town reserves the right, however, to prohibit in the Public Space specific acts that could be injurious to the public, such as the carrying or displaying of weapons. That portion of the Public Space identified as the "upper mall," because of its proximity on three sides to retail establishments and residences, shall be subject to such regulations as may be agreed upon by the Town and the Developer and as enacted by the Town Council; provided that the Town reserves the right to exercise its statutory police power in all parts of the Public Space. All regulations applicable to the Public Space shall be enforced in the same manner as other regulations enacted under the Town's police powers. The Town shall be responsible for all of the maintenance of the Public Space in keeping with the level of maintenance of other Town owned high quality public space.

The Town and the Developer shall jointly create a funding and programming strategy for the Public Space in order to ensure that such programming enhances the overall quality of life within the Town and meets the needs of the Town and its citizens. At least 3 months prior to the date Developer estimates that the Project will be Substantially Completed, but not more than 9 months prior to said date, the Town shall be responsible for hiring (at the Town's sole expense) a qualified "event coordinator" who will be subject to the Developer's reasonable approval and who will assist in the programming of events in the Public Space. During the first 24 months following the date after the Project has been Substantially Completed, the programming of the Public Space shall be managed jointly by the Town and the Developer with such event